



HARERA
GURUGRAM

Complaint No. 2716, 2711 and 3657 of 2024

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

Date of decision:

23.07.2025

NAME OF THE BUILDER		SUNRAYS HEIGHTS PRIVATE LIMITED	
PROJECT NAME		"63 Golf Drive" at sector 63A, Gurugram, Haryana	
Sr. No.	Case No.	Case title	Appearance
1.	CR/2716/2024	Prakriti Ranjan Samnta Vs. Sunrays Heights Private Limited	Shri Vijay Pratap Singh (Advocate) Shri Tushar Bahmani (Advocate)
2.	CR/2711/2024	Rekha Rani Vs. Sunrays Heights Private Limited	Shri Abhay Jain (Advocate) Shri Tushar Bahmani (Advocate)
3.	CR/3657/2024	Nisha w/o Samunder Vs. Sunrays Heights Private Limited	Shri Sanjeev Sharma (Advocate) Shri Tushar Bahmani (Advocate)

CORAM:

Shri Ashok Sangwan

Member

ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Sixty-Three Golf Drive" situated at Sector-63 A, Gurugram being developed by the same respondent/promoter i.e., Sunrays Heights Private Limited. The terms and conditions of the buyer's agreements and the fulcrum of the issue involved in all these cases pertain to failure on the part of the promoter to deliver timely possession of the units in question, seeking possession of the unit along with delayed possession charges.
3. The details of the complaints, status of reply, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given below:

Project Name and Location	"63 Golf Drive" at Sector - 63A, Gurugram, Haryana
Project area	9.7015625 acres
DTCP License No. and validity	82 of 2014 dated 08.08.2014 Valid up to 31.12.2023
RERA Registered or Not Registered	Registered Registration no. 249 of 2017 dated 26.09.2017 valid up to 25.09.2022
Date of approval of building plans	10.03.2015
Date of environment clearance	16.09.2016
Possession Clause	4. Possession "4.1 The developer shall endeavour to handover possession of the said flat within a period of four years i.e., 48 months from the date of commencement of the project, subject to force majeure and timely payment by the allottee towards the sale consideration, in accordance with the terms stipulated in the present agreement."



	*As per affordable housing policy 2013 "1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The license shall not be renewed beyond the said 4 years from the date of commencement of project."
Due date of possession	16.03.2021 (Calculated from the date of environment clearance being later including grace period of 6 months in lieu of Covid-19)
Occupation certificate	31.12.2024

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. & size	Date of execution of BBA	Total Sale Consideration / Total Amount paid by the complainant	Offer of possession	Relief sought
1	CR/2716/2024 Prakriti Ranjan Samnta Vs. Sunrays Heights Pvt. Ltd. DOF: 11.06.2024 Reply: 18.10.2024	57, Tower H Carpet area- 605.10 sq. ft. Balcony area- 94.94 sq. ft. (Page 46 Of reply)	05.02.2016 (Page 33 of reply)	BSP- Rs. 24,67,870/- AP- Rs. 19,72,365/- (As per Payment Detail Report dated 14.10.2024 at page 81 of reply) *The complainant alleges to have paid Rs.23,05,531/- to the respondent, however no proof of payment of Rs.3,33,166/- annexed.	Not Offered Final Reminder dated 17.05.2024 (Page 76 of reply)	<ul style="list-style-type: none"> DPC Allow the complainant or her authorized person to visit site to inspect her allotted unit. Raise the last demand as per the Haryana affordable housing policy towards the consideration of the said unit. Set aside the letter dated 17/05/2024 wherein illegal demand of Rs 13,73,021 is being demanded. In which bank account the complainant should deposit the last demand if at all raised by the Respondent as such the escrow bank account is being freezed by this Hon'ble Authority vide its order dated 12.02.2024.



						<ul style="list-style-type: none"> Respondent to get the copy of application for occupancy certificate, as such the respondent claims that they have applied for the OC.
2	CR/2711/2024	152, Tower C Carpet area- 605.10 sq. ft. Balcony area- 94.94 sq. ft. (Page 49 of complaint)	03.02.2016 (Page 36 of complaint)	BSP-Rs. 24,67,870/- AP-Rs. 22,46,778/- (As per Payment Detail Report dated 28.10.2024 at page 81 of reply)	Not Offered Final Reminder dated 05.08.2024 (Page 76 of reply)	<ul style="list-style-type: none"> DPC Handover possession Complete development of the unit along with facilities and amenities like water, electricity, roads, parks, etc. immediately. Not to charge anything which is not mentioned in the agreement. Legal expenses.
3	CR/3657/2024	84, Tower D Carpet area- 361.89 sq. ft. Balcony area- 69.84 sq. ft. (Page 29 of complaint)	04.02.2016 (Page 16 of complaint)	BSP-Rs. 14,82,480/- AP-Rs. 14,63,899/- (As per Payment Detail Report dated 18.02.2025 at page 47 of reply)	Not Offered Final Reminder dated 29.08.2024 (Page 45 of reply)	<ul style="list-style-type: none"> DPC Unit not to be alienated to third party.
Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:						
Abbreviation		Full form				
DOF		Date of filing of complaint				
DPC		Delayed possession charges				
TSC		Total sale consideration				
AP		Amount paid by the allottee/s				
CD		Conveyance deed				

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of subject unit for not handing over

the possession by the due date, seeking the delayed possession charges and further directions to the respondent to complete and seek necessary governmental clearances regarding infrastructural and other facilities including road, water, sewerage and electricity..

5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the respondent in terms of Section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant- allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case **CR/2716/2024 titled as "Prakriti Ranjan Samnta Vs. Sunrays Heights Private Limited"** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and unit related details

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/2716/2024 titled as "Prakriti Ranjan Samnta Vs. Sunrays Heights Pvt. Ltd."

Sr. No.	Particulars	Details
1.	Name of the project	"Sixty-Three Golf Drive", Sector 63A Gurugram
2.	Nature of the project	Affordable group housing
3.	RERA registered or not registered	249 of 2017 dated 26.09.2017 valid up to 25.09.2022
4.	DTCP license	82 of 2014 dated 08.08.2014 valid up to 31.12.2023
5.	Unit no.	H-57, Tower H (page 46 of reply)



6.	Unit admeasuring	605.10 sq. ft. (carpet area) 94.94(balcony area) (page 46 of reply)
7.	Provisional Allotment letter	11.01.2016 (page 18 of complaint)
8.	Date of execution of Buyers agreement	05.02.2016 (page 33 of reply)
9.	Possession clause	<p>4. POSSESSION</p> <p><i>"4.1 The developer shall endeavor to handover possession of the said flat within a period of four years i.e., 48 months from the date of commencement of the project, subject to force majeure and timely payment by the allottee towards the sale consideration, in accordance with the terms stipulated in the present agreement."</i></p> <p>(Emphasis supplied)</p> <p>(page 36 of reply)</p> <p>*As per Affordable Housing Policy 2013</p> <p><i>1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licence shall not be renewed beyond the said 4 years from the date of commencement of project.</i></p>
10.	Date of building plan	10.03.2015 (Page 58 of reply)
11.	Date of environment clearance	16.09.2016 (Page 64 of reply)
12.	Due date of possession	16.03.2021 (16.09.2020 plus six months in lieu of covid-19) (calculated from the date of environment clearance)
13.	Total sale consideration	Rs. 24,67,870/- (page 46 of reply)
14.	Amount paid by the complainant	Rs. 19,72,365/- (As per Payment detail report dated 14.10.2024 at page 81 of reply)



15.	Final Reminder to clear outstanding dues of Rs.8,61,997/-	17.05.2024 (Page 76 of reply)
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint

8. The complainant has made following submissions in the complaint:

- a) That the respondent made advertisement in the newspaper 'Hindustan Times' with regard to the location, specification and amenities and time of completion of the project under the name affordable group housing colony commonly known as "63 Golf- Drive" floated under Haryana Government's Affordable Housing Policy, located at Sector 63A, Gurgaon, Haryana. The complainant approached to the respondent for booking of a unit vide application bearing no SGD0537, in accordance with the affordable housing policy 2013 issued by the Govt. of Haryana , having carpet area of 604.83 sq. ft. and balcony area of 95.10 sq. ft .
- b) That the draw of the said project was held wherein the complainant was allotted unit no. H-57 at tower H.
- c) That the buyer's agreement was executed between the parties on 04.02.2016. The total sale consideration of the unit was Rs.24,67,870/- and other taxes and charges payable. As per provisional allotment letter dated 11.01.2016 and BBA the complainant got the unit financed and the original copy of the same is lying with the ICICI Bank. As per statement of accounts dated 05.07.2022, the outstanding amount towards consideration of the unit is Rs.3,33,166/- and the same outstanding was paid on 09.06.2023. The complainant paid Rs.23,05,531/- against demand of Rs.23,29,080/- till the date of filing of case before the



Authority as and when the demand were raised by the respondent in time bound manner. The promoter with malafide intention without even raising the demand against sale consideration to the complainant had charged illegal interest without any explanation and has in lumpsum demanded Rs.13,73,021/- which is illegal, arbitrary, unilateral and against the policy of Haryana Affordable Policy, 2013.

- d) That the respondent is hereby threatening and pressurizing the complainant that he has to make the payment as per the affordable housing policy without even raising the demand, the respondent is trying to pressurize the complainant align the complainant in cancellation pool not even caring the hard fact that as per the BBA terms the project is already delayed by more than 3 year from the date of promise.
- e) That keeping in view the slow-paced construction status and absence of basic amenities respondent is delayed in giving possession. As per section 19 (6) the Act, 2016 complainant has fulfilled his responsibility in regard to making the necessary payments in the manner and within the time specified in the said agreement. Therefore, the complainant herein is not in breach of any of its terms of the agreement. But the respondent is deliberately and intentionally not raising the last demand as per the amended construction linked plan of the Haryana Affordable Policy, 2013.
- a) That the cause of action to file the instant complaint has occurred within the jurisdiction of this Authority as the unit which is the subject matter of this complaint is situated in Sector 63A, Gurugram which is within the jurisdiction of this Authority. The complainant further relies on the various judgements passed by the Authority in favor of the complainants.

C. Relief sought by the complainant

9. The complainant has sought the following relief(s):

- I. Direct the respondent pay interest @ 8.65% per annum as per the prevailing MCLR plus 2%, on paid amount of Rs23,05,531/- for delay period starting from 15th March. 2021 till actual handover of the physical possession or offer of possession plus 2 months after obtaining OC whichever is earlier, as per the provisions of the Act and hand over the actual possession of the booked flat to the complainant.
 - II. Direct the respondent to allow the complainant or her authorized person to visit site to inspect her allotted unit and project in totality on her behalf as such now the Respondent is not allowing any allottee to enter the said project to assess the situation and the work in progress at the site.
 - III. Direct the respondent to raise the last demand as per the Haryana affordable housing policy towards the consideration of the said unit, to make the payment.
 - IV. Direct the respondent to set aside the letter dated 17/05/2024 wherein illegal demand of Rs 13,73,021 is being demanded that too without any explanation and justification.
 - V. Direct the respondent to guide us with directions as if in which bank account the complainant should deposit the last demand if at all raised by the Respondent as such the escrow bank account is being freezed by this Hon'ble Authority vide its order dated 12.02.2024.
 - VI. Direct the respondent to get the copy of application for occupancy certificate, as such the respondent claims that they have applied for the OC.
10. 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

11. The respondent has contested the complaint on the following grounds.
- a) That the complainant applied to the respondent for allotment of the unit vide an application form was provisionally allotted a unit bearing no. H-57



in tower H, having carpet area of 605.10 sq. ft. and balcony area of 94.94 sq. ft.

- b) Thereafter, a builder buyer agreement was executed between the parties on 05.02.2016. The agreement was consciously and voluntarily executed between the parties and terms and conditions of the same are binding on the parties.
- c) That as per clause 4.1 of the agreement, the due date of possession was subject to the allottee having complied with all the terms and conditions of the agreement. That being a contractual relationship, reciprocal promises are bound to be maintained. The rights and obligations of the allottee as well as the builder are completely and entirely determined by the covenants incorporated in the agreement which continue to be binding upon the parties thereto with full force and effect.
- d) That, as per clause 4.1 of the agreement, the respondent endeavoured to offer possession within a period of 4 years from the date of obtainment of all government sanctions and permissions including environment clearance, whichever is later. The possession clause of the agreement is on par with clause 1(iv) of the Affordable Housing Policy, 2013.
- e) That the building plan of the project was approved on 10.03.2015 from DGTCP and the environment clearance was received on 16.09.2016. Thus, the proposed due date of possession, as calculated from the date of EC, comes out to be 21.08.2021. The Ld. Authority vide notification no.9/3-2020 dated 26.05.2020 had allowed an extension of 6 months for the completion of the project the due of which expired on or after 25.03.2020, on account of unprecedented conditions due to outbreak of Covid-19. Hence, the proposed due date of possession comes out to be 16.03.2021.



f) That the offer of possession was also subject to the incidence of force majeure circumstances under clause 16 of the agreement. The construction and development of the project was affected by circumstances which are beyond the control of the respondent. The respondent faced certain other force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab and Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel exponentially. It was almost for 2 years that the scarcity as detailed aforesaid continued, despite which, all efforts were made, and materials were procured at 3-4 times the rate and the construction of the Project continued without shifting any extra burden to the customer. The development and implementation of the said project have been hindered on account of several orders/directions passed by various authorities/forums/courts. Additionally, even before normalcy could resume, the world was hit by the Covid-19 pandemic. The covid-19 pandemic resulted in serious challenges to the project with no available labourers, contractors etc. for the construction.

g) That as per license condition, developer are required to complete these projects within a span of 4 years from the date of issuance of environmental clearance since they fall in the category of special time bound project under Section 7B of the Haryana Development and



Regulation of Urban Area Act 1975, for a normal Group Housing Project there is no such condition applied hence it is required that 4 years prescribed period for completion of construction of Project shall be hindrance free and if any prohibitory order is passed by competent authority like NGT or Hon'ble Supreme Court then the same period shall be excluded from the 4 years period.

- h) Despite there being several defaulters in the project, the respondent had to infuse funds into the project and have diligently developed the project in question. Despite the default caused, the respondent got sanctioned loan from SWAMIH fund of Rs. 44.30 Crores to complete the project and has already invested Rs. 35 Crores from the said loan amount towards the project. The respondent has already received the FIRE NOC, LIFT NOC, the sanction letter for water connection and electrical inspection report.
- i) That the respondent has applied for occupation certificate on 08.12.2023. Once an application for grant of occupation certificate is submitted for approval in the office of the statutory authority concerned, respondent ceases to have any control over the same. The grant of sanction of the occupation certificate is the prerogative of the concerned statutory authority over which the respondent cannot exercise any influence. Therefore, the time utilized by the statutory authority to grant occupation certificate to the respondent is required to be excluded from computation of the time utilized for implementation and development of the project.
- j) That the complainant has been allotted unit under the Affordable Housing Policy, 2013 which under clause 5(iii)(b), clearly stipulated the payment of consideration of the unit in six equal instalments. The complainant is liable to make the payment of the instalments as per the government





policy under which the unit is allotted. At the time of application, the complainant was aware of the duty to make timely payment of the instalments. Not only as per the Policy, but the complainant was also under the obligation to make timely payment of instalments as agreed as per the BBA.

- k) That the complainant has failed to make any payment of instalment at "within 36 months from the due date of Allotment" due in April 2019 along with partial payment towards previous instalments. The complainant cannot rightly contend under the law that the alleged period of delay continued even after the non-payment and delay in making the payments. The non-payment by the complainant affected the construction of the project and funds of the respondent. That due to default of the complainant, the respondent had to take loan to complete the project and is bearing the interest on such amount. The respondent reserves the right to claim damages before the appropriate forum.
- l) That it is the obligation of the complainant under the Affordable Housing Policy, 2013 (as on the date of Allotment) and the Act to make timely payments for the unit. In case of default by the complainant the unit is liable to be cancelled as per the terms of Affordable Housing Policy, 2013.
- m) That the respondent issued a final reminder letter requesting the complainant to pay the outstanding dues of Rs.13,73,021/-. The complainant has hopelessly delayed in making the payment of the balance instalments to the respondent and hence the unit of the complainant is liable to be cancelled in terms of clause 5(iii)(i) of the Affordable Housing Policy, 2013.

- n) That without prejudice, assuming though not admitting, relief of delayed possession charges, if any, cannot be paid without adjustment of outstanding instalment from due date of instalment along with interest @15% p.a.
- o) That, moreover, without accepting the contents of the complaint in any manner whatsoever, and without prejudice to the rights of the respondent, the unit of complainant can be retained only after payment of interest on delayed payments from the due date of instalment till the date of realization of amount. Further delayed interest if any must be calculated only on the amounts deposited by the complainant towards the sales consideration of the unit in question and not on any amount credited by the respondent, or any payment made by the complainant towards delayed payment charges or any taxes/statutory payments, etc.
12. All other averments made in the complaint were denied in toto.
13. 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

14. 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

15. 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 purposes 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 a complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

16. 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) 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.

17. 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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the objections raised by the respondent.

F.I Objection regarding delay due to force majeure circumstances.

18. It is contended on behalf of respondent that due to various circumstances beyond its control, it could not speed up the construction of the project, resulting in delays such as various orders passed by NGT and Hon'ble Supreme Court. All the pleas advanced in this regard are devoid of merit. The

passing of various orders to control pollution in the NCR-region during the month of November is an annual feature and the respondent should have taken the same into consideration before fixing the due date. Similarly, the various orders passed by other Authorities cannot be taken as an excuse for delay as it is a well-settled principle that a person cannot take benefit of his own wrong.

19. It is observed that the respondent was liable to complete the construction of the project, and the possession of the said unit was to be handed over by 16.09.2020 and is claiming benefit of lockdown amid covid-19. In view of notification no. 9/3-2020 dated 26.05.2020, the Authority has allowed six months' relaxation due to covid-19 and thus with same relaxation, even if due date for this project is considered as 16.09.2020 + 6 months, possession was to be handed over by 16.03.2021, but the respondent has failed to handover possession even within this extended period.

G. Findings on the relief sought by the complainant

G.I Direct the respondent pay interest @ 8.65% per annum as per the prevailing MCLR plus 2%, on paid amount of Rs23,05,531/- for delay period starting from 15th March. 2021 till actual handover of the physical possession or offer of possession plus 2 months after obtaining OC whichever is earlier, as per the provisions of the Act and hand over the actual possession of the booked flat to the complainant.

20. The factual matrix of the case reveals that the complainant booked a unit in the affordable group housing colony project of the respondent known as "63 Golf Drive" situated at sector 63-A, Gurugram, Haryana and was allotted unit no. 57, in tower H for a sale consideration of Rs.24,67,870/-. The possession of the unit was to be offered within 4 years from approval of building plans (10.03.2015) or from the date of environment clearance (16.09.2016), whichever is later which comes out to be 16.09.2020. Further, as per

HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 16.09.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over the possession comes out to be 16.03.2021. Further, the complainant is always ready and willing to retain the allotted unit in question and has paid a sum of Rs. 19,72,365/- towards the allotted unit.

21. Further, the complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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 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."***

22. Moreover, the project was to be developed under the Affordable Housing Policy, 2013, which clearly mandates that the project must be delivered within four years from the date of approval of the building plan or environmental clearance, whichever is later. However, the respondent has chosen to disregard the policy provision.

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

The complainant is seeking delay possession charges till the date of delivery of possession to the complainant. 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, *ibid*. 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."

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

25. 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%**.

26. The definition of term 'interest' as defined under Section 2(z a) 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;”*

27. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10 % by the respondent which is the same as is being granted to them in case of delayed possession charges.
28. On consideration of the documents available on record and submissions made 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. By virtue of clause 4 of the buyer's agreement, the possession of the subject apartment was to be delivered within 4 years from the date of commencement of project (as per clause 1(iv) of Affordable Housing Policy, 2013, all such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the “date of commencement of project” for the purpose of this policy). In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is 16.09.2016. The due date of handing over of possession is

reckoned from the date of environment clearance being later. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as per **HARERA notification no. 9/3-2020 dated 26.05.2020**, an extension of 6 months is granted for the projects having a completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 16.09.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to the outbreak of Covid-19. As such the due date for handing over of possession comes out to be 16.03.2021.

29. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. 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 the prescribed rate of interest i.e., @ 11.10% p.a. w.e.f. 16.03.2021 till actual handing over of possession or valid offer of possession plus two months after obtaining occupation certificate from the competent Authority, whichever is earlier, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

30. Further, the authority observes that the respondent-promoter has obtained occupation certificate of the said project from the competent authority on 31.12.2024. Further, Section 17(1) of the Act of 2016 obligates the respondent-promoter to handover the physical possession of the subject unit to the complainant complete in all respect as per specifications mentioned in

BBA and thereafter, the complainant-allottee is obligated to take the possession within 2 months as per provisions of Section 19(10) of the Act, 2016.

31. In view of the above, the respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the occupation certificate for the project has already been obtained by it from the competent authority.
32. Further, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the occupation certificate/completion certificate from the competent authority. Whereas as per Section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question. In view of above, the respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.

G.II Direct the respondent to allow the complainant or her authorized person to visit site to inspect her allotted unit and project in totality on her behalf as such now the respondent is not allowing any allottee to enter the said project to assess the situation and the work in progress at the site.

33. The Authority is of the view that occupation certificate for the project had already been received on 31.12.2024. Therefore, no direction to this effect is required.



G.III Direct the respondent to raise the last demand as per the Haryana affordable housing policy towards the consideration of the said unit, to make the payment.

G.IV Direct the respondent to set aside the letter dated 17.05.2024 wherein illegal demand of Rs 13,73,021 is being demanded that too without any explanation and justification.

34. The above-mentioned reliefs sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

35. The respondent/promoter shall not charge anything from the complainant which is not the part of the builder buyer agreement and under the Affordable Housing Policy, 2013.

36. Perusal of case file reveals that the demand raised by the respondent via letter dated 17.05.2024 was towards payment of interest on delay payments. Therefore, the rate of interest chargeable from the allottee by the promoter, in case of default, if any 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 allottee, in case of default i.e., the delayed possession charges as per Section 2(zb) of the Act.

37. Therefore, the respondent is directed to raise last demand only in accordance with the builder buyer agreement.

G.V Direct the respondent to guide us with directions as if in which bank account the complainant should deposit the last demand if at all raised by the Respondent as such the escrow bank account is being freezed by this Hon'ble Authority vide its order dated 12.02.2024.

38. The Authority, vide its order dated 29.04.2024, had already directed the de-freezing of the respondent's bank accounts to a limited extent, thereby permitting the receipt of incoming funds and authorizing the respondent to withdraw amounts from the escrow account for the specific purpose of

discharging statutory liabilities, including renewal of license, furnishing of bank guarantees, and payment of fees to RERA/DTCP.

39. Accordingly, the complainant is directed to deposit the amount raised in the last demand by the respondent, if any outstanding dues remain after adjusting the amount towards delayed possession charges.

G.VI Direct the respondent to get the copy of application for occupancy certificate, as such the respondent claims that they have applied for the OC.

40. As per the records submitted by the promoter in other matters, the Authority finds that the respondent has obtained the occupation certificate for the said project on 31.12.2024. Hence, no fruitful outcome would result from directing the respondent to supply a copy of the application for the occupation certificate submitted by the promoter in the concerned Authority to the complainant. Therefore, no direction to this effect is required.
41. As per Section 11(4)(b) of Act of 2016, the respondent is under an obligation to supply a copy of the occupation certificate/completion certificate or both to the complainant-allottee. The relevant part of section 11 of the Act of 2016 is reproduced as hereunder: -

"11(4)....

(b) The promoter shall be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be."

42. Even otherwise, it being a public document, the allottee can have access to the it from the website of DTCP, Haryana.

H. Directions of the authority

43. 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 is directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate of interest i.e., 11.10% p.a. for every month of delay from the due date of possession 16.03.2021 till actual handing over of possession or valid offer of possession plus two months after obtaining occupation certificate from the competent Authority, whichever is earlier as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- II. The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottees within a period of 90 days from date of this order as per Rule 16(2) of the Rules, *ibid*.
- III. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainants are directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 30 days.
- IV. The rate of interest chargeable from the allottee 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 allottee, in case of default i.e., the delayed possession charges as per Section 2(z) of the Act.
- V. The complainant shall deposit the last demand raised by the respondent, if any outstanding remains after adjustment of the



delayed possession charges as and when the escrow account of the respondent is de-frozen by the Authority.

- VI. The respondent is directed to handover the possession of the allotted unit to the complainant complete in all aspects as per specifications of buyer's agreement within one month from date of this order, as the occupation certificate in respect of the project has already been obtained by it from the competent authority.
- VII. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.
- VIII. The respondent shall not charge anything from the complainant which is not part of the buyer's agreement and under the Affordable Housing Policy, 2013.
44. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
45. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
46. Files be consigned to the registry.

Dated: 23.07.2025

Ashok Sangwan
Member
Haryana Real Estate
Regulatory Authority,
Gurugram