



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

Complaint no. : 4560 of 2024
Date of order : 23.07.2025

Rajesh

R/o: House no. 1122, Main Bazar,
Near Dharmasala, V.P.O Matanhail,
District-Jhajjar-124106.

Complainant

Versus

M/s Forever Buildtech Pvt. Ltd.
Office at: - 12th Floor, Dr. Gopal Das Bhawan,
28, Barakhamba Road, New Delhi.

Respondent

CORAM:

Shri. Ashok Sangwan

Member

APPEARANCE:

Garvit Gupta (Advocate)
Venket Rao (Advocate)

Complainant
Respondent

HARERA
GURUGRAM
ORDER

1. The present complaint has been filed by the complainant/allottee 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 provision of the Act or the rules and regulations made thereunder or to the allottee 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	" The Roselia"
2.	Location of the project	Sector-95-A, Gurugram
3.	Nature of the project	Affordable Group Housing Colony
4.	DTCP license no.	License no. 13 of 2016 Dated-29.09.2016
5.	Registered/not registered	Registered Vide registration no. 08 of 2017 Dated-20.06.2017
6.	Allotment letter	05.07.2017 (As on page no. 34 of complaint)
7.	Unit no.	1205, Tower-E, Type-A, Floor-12 th (As on page no. 48 of complaint)
8.	Agreement For Sale	27.09.2017 (As on page no. 39 of complaint)
9.	Possession clause	Clause 5. Possession <i>1.1 Within 60(sixty) days from the date</i>



		<p>of issuance of occupancy certificate, the Developer shall offer the possession of the said flat to the Allottee(s). Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allottee(s) having timely complied with all its obligations, formalities o documentation, as prescribed by Developer in terms of the Agreement and not being in default under any part hereof including but not limited to timely payment of installments as per the Payment Plan, stamp duty and registration charges, the developer shall offer possession of the said Flat to the Allottee(s) within a period of 4(four) years from the date of approval of building plans or grant of environmental clearance, whichever is later.</p> <p>[Emphasis supplied]</p> <p>(As on page no. 51 of complaint)</p>
10.	Approvals of building plans	09.01.2017
11.	Date of grant of Environmental Clearance	18.05.2017 [As taken from the DTCP website]
12.	Due date of possession	18.11.2021 [Calculated 4 years from the date of grant of Environmental Clearance , being later+ 6 month on account of Covid-19]
13.	Sale consideration	Rs.23,26,972/- (As on page no. 48 of complaint)
14.	Total amount paid by the complainant	Rs.26,41,087/- (As per customer ledger dated 11.02.2025 on page no. 65 of reply)

15.	Occupation certificate	06.05.2022 (As on page no. 33 of reply)
16.	Offer of possession	14.05.2022 (As on page no. 38 of reply)
17.	Possession certificate	19.09.2022 (As on page no. 40 of reply)
18.	Conveyance deed	19.09.2022 (As on page no. 42 of reply)

B. Facts of the complaint

3. The complainant has made the following submission: -

- I. That the respondent offered for sale units in a Affordable Group Housing Complex known as "The Roselia" comprising of multi-storied apartments, residential units, car parking spaces, recreational facilities, gardens etc on a piece of land situated in Scetor-95A, Gurugram.
- II. That the complainant received a marketing call from the office of respondent in the month of December, 2016 for booking in the said residential project of the respondent. The complainant had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. Accordingly, the complainant applied for the booking vide their application no. 003381 dated 27.02.2017 by making payment of 5% towards the total sale consideration as per the provisions laid down in The Affordable Group Housing Policy, 2013.
- III. Pursuant to the application, the draw of lots were held on 19.06.2017 and the complainant was allotted unit no. E-1205, Tower E on 12th Floor having carpet area of 569.243 sq.ft together with a two-wheeler parking.



That since the booking was made under the Affordable Group Housing Policy, 2013, the payment plan as notified in the said policy was to be taken into consideration for the purpose of making payment demands from the complainant.

- IV. Despite being aware of the terms and provisions of the Affordable Group Housing Policy, 2013, the respondent deliberately sent a payment demand cum allotment letter which was not as per the provisions of the said Policy.
- V. That from a bare perusal of the said demand cum allotment letter dated 05.07.2017 it is evident that the respondent had demanded Rs.5,35,203/- from the complainant out of the total sale consideration of Rs.23,26,972/- i.e 22% out of the total sale consideration whereas as per the said policy, the respondent could have demanded only 20% at the time of allotment of the unit.
- VI. That the complainant confronted the respondent about the said illegality vide several telephonic conversations and intimated to it that the respondent cannot charge excess amount from the complainant under the garb of a unilateral allotment letter and that since the project falls within the ambit of the Affordable Group Housing Policy, 2013, hence, all the payment demands were to be raised strictly as per the provisions of the said policy.
- VII. The respondent informed the complainant that the excess amount was charged from the complainant in order to maintain the cash flow for construction of the project in question and it assured the complainant that it would provide interest in the form of rebate to the complainant for the excess amount charged at the time of offer of possession. The complainant had no other option but to believe the assurances of the



respondent and he accordingly made the payment towards the demanded amount.

- VIII. Accordingly, a copy of the Apartment Buyers Agreement was sent to the complainant and it was wholly one sided document and was totally against the interest of the complainants.
- IX. That it is pertinent to mention herein that while in the case of the complainant making the delay in the payment of instalments, the respondent is shown to be entitled to charge interest @ 15% per annum. That the above stated provisions of the Apartment Buyer's Agreement besides other similar one-sided provisions were on the face of it highly illegal, absurd, unilateral, arbitrary, unconscionable and not valid.
- X. A bare perusal of the above clauses highlights the one-sided arbitrary agreement and the abuse of dominant position is all pervasive in the terms and conditions of the Agreement executed by the respondent vide various clauses imposing all the liabilities on the complainant, while conveniently relieving itself from all obligations on its part.
- XI. That the complainant made objections to the arbitrary and unilateral clauses of the Agreement to the respondent. It is pertinent to mention herein that prior to the signing of the Agreement, complainant had made payment of Rs.6,51,552/- out of the consideration amount of Rs.23,26,972/-. Since the complainant had already parted with a considerable amount, she was left with no other option but to accept the lopsided and one-sided terms of the Agreement. The Builder Buyer Agreement was executed on 27.09.2017.
- XII. That the complainant made all the payments strictly as per the terms of the allotment and the construction linked payment plan and no default in making timely payment towards the instalment demands was committed by the complainant.



- XIII. That as per Clause 5.1 of the Agreement, the possession of the unit was to be handed over by the respondent within a period of 4 years from the date of approval of the building plans or grant of environment clearance. Thus, the due date to deliver the possession as per the agreed terms of the Apartment Buyer's Agreement was on 18.05.2021. On the lapse of the due date to handover the possession, the complainant visited the project site in June, 2021 and was shocked to see that no construction activity was going on there and the work was at standstill.
- XIV. Thus, since the time period to handover the possession had lapsed, the complainant requested the respondent telephonically, and by visiting the office to update her about the date of handing over of the possession. The representatives of respondent assured the complainant that the possession of the unit would be handed over to her very shortly as the construction was almost over. However, the representations of the respondent turned out to be false.
- XV. That the fact that the respondent has been committing illegality is evident from a bare perusal of the payment demand letter dated 04.05.2020. It is submitted that the respondent has been charging GST at the rate of 8% when the GST council in its 34th meeting held on 19.03.2019 took the decision vide a press release for a lower effective GST rate of 1% in case of affordable housing scheme instead of the earlier rate of 8% effective from 01.04.2019.
- XVI. Moreover, even as per Clause 4.1(ii) of the Agreement, it was agreed that if there was change in the taxes, the subsequent amount payable by the allottee(s) to the developer shall be increased or decreased based on such change. Despite being aware of the latest notification as well as the terms of the Agreement, the respondent kept on demanding the GST at the old rates instead of the revised ones. Thus, it is clear that the



complainant is entitled to the refund of the excess amount beyond 1% paid by her to the respondent towards the GST from 01.04.2019 onwards along with interest. Furthermore, the respondent vide the said demand letter also changed the payment plan which was in strict violation of the provisions of the Affordable Group Housing Policy, 2013.

- XVII. That on account of inordinate delay on the part of the respondent in handing over the possession, the complainant sent several communications to the respondent seeking update about the delivery of the allotted unit.
- XVIII. That the respondent finally offered the possession of the unit to the complainant vide its letter dated 14.05.2022. On-going through the terms of the offer of possession, the complainant realized that respondent had not adjusted the delayed possession charges nor the interest towards the excess amount which the complainant was made to pay during the time of allotment and which the respondent had assured that they would compensate the complainant with at the time of offer of possession. Since, the complainant had made majority of the payment till the offer of possession, the complainant was left with no choice but to accept the possession of the unit under protest.
- XIX. That the complainant had made payment of Rs.26,68,412/- towards the unit in question and the same is evident from statement of account as on 14.05.2022. However, the complainant was constrained to pay the said unlawful charges despite the protests.
- XX. That the respondent in the present matter has charged operational cost of utility of Rs.27,325/-. Furthermore as per the clarification regarding maintenance charges to be levied on affordable group housing projects being given by DCP, Haryana vide clarification no. PF -27 A/2024/3676 dated 31.01.2024 it is very clearly mentioned that the utility charges



(which includes electricity bill, water bill, property tax waste collection charges or any repair inside the individual flat etc.) can be charged from the allottees only as per actual consumptions. Accordingly, the respondent cannot charge maintenance charges/ utility charges from the complainant as a blanket charge in advance. The complainant had paid the said amount towards the utility charges and is thus entitled to get the refund of the said amount

- XXI. That the cause of action for the present complaint is recurring one on account of the failure of respondent to perform its obligations within the agreed time frame. The cause of action again arose when the respondent failed to give delayed possession charges, compensation and refund of illegal charges and finally about a week ago when the respondent refused to compensate the complainant with the delayed possession interest amount, compensation and refund of illegal charges.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from the due date of possession i.e., 17.05.2021 till the actual handing over of possession.
 - Direct the respondent to provide interest for the excess amount taken by the respondent at the stage of allotment which was in violation of the Affordable Group Housing policy, 2013.
 - Direct the respondent to refund the excess amount taken under the garb of the previous GST rates along with interest.
 - Direct the respondent to refund the excess amount paid by the complainant towards the Operational Cost of Utility Services.

- e) Direct the respondent to refund the excess amount paid by the complainant towards the Meter and Water Connection Charges.
 - f) Direct the respondent to refund the excess amount paid by the complainant towards the IFSD charges.
 - g) Direct the respondent to refund the excess amount paid by the complainant towards the External Electrification charges.
 - h) Direct the respondent to refund the excess amount paid by the complainant towards the Advance Consumption Charges.
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 in the year 2017, the complainant herein being in search of an apartment learned about the Affordable housing project titled as '*The Roselia*' at Sector 95A, Gurugram being developed by the respondent in terms of the Affordable Housing Policy.
 - II. That on 27.02.2017, the complainant vide Application Number 003381 applied for booking a unit in the project of the respondent post being impressed with the specifications of the project.
 - III. That after the draw of allotment, the complainant on 19.06.2017 was allotted unit no. E-1205, Tower E, 12th Floor having carpet area 569.243 sq. ft. and Balcony area 101.978 sq. ft. On 27.09.2017, an Agreement to Sell was executed for the said unit having sale price of Rs.23,26,972/- excluding all other charges, taxes etc. as mentioned and agreed by the complainant under the Agreement.
 - IV. That the complainant had applied for the unit after getting due diligence, verification done and post being fully satisfied with Project, Complainant



applied for the same. As per Clause 7.1 of the Agreement as well as Affordable Housing Policy, the possession of the apartment was proposed to be offered within a period of 4 years from the date of approval of building plans or environment clearance, whichever is later. The said time period for offer of possession was subject to *force majeure* circumstances. It is pertinent to mention here that the Environment Clearance for the project was granted on 18.05.2017 and thus, the possession was proposed to be offered on or before 18.05.2021, however, the said date is entitled to be extended due to various *force majeure* circumstances.

- V. The respondent is entitled for extension for *force majeure* circumstances and reasons beyond its control such as covid-19 and ban on construction activities by Competent Authorities/Courts etc. The details of force majeure circumstances and reasons beyond the control of the respondent are highlighted in the table below:

S.N o	AUTHORITIES / DATE OF ORDER	TITLE	DURATION OF BAN
1.	National Green Tribunal /08.11.2016 & 10.11.2016	Vardhman Kaushik Vs. Union of India	08.11.2016 – 16.11.2016 (8 days)
2.	National Green Tribunal / 09.11.2017	Vardhman Kaushik Vs. Union of India	09.11.2017 – Ban was lifted after 10 days (10 days)
3.	National Green Tribunal / 18.12.2017	Vardhman Kaushik Vs. Union of India	18.12.2017 – 08.01.2018 (22 days)
4.	Delhi Pollution Control Committee (DPCC) /14.06.2018	Order/Notification dated 14.06.2018	14.06.2018 – 17.06.2018 (3 days)
5.	Haryana State Pollution Control Board/ EPCA	Press Note – 29.10.2018 and later extended till 12.11.2018	01.11.2018- 12.11.2018 (11 days)
6.	Hon'ble Supreme Court/	3 days	24.12.2018 –



	23.12.2018	Construction ban in Delhi NCR	26.12.2018 (3 days)
7.	Central Pollution Control Board		26.10.2019 – 30.10.2019 (5 days)
8.	Commissioner, Municipal Corporation, Gurugram		11 th of October 2019 to 31st of December 2019. (81 days) (72 days)
9.	Environment Pollution (Prevention & Control Authority) - EPCA - Dr. Bhure Lal, Chairman	Complete Ban	01.11.2019 – 05.11.2019 (5 days)
10.	Supreme Court – 04.11.2019	M. C. Mehta Vs. UOI WPC 13029 / 1985	(44 days)
11.	Covid-19 extension (First Wave)- HRERA, Gurugram / 26.05.2020	Order dated 26.05.2020	6 Months extension
12.	Covid-19 extension (Second Wave) HRERA, Panchkula / 02.08.2021	Extract of the Resolution passed in the meeting dated 02.08.2021,	3 months extension
13.	Commission for Air Quality Management (NCR and Adjoining Areas) / 16.11.2021	Order dated 16.11.2021	16.11.2021 to 21.11.2021 (6 days)
TOTAL		1 years 3 months (approx.)	

VI. That the respondent has already completed the project in question and applied for Occupation Certificate vide application dated 22.11.2021. The Directorate of Town and Country Planning Haryana (DTCP) granted the Occupation Certificate for the project on 06.05.2022. That after receipt of Occupation Certificate, the respondent vide Offer of Possession Letter dated 14.05.2022, had offered possession to the complainant and requested the complainant to make the payment and take possession of the unit.



- VII. That vide same offer of possession letter dated 14.05.2022, the respondent even called upon the complainant to pay the balance outstanding amount, due against sale consideration, Meter Connection Charges, Water Connection Charges, EEC, IFSD, etc. as agreed and payable as per the agreement. However, the complainant failed to make the payment of outstanding dues within stipulated time period.
- VIII. That after being satisfied with the completion of the unit and demand of dues, the complainant with free will and consent took the possession on 19.09.2022 and made the payment without any demur. In furtherance to the same, the complainant came forward to execute the conveyance deed and the same was registered on 19.09.2022.
- IX. The present complaint is an afterthought of the complainant as the possession was offered and demands were raised to the complainant in 2022, however, the complainant is now disputing the demand after 2 years of offer of possession on one pretext or the other in the present complaint.
7. 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

8. 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

9. 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

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

Section 11(4)(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;

11. 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 objections raised by the respondent.

F.I Objections regarding delay caused due to Force majeure circumstances.

12. The respondent-promoter has raised a contention that the handover of the unit was delayed due to force majeure conditions such as various orders passed by the National Green Tribunal, Environment Pollution (Prevention & Control) Authority, shortage of labour, NGT regulating the mining activities, brick klins, and stoppage of work due to the order of various authorities. Since there were circumstances beyond the control of respondent, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which his construction activities





came to stand still, and the said period be excluded. The Authority is of the view that though there have been various orders issued to curb the environment pollution, but these were for a short period of time. So, the circumstances/conditions after that period can't be taken into consideration for delay in completion of the project. However, the plea of the respondent regarding delay caused due to the widespread of Covid-19 is taken into account. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021.

G. Findings on the relief sought by the complainants:

G.I. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from the due date of possession i.e., 17.05.2021 till the actual handing over of possession.

13. In the present complaint, the complainants intends to continue with the project and are seeking possession of the unit and delayed possession charges as per section 18(1) of the Act and the same is reproduced below for ready reference:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession 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 of delay, till the handing over of the possession, at such rate as may be prescribed."

(Emphasis supplied)

- **Whether the complainants can claim delayed possession charges after execution of the conveyance deed?**

14. The respondent stated that the conveyance deed of the unit has already been executed in favour of the complainants on 19.09.2022 and the



transaction between the parties stands concluded upon the execution of conveyance deed.

15. The respondent has argued that upon the execution of the conveyance deed, the relationship between the parties is considered concluded, precluding any further claims or liabilities by either party. Consequently, the complainants are barred from asserting any interest in light of the circumstances of the case.
16. In order to comprehend the relationship between the allottee and the promoter, it is essential to understand the definition of a "deed." A deed is a formal, written document that is executed, signed, and delivered by all parties involved in the contract, namely the buyer and the seller. It is a legally binding document that incorporates terms enforceable by law. For a sale deed to be valid, it must be written and signed by both parties. Essentially, a conveyance deed involves the seller transferring all rights to legally own, retain, and enjoy a particular asset, whether immovable or movable. In the present case, the asset in question is immovable property. By signing a conveyance deed, the original owner transfers all legal rights pertaining to the property to the buyer in exchange for valid consideration, typically monetary. Thus, a "conveyance deed" or "sale deed" signifies that the seller formally transfers all authority and ownership of the property to the buyer.
17. That the execution of a conveyance deed transfers only the title and interest in the specified immovable property (in this case, the allotted unit). However, the conveyance deed does not terminate the relationship between the parties or absolve the promoter of their obligations and liabilities concerning the unit, despite the transfer of title and interest to the allottee upon execution of the conveyance deed.



18. The allottees have invested their hard-earned money and there is no doubt that the promoter has been enjoying benefits of and the next step is to get their title perfected by executing the conveyance deed which is the statutory right of the allottees. Also, the obligation of the developer-promoter does not end with the execution of a conveyance deed. Therefore, in furtherance to the Hon'ble Apex Court judgement and the law laid down in case titled as ***Wg.Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd. (now known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no. 6239 of 2019)*** dated 24.08.2020, the relevant paras are reproduced herein below:

"34 The developer has not disputed these communications. Though these are four communications issued by the developer, the appellants submitted that they are not isolated aberrations but fit into the pattern. The developer does not state that it was willing to offer the flat purchasers possession of their flats and the right to execute conveyance of the flats while reserving their claim for compensation for delay. On the contrary, the tenor of the communications indicates that while executing the Deeds of Conveyance, the flat buyers were informed that no form of protest or reservation would be acceptable. The flat buyers were essentially presented with an unfair choice of either retaining their rights to pursue their claims (in which event they would not get possession or title in the meantime) or to forsake the claims in order to perfect their titles to the flats for which they have paid valuable consideration. In this backdrop, the simple question which we need to address is whether a flat buyer who espouses a claim against the developer for delayed possession can as a consequence of doing so be compelled to defer the right to obtain a conveyance to perfect their title. It would, in our view, be manifestly unreasonable to expect that in order to pursue a claim for compensation for delayed handing over of possession, the purchaser must indefinitely defer obtaining a conveyance of the premises purchased or, if they seek to obtain a Deed of Conveyance to forsake the right to claim compensation. This basically is a position in which the NCDRC has espoused. We cannot countenance that view.

19. The Authority has already taken a view in Cr. No. 4031/2019 and others titled as ***Varun Gupta V/s Emaar MGF Land limited and others*** and observed that the execution of a conveyance deed does not conclude the relationship or marks an end to the liabilities and obligations of the promoter towards the subject unit and upon taking possession, and/or executing conveyance deed, the complaints never gave up their statutory right to seek delayed possession charges as per the provisions of the said Act.

20. Upon reviewing all relevant facts and circumstances, the Authority determines that the complainant/allottee retain the right to seek compensation for delays in possession from the respondent-promoter, despite the execution of the conveyance deed.
21. As per Clause 5 of the Buyer's Agreement (in short, the agreement) dated 27.09.2017 and the Affordable Group Housing Policy, 2013 the promoter has proposed to hand over the possession of the said flat within a period of 4 years from the date of approval of building plans (09.01.2017) or grant of environment clearance, (18.05.2017), whichever is later. Further, a grace period of six months is granted in favour of the respondent. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021.
22. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges however, 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.



23. 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.
24. 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., 23.07.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.
25. The definition of term 'interest' as defined under section 2(za) of the Act provides that 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. 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;"*
26. 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 respondent 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. The Authority has observed that the Agreement For Sale was executed on 27.09.2017 between the complainant and the respondent. The possession of the subject unit was to be offered within a



period of 4 years from the date of approval of building plans (09.01.2017) or grant of environment clearance, (18.05.2017), whichever is later. Further, a grace period of six months is granted in favour of the respondent. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 18.11.2021. The Occupation Certificate in respect of the subject unit was granted to the respondent by the competent authorities on 06.05.2022 and thereafter, the respondent offered possession of the unit to the complainant on 14.05.2022. The respondent has failed to handover possession of the subject unit on the due date.

27. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The Authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted unit to the complainant as per the terms and conditions of the Buyer's Agreement dated 27.09.2017 executed between the parties. Further, the Authority observes that the respondent obtained the occupation certificate on 06.05.2022 and offered possession to the complainant on 14.05.2022 and the Conveyance Deed was executed on 19.09.2022.
28. Accordingly, the non-compliance of the mandate contained in section 11(4) (a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 18.11.2021 till the date of offer of possession plus two months after obtaining the occupation



certificate, i.e., 01.08.2022 as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

- G.II. Direct the respondent to provide interest for the excess amount taken by the respondent at the stage of allotment which was in violation of the Affordable Group Housing policy, 2013.**
- G.III Direct the respondent to refund the excess amount taken under the garb of the previous GST rates along with interest.**
- G.IV Direct the respondent to refund the excess amount paid by the complainant towards the Operational Cost of Utility Services.**
- G.V Direct the respondent to refund the excess amount paid by the complainant towards the Meter and Water Connection Charges.**
- G.VI Direct the respondent to refund the excess amount paid by the complainant towards the IFSD charges.**
- G.VII Direct the respondent to refund the excess amount paid by the complainant towards the External Electrification charges.**
- G.VIII Direct the respondent to refund the excess amount paid by the complainant towards the Advance Consumption Charges.**

29. The financial liabilities between the allottee and the promoter comes to an end after the execution of the conveyance deed. The complainants could have asked for the claim before the conveyance deed got executed between the parties. Therefore, after execution of the conveyance deed the complainants-allottees cannot seek refund of charges other than statutory benefits if any pending. Once the conveyance deed is executed and accounts have been settled, no claims remains. So, no directions in this regard can be effectuated at this stage.

H. Directions of the authority: -

30. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the authority under sec 34(f) of the Act: -
- i. The respondent/promoter shall pay interest at the prescribed rate i.e., 11.10% for every month of delay on the amount paid by the complainants from the due date of possession i.e., 18.11.2021 till the



date of offer of possession plus 2 months i.e. 01.08.2022 as per proviso to section 18(1) of the Act read with rule 15 of the rules.

- ii. The respondent is directed to pay arrears of interest accrued, if any , after adjustment in statement of account, within 90 days from the date of this order as per rule 16(2) of the Act,

31. Complaint stands disposed of.

32. File be consigned to the registry

Dated: 23.07.2025



HARERA
GURUGRAM

(Ashok Sangwan)

Member
Haryana Real Estate
Regulatory Authority,
Gurugram