

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 5279 of 2022
Date of complaint : 20.07.2022
Date of order : 08.07.2025

Madhu Sudan Singhanian,
R/o: - House no. 196-A, Sushant Lok-II, Sector-55,
Gurugram.

Complainant

Versus

M/s Ramprastha Promoters & Developers Pvt. Ltd.
Regd. Office At: - Plot no. 114, Sector 44, Block-C,
Gurugram-122002.

Respondents

CORAM:

Shri Arun Kumar
Shri Ashok Sangwan

**Chairman
Member**

APPEARANCE:

Shri Himanshu Singh (Advocate)
Shri Navneet Kumar (Advocate)

**Complainants
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name of the project	"Ramprastha City", Sectors 37D, Gurugram, Haryana
2.	Project area	105.402 acres
3.	Nature of the project	Residential plotted colony
4.	DTCP license no. and validity status	128 of 2012 dated 28.12.2012 valid upto 27.12.2025
5.	Name of licensee	B.S.Y Developers and 35 others
6.	RERA Registered/ not registered	Not Registered
8.	Plot no.	B-66 (As per page no. 33 of the complaint)
9.	Unit area admeasuring	250 sq. yds.
10.	Date of booking/payment	08.03.2014 (As per page no. 14 of the complaint)
11.	Welcome letter	03.07.2014 (page 19 of complaint)
12.	Date of allotment	03.07.2014 (page 33 of complaint)
13.	Date of execution of plot buyer's agreement	24.02.2014 (unit no. B-69) (page 21 of the complainant)
14.	Application for change of plot number	16.06.2014 (request to allot plot no. B-66 instead of B-69)
15.	Date of execution of plot buyer's agreement	26.08.2014 (unit no. B-66) (page 39 of the complaint)
16.	Due date of possession	26.08.2017 [Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018]
17.	Total sale consideration	Rs.37,75,000/- (as per payment plan on page no. 43 of the complaint)

18.	Amount paid by the complainant	Rs.33,64,800/-
19.	Completion certificate	Not received
20.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -
 - I. It is submitted that the respondent had launched its future project i.e. Ramprastha City at Sector 37C & 37D, Gurugram, Haryana ("said project"). The respondent approached the complainant to invest in their said project and offered a plot measuring 250 sq. yards on the value of Rs. 37,75,000/-, in Sector 37C & 37D, Gurugram, Haryana.
 - II. That the respondent through public advertisements relating to the said project represented those these developments were inspired by the dreams of consumers and that they shall deliver the finest quality and set new benchmarks in the industry. That being lured by such representations and assurances of the respondent that they will offer a plot measuring 250 sq. yards, the complainant agreed to invest in the said project. Accordingly, the complainant decided to put their life savings and hard-earned earnings in the said project. The complainant paid an amount of Rs. 15,00,000/- vide cheque bearing no. 236820 & 586413, to the respondent. The respondent duly acknowledged the receipt of the aforesaid cheque vide receipt dated 28.07.2008 bearing receipt No. 1632.
 - III. That thereafter an agreement was entered between the complainants and respondent on 24.02.2014 and that the complainant issued a cheque bearing no. 340837 for an amount of Rs. 1,64,800/- to the respondent.
 - IV. That thereafter the complainant gave an application dated 16.06.2014 for change of plot, thereby asking for change of plot No. B-69 to B-66.
 - V. That thereafter the respondent issued welcome letter dated 03.07.2014 to the complainant and also issued receipt for an amount of Rs.

1062500/-. That thereafter the complainant issued a letter dated 07.07.2014 for execution of plot buyers agreement and subsequently issued a receipt dated 23.07.2014 for an amount of Rs. 6,37,500/-.

- VI. That thereafter plot buyers' agreement dated 26.08.2014 is executed between the parties.
- VII. That subsequently complainant approached the respondent on various occasions for the allotment of said plot, however, time by time the respondent promised to give the possession of the said plot after getting the license from the authority. It is pertinent to note that it has been more than a decade and the respondent has still failed to give the possession of the plot to the complainant. The complainant has been visiting the respondent's office as well as construction site and pursuing progress of the projects from month on month, however, there has been no progress. Moreover, the complainant was misled and told information, which is vague and conflicting and that too is given in a piecemeal manner by the representatives of the respondent. The complainant has also been calling on the landline of the Gurugram office, where several persons kept on answering and when asked about the status of allotment, the representative of the respondent continued to mislead and misguide the complainant and kept on assuring that the possession and registry will be made immediately when the approval of the project comes through.
- VIII. That the complainant tried to also contact the senior management of the respondent several times however they always remained untraceable and unreachable, and the representatives kept the complainant on tenterhooks to gain more time. The true fact is that despite the lapse of so much time, there is no sign of allotment as yet, despite the assurances given.
- IX. That it is now evident that the respondent has clearly misrepresented the

facts to suit their own needs and the same further shows the mala fide intentions and unfair trade practice enticed by respondent's false promises in a time of need, the complainant inadvertently agreed to buy plot in the future project of the respondent. Therefore, the respondent failed to complete its obligations which it had promised and hence the respondent is liable for compensation/damages as are constantly being incurred by the complainant in terms of loss of interest and rent. It has also come to the notice of the complainant that many people have been registering their plots but the complainant has not being offered the possession nor the registry is being done of the Plot despite having made the payment.

- X. That as is a matter of record, the respondent grossly failed to deliver the possession of the said plot. In the view of the above, it is submitted that the complainant has gone through mental stress due to the aforesaid acts and omissions of the respondent.
- XI. That even after getting the approval for the said project, the complainant has not received any intimation regarding further steps for handover of the possession of the said plot.
- XII. That the respondent has defrauded the complainant and induced the complainant to part with his hard earned money by making false and misleading representations, thereby unjustly enriched itself to the prejudice of the complainant.
- XIII. That In view of the above, the complainant immediately raised his concerns with the representatives of the respondent to which they never gave any proper satisfactory response and kept on avoiding the calls of the complainant.

C. Relief sought by the complainants:

- 4. The complainant has sought following relief(s):

- I. Issue the summons/notices to the respondent to appear , produce and file all original papers/documents concerning the project in Gurugram concerning the project in Gurugram.
 - II. Direct the respondent to handover possession and execute conveyance deed of the plot and to pay delay possession charges.
 - III. Direct the respondent to pay compensation and litigation cost.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent.

6. The respondent has contested the complaint on the following grounds:
- i. That the present case is nothing more than a sheer abuse of process of law on the face of it by the present complainants with the sole motive of extracting huge amounts of interest from the respondent which itself manifests the malicious intent of the present complainants.
 - ii. That there is no agreement whether express or implied, oral or written, between the complainants and the respondent herein to provide any goods or services and the complainants had admittedly nowhere claimed to have purchased any goods or availed any services from the respondent. It is submitted that the complainants had requested the respondent seeking investment in undeveloped agricultural land in the year 2006 in the hope of making speculative gains on the approval of the zoning plans. But since the zoning plans were not approved by the government, the complainants have sought to file this vexatious complaint. That the respondent has not agreed to provide service of any kind to the complainant unless the plans were approved as it was merely a transaction for sale of plot. The complainants have filed the present complaint with malafide intention of abusing the process of the Authority for wrongful gains in the form of interest at the cost of the respondents when in reality their speculative investments have failed to give any return in present harsh real estate market conditions.

- iii. That the complainant has approached the respondent in the year 2006 to invest in undeveloped agricultural land in one of the futuristic projects of the respondent located in Sector 37-D, Gurugram. The complainants fully being aware of the prospects of the said futuristic project and the fact that the said land is a mere futuristic project have decided to make an investment in the said project of the respondent for speculative gains. That thereafter, the complainants have paid a booking amount of Rs. 15,00,000/- through cheque bearing no. 236820 & 586413 dated 20.10.2006 & 05.05.2008 respectively towards booking of the said project pursuant to which Receipt no 1632 dated 28.07.2008 was issued to the complainant. It was also specifically clarified that a specific plot shall only be earmarked once the zoning plans are approved.
- iv. That further the complainants herein have resorted to filing a complaint solely on the basis of false claims and baseless accusations against the respondent while concealing its own defaults and laches for which the complainants are solely liable.
- v. That further the complainants have paid part of total consideration of the plot. It is submitted that the said payments were not full and final payments and further payments inter alia towards government dues on account of EDC/IDC charges are payable at the time of allotment of plot and execution of plot buyer agreement.
- vi. That further no date of possession has ever been mutually agreed between the parties. That even at the time of booking, it has been clearly stated that a definite plot can be earmarked only once the zoning plans are approved by the authority which is within the knowledge of the complainants herein. It is submitted that as per averments made by complainants, the petitioners have claimed interest from the 2017 which also shows that the amount claimed by the complainants have hopelessly barred by limitation.

- vii. That the claims for possession are superfluous and non-est in view of the fact that the complainants are actually not even entitled to claim possession of the plot as on date. It is submitted that it is only on default in offer/handover of possession that the petitioners right to claim possession/refund crystalizes.
- viii. That further it is submitted that no documents have been submitted by the complainants in support of the time for possession and as per the complainants' own averments the plot was required to handover in three years period i.e., in 2017. Hence, it is submitted, without admitting to such date of handover of possession cited by the complainants herein, even if the date of possession was to be construed in 2017, the period of limitation has come to an end.
- ix. That there is no obligation on the part of the respondents to allot or handover any plot to the complainants since the complainants have failed to provide any evidence of execution of plot buyer's agreement in favour of the complainants.
- x. That the complainants have attempted to create a right in their favour by resorting to terminate transactions which have become hopelessly barred by time and after the period of limitation has lapsed it cannot be revived.
- xi. That that further that the complainants were never interested in fulfilling the necessary formalities towards booking of the said plots. Neither the complainants have made any further payment for plot as such in Ramprastha City nor did they submit any application for the same. It is apparent that the complainants never turned up for the completion of the formalities.
- xii. That the booking did not fructify and proceed to the stage of execution of plot buyer's agreement due to the complainants' own failure to pay the full consideration towards purchase price of the said plot and complete the formalities.

- xiii. That that no date of possession was ever committed by the respondent since the project was a futuristic project and the petitioners have knowingly made speculative investments in the said project.
- xiv. That it is evident that the complainants have approached the Authority by suppressing crucial facts with unclean hands which is evident from its own complaint. Therefore, the present complaint is liable to be rejected in limine based on this ground alone.
7. All other averments made in the complaints were denied in toto.
8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainants.

F.I Issue the summons/notices to the respondent to appear , produce and file all original papers/documents concerning the project in Gurugram concerning the project in Gurugram.

13. As per Section 19(1) of the Act, the allottees are entitled to obtain information relating to sanctioned plans, layout plan along with specifications, approved by the competent authority and such other information as provided in this Act or rules and regulations made thereunder or the agreement for sale signed with the promoter. Therefore, in view of the same, the respondent is directed to provide details i.e., actual area of the allotted unit in question to the complainant within a period of 30 days from the date of this order

F.II Direct the respondent handover possession and execute conveyance deed of the plot and to pay delay possession charges.

14. The complainants had booked a plot admeasuring 500 sq. yards. in one of the futuristic projects of respondent by paying an amount of Rs.15,00,000/- on 08.03.2014. Earlier the respondent- promoter allotted unit no. B-69 to the complainant, later on the complainant gave an application dated 16.06.2014 for change of plot no. B-69 to B-66. Thereafter, the respondent

issued welcome letter dated 03.07.2014 to the complainant. The plot buyer agreement executed between the parties on 26.08.2014.

15. In the present complaint, the complainants intend to continue with the allotment and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of delay, till the handing over of the possession, at such rate as of an apartment, plot, or building, —

*.....
 Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month may be prescribed."*

(Emphasis supplied)

16. **Due date of possession:** As per the documents available on record, buyer agreement executed on 26.08.2014 but there is no due date of handing over of possession is mentioned. A considerate view has already been taken by the Hon'ble Supreme Court in the cases where due date of possession cannot be ascertained then a reasonable time period of 3 years has to be taken into consideration. It was held in matter ***Fortune Infrastructure v. Trevor d' lima (2018) 5 SCC 442: (2018) 3 SCC (civ) 1*** and then was reiterated in ***Pioneer Urban land & Infrastructure Ltd. V. Govindan Raghavan (2019) SC 725 -:***

"Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014. Further there is no dispute as to the fact that until now there is no redevelopment of the property. Hence, in view of the above discussion, which draw us to an irresistible conclusion that there is deficiency of service on the part of the appellants and accordingly the issue is answered."

17. In the instant case, the promoter has allotted a plot in its project vide agreement to sell dated 26.08.2014. In view of the above-mentioned

reasoning, the date of execution of buyer agreement ought to be taken as the date for calculating the due date of possession. Therefore, the due date of handing over of the possession of the plot comes out to be 26.08.2017.

18. Admissibility of delay possession charges at prescribed rate of interest:

Proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules. Rule 15 has been reproduced as under.

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

19. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

20. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 08.07.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.

21. The definition of term 'interest' as defined under section 2(z) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. --For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

22. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 11.10% by the respondents /promoter which is the same as is being granted to the complainants in case of delay possession charges.
23. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondents is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 11 of the agreement executed between the parties on 26.08.2014, the due date of possession comes out to be 26.08.2017 including grace period being unqualified.
24. It is pertinent to mention over here that even after a passage of more than 7 years (i.e., from the date of buyer agreement till date) neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoters. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. Further, the authority observes that there is no document placed on record from which it can be ascertained that whether the respondents have applied for occupation certificate/part occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going

project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

25. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondents is established. As such the complainants are entitled to delay possession charges at the prescribed rate i.e., @11.10% p.a. w.e.f. 26.08.2017 till offer of possession plus 2 months after obtaining completion certificate from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.
26. The complainants are further seeking relief with respect to handing over of possession of plot as well as execution of conveyance deed in their favour. Section 17(1) of the Act obligates the promoter to handover the physical possession of the plot and to get the conveyance deed executed in favour of the allottee and the same is reproduced below:

"17. Transfer of title. -

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

27. However, in the instant case, no CC/part CC has been granted to the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees. The respondents/promoter are under an obligation as per Section 17 of Act to handover possession of the plot and to get the conveyance deed executed in favour of the complainants. Thus, in view of the above, the respondents/promoter is directed to handover possession of the allotted

plot admeasuring 250 sq. yards to the complainants after obtaining CC/part CC from the competent authority and to execute the conveyance deed in favour of complainants within a period of three months from the date of issuance of completion certificate/part completion certificate, upon payment of the outstanding dues and requisite stamp duty by the complainants as per norms of the state government as per Section 17 of the Act.

G.III Direct the respondent to pay compensation and litigation cost.

28. The complainants are seeking above mentioned relief w.r.t. compensation.

Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. has held that an allottee is entitled to claim compensation and litigation charges under Sections 12,14,18 and Section 19 which is to be decided by the Adjudicating Officer as per Section 71 and the quantum of compensation and litigation expense shall be adjudged by the Adjudicating Officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of compensation and litigation expenses.

H. Directions of the authority

29. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent/promoter is directed to pay interest to the complainants against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 26.08.2017 till offer of possession plus two months



after obtaining completion certificate/part completion certificate from the competent authority or actual handing over of possession whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

- ii. The arrears of such interest accrued from 26.08.2017 till the date of order by the authority shall be paid by the respondent/promoter to the complainants within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per Rule 16(2) of the Rules.
 - iii. The respondent/promoter is directed to handover possession of the allotted plot and to execute conveyance deed in favour of the complainants on payment of stamp duty and registration charges within three months after obtaining completion/part completion certificate from the competent authority.
 - iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delay possession charges as per section 2(za) of the Act.
30. Complaint stands disposed of.
31. File be consigned to registry.

Ashok Sangwan
Member

Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.07.2025