



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	601 of 2024
Date of filing.:	13.05.2024
First date of hearing.:	23.07.2024
Date of decision.:	29.07.2025

Manju Aggarwal
R/o 26/88, Shakti Nagar,
Delhi-110007

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd,
Regd. Office at G-2, Arunachal Building
19, Barakhamba Road,
Delhi-110001

....RESPONDENT

Complaint no.:	621 of 2024
Date of filing.:	13.05.2024
First date of hearing.:	23.07.2024
Date of decision.:	29.07.2025

Rakesh Aggarwal
R/o 26/88, Shakti Nagar,
Delhi-110007

....COMPLAINANT

VERSUS

Parsvnath Developers Ltd,
Regd. Office at G-2, Arunachal Building
19, Barakhamba Road,
Delhi-110001

....RESPONDENT

Lotus

CORAM: **Dr. Geeta Rathee Singh** **Member**

Chander Shekhar **Member**

Present: - Mr.Prem Garg, Learned Counsel for the complainant
through VC (in both complaints)
Ms. Rupali Verma, Learned Counsel for the respondent
through VC (in both complaints)

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaints both dated 13.05.2024 have been filed by complainant(s) under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.
2. Both the captioned complaints are being taken up together as they pertain to the same project of the respondent and facts and grievances involved are similar and being decided taking Complaint No. 601 of 2024 as the lead case.



A. UNIT AND PROJECT RELATED DETAILS

3. The particulars of the project, details of sale consideration, amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project.	Parsvnath Pleasant, Dharuhera, District Rewari. .
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Unregistered
4.	Details of the unit.	T17-G02
5.	Date of allotment	14.03.2007
6.	Date of floor buyer agreement	04.06.2008
7.	Possession clause in floor buyer agreement	Clause 10(a): Construction of the flat is likely to be completed within a period of thirty six (36) months from the date of start of foundation of the particular Tower in which the flat is located with a grace period of six(06) months, on receipt of sanction of building plans/ revised building plans and approvals of all concerned Authorities including the Fire Service Deptt., Civil Aviation Deptt., Traffic Deptt., Pollution Control Deptt., as may be required for commencing and carrying on construction subject to force majeure, restraints or restrictions from any courts/Authorities, nonavailability of



		building materials, disputes with contractors/work force etc. and circumstances beyond the control of the developer and subject to timely payments by the flat buyers. No claim by way of damages/compensation shall lie against the developer in case of delay in handing over possession on account of any of such reasons and the period of construction shall be deemed to be correspondingly extended. The date of submitting application to the concerned Authorities for issue of completion/part completion/occupancy/part occupancy certificate of the complex shall be treated as the date of completion of the flat for the purpose of this clause/agreement.
8.	Due date of possession	Not available
8.	Total sale consideration	₹35,17,636/-
9.	Amount paid by complainant	₹12,75,898.69/-
10.	Offer of possession.	None

**B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT
AS STATED IN THE COMPLAINT**

4. Complainant had booked a unit in a project of the respondent namely, "Parsynath Pleasant" situated in Dharuhera, Rewari. Vide allotment letter dated 14.03.2007 a unit bearing No. T17-G02, admeasuring 1855 sq ft. was



allotted to the complainant for a total sale consideration of ₹35,17,636/- against which she has paid an amount of ₹12,75,898.69/- till date.

5. A builder buyer agreement qua the unit was executed between the complainant and the respondent on 04.06.2008. As per clause 10(a) of the agreement, construction of the unit was to be completed within a period of thirty six (36) months from the date of start of foundation of the particular Tower in which the unit is located with a grace period of six(06) months, on receipt of sanction of building plans/ revised building plans and approvals of all concerned authorities.
6. It is submitted by the complainant that the construction of Tower in which the unit of the complainant is situated, has not been completed and that the unit itself is uninhabitable. No development works are being carried out at the site since 2010 and there is no progress regarding the development of the project since the past many years. As per agreement possession of the unit should have been delivered by 04.12.2011, however, till date, the respondent has failed to complete the construction of the project and issue an offer of possession. None of the facilities as promised in the builder buyer agreement have been constructed at the site.
7. The complainant time and again approached the respondent regarding development and date of completion of the project but the representatives of the respondent always stated that the project will be delivered soon.



Complainant issued one legal notice dated 09.10.2023 to the respondent through her counsel seeking refund of paid amount since the respondent failed to deliver possession of the booked unit but received no response.

8. The respondent is guilty of deficiency in service and has failed to handover the possession of the unit to the complainant within stipulated time. According to Section 18(1) of the Real Estate(Regulation and Development), Act, 2016, the respondent is bound to return the entire amount deposited against the unit by the complainant along with prescribed rate of interest on account of deficiency in service.
9. Therefore, the complainant has filed the present complaint seeking refund of paid amount along with interest in terms of RERD, Act 2016 and Rules therein.

C. RELIEF SOUGHT

10. In view of the facts mentioned above, the complainants pray for the following reliefs):-
 - i. To direct the respondent to refund the complete amount which has been deposited with the respondent by the complainant with interest from the actual date of deposit of each payment as per the Real Estate (Regulation & Development) Act, 2016 R/w Haryana Real Estate (Regulation & Development) Rules, 2017 at the rate prescribed under the Act.



- ii. To direct the respondent to pay ₹ 10,00,000/- to the complainant in the form of loss of opportunity, mental and physical trauma caused by the respondent. Any other relief or claim which the Hon'ble Authority deems appropriate.

11. During hearing, ld. counsel for the complainant stated that complainant had booked the unit in question on 11.04.2006. From 2006 till 2008, complainant has paid an amount of ₹ 12,75,898.69/-. Ld. counsel for complainant further submitted that despite numerous requests, respondent failed to initiate any construction of the flat in question, and possession has not been offered by respondent till date. Respondent is still not in a position to deliver possession of the unit.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 27.08.2024 pleading therein:

12. That the present complaint is not maintainable before this Hon'ble Authority. There is no contravention of the provisions of the Real Estate(Regulation and Development) Act, 2016 on behalf of the respondent, hence the present complaint is not maintainable. No cause of action has been pleaded in the entire complaint, therefore the complaint ought to have been rejected.



13. It is submitted that on 14.03.2007, complainant was allotted a residential unit in the project in question bearing no. T17-G02 for as area measuring 1855 sq. ft. On 04.06.2008, a builder buyer agreement was executed between the complainant and the respondent as per which the basic selling price was fixed as ₹ 35,17,636/- after availing a discount of ₹ 71,788.50/- . Against the basic selling price complainant has only deposited an amount of ₹ 12,75,899/- till date with the respondent.
14. The complainant had opted for a construction linked payment plan. All the payment demands have been made as per the agreed payment plan. However, the complainant remained a chronic defaulter and was duly informed about non-payment of instalments repeatedly through various reminders dated 09.07.2008, 14.10.2008, 22.11.2008 and 27.02.2009. Further, the interests of the complainant were protected under clause 9(c) of the builder buyer agreement in which it is clearly agreed that in case of delay in possession of the unit beyond the stipulated period, subject to force majeure and other circumstances, the respondent shall pay to the buyer compensation of ₹ 5/- per sq. ft. of the super built up area of the unit per month for the period of delay.
15. With regards to the project in question it is submitted that in the year 2007 the respondent had proposed to develop the sid project under various Collaboration Agreements/ Development Agreements with the Landowner



had planned to develop the project for total land admeasuring 112.956 acres (hereinafter referred to as "Project Land"). That on 03.03.2007 DTCP granted the Petitioner ten licenses for establishment of project bearing No. 129 to 138 of 2007, for setting up of a residential colony on area measuring 112.956 acres which is falling in the revenue estate of Village Dharuhera, District, Rewari. The license was valid up to 02.03.2016.

16. Respondent has already applied for renewal of license which was still pending before the DTCP, Haryana. Copies of the License 129-138 of 2007 up to 02.03.2016 and application for renewal up to 02.03.2020 are annexed herewith as Annexure R-4 and Annexure R-5 respectively.
17. Respondent has completed all the development work in the project related to the infrastructures and basic amenities. It is further submitted that all the basic facilities and amenities like road, electricity, water, sewage, storm water etc, are duly available at the project site.
18. Further it is submitted that the respondent has already obtained all the necessary approvals from the competent authorities. That on 25.05.2016, the Office of Senior Town Planner (STP), Gurgaon affirmed to DTCP, Haryana vide Memo No. STP (G)/ 2016/712 dated 25.05.2016 that all the development works of the project-site as per the approved layout plan have been completed. Copy of the memo no. STP (G)/2016/712 dated 25.05.2016 issued by Senior Town Planner (STP) is annexed herewith as Annexure R-6.



19. That on 21.02.2021 inspection visit at project site was conducted by the Ld.

CTP, H-RERA, Panchkula and the observations noted by the Ld. CTP, were submitted before the Hon'ble Authority.

20. Respondent is willing to offer an alternate property to the complainants subject to mutual consent of the complainant and the respondent company.

21. That there is no intentional delay on the part of the respondent company. The project has been delayed for reasons beyond the control of respondent company. Now, the respondent endeavors to streamline and complete the project to offer possession at the earliest.

E. ISSUES FOR ADJUDICATION

22. Whether the complainant is entitled to refund of the amount deposited with the respondent along with interest in terms of Section 18 of Act of 2016?

F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

23. On perusal of record and after hearing both the parties, Authority observes that the respondent in the present complaint has raised a preliminary objection that there is no contravention of the provisions of the Real Estate(Regulation and Development) Act, 2016 and further no cause of action has been pleaded in the entire complaint. In this regard it is observed that the captioned complaint pertains to sale and purchase of an independent unit bearing no. T17-G02 in the project being developed by



the respondent namely, 'Parsvnath Pleasant' situated at Dharuhera, Rewari. Both parties had executed a builder buyer agreement dated 04.06.2008 in respect of the said unit. Through this agreement the respondent builder had promised delivery of possession of the unit to the allottee/complainant in a stipulated time period. However, the respondent has failed to deliver possession of the booked unit and thus there is a deficiency in service, on account of which the complainant/allottee has filed the present complaint. This is a clear violation and contravention of the terms of the builder buyer agreement dated 04.06.2008 as well as provisions under Section 11(4) of the Real Estate(Regulation and Development) Act, 2016. As per Section 11(4) (a) of the RERA Act 2016, the promoter shall be responsible for all obligations, (responsibilities) and function under the provisions of this Act or the rules and regulations made thereunder or to the allottees, as per the agreement for sale. Since, the respondent has failed to fulfill its obligation, a cause of action arose against the respondent promoter and in favor of the complainant on account of deficiency in service, thus the complainant/allottee becomes entitled to seek relief in terms of Section 18 of the RERA Act. Therefore, the objection of the respondent that the present complaint is not maintainable is rejected.

24.As per facts and circumstances complainant had booked a residential unit in the project of the respondents namely "Parsvnath Pleasant" situated in



Dharuhera, Rewari. Vide allotment letter dated 14.03.2007 complainant was allotted a unit bearing No. T17-G02, admeasuring 1855 sq ft. was allotted to the complainant for a basic sale consideration of ₹35,17,636/- against which she has paid an amount of ₹12,75,898.69/- till 2008. As per clause 10(a) construction of the unit was to be completed within a period of thirty six (36) months from the date of start of foundation of the particular Tower in which the unit is located with a grace period of six(06) months, on receipt of sanction of building plans/ revised building plans and approvals of all concerned authorities. It is pertinent to mention that the particular date of start of foundation of the particular Tower in which the unit is located has not been disclosed by the respondent.

25. Complainant is aggrieved by the fact that despite a lapse of more than 13 years from the date of execution of the agreement, respondents are not in a position to deliver possession of the booked unit as the construction work is not complete at the project site.

26. Admittedly delivery of possession has been delayed beyond the stipulated period of time. As per clause 10(a) of the agreement, the deemed date of possession is to be calculated from thirty six (36) months from the date of start of foundation of the particular tower in which the unit is located with a grace period of six(06) months. Here it is pertinent to mention that exact date of start of construction of the specific Tower has not been given by either of



the parties. Moreover, on perusal of the possession clause, this Authority is of the view that clause is completely vague, arbitrary and favouring the respondent only. Therefore, the deemed date of completion of the unit shall be considered from 36 months along with 6 months grace period from the execution of the builder buyer agreement dated 04.06.2008, which in this case works out to 04.12.2011. Further, it is a matter of fact that the respondent promoter has till date neither handed over possession nor completed the construction of the unit, thus, the respondent has failed to fulfill its obligation to handover the possession within stipulated/agreed time.

27. The respondent has submitted that sincere efforts were made to complete the construction of the project and handover possession to the complainant within stipulated time, however, there was a delay in the construction of project delay and subsequent delivery of possession due to force majeure conditions. In this regard it is observed that throughout its pleadings, respondent has failed to bring to fore the force majeure conditions which had caused delay in construction of the project. Mere submissions of the respondent without any documentary evidence cannot be accepted. In absence of any proof, the benefit of such circumstances cannot be awarded to the respondent. Respondents cannot be allowed to take the plea of force majeure conditions towards delay caused in construction of the



project/delivery of possession as the same did not affect the construction activities at the site of the project during the proposed possession timeline.

28. As per observations recorded in the preceding paragraph possession of the unit should have been delivered to the complainant by 04.12.2011. However, respondent has failed to complete construction of the project and deliver possession within stipulated time. Now even after a lapse of 14 years from the proposed date of delivery of possession the construction of the project is not complete and the respondent is not in a position to handover possession in foreseeable future. Respondent has submitted that basic infrastructure and facilities are available at site and an offer of possession will soon be made to the complainant, but again the respondent has failed to attach latest photographs of site and/or the unit in question to give weight to its claim with regard to handing over of possession of the unit in foreseeable future. In such circumstances, the complainant who is already waiting since 04.12.2011, cannot be forced to wait further for delivery of possession of the booked unit for an indefinite amount of time. Complainant in this case does not wish to continue with the project on account of inordinate delay caused in delivery of possession and is hence seeking refund of paid amount along with interest as per RERD Act 2016.
29. Further, Hon'ble Supreme Court in the matter of "Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others" in CIVIL



APPEAL NO(S). 6745 6749 OF 2021 has observed that in case of delay in granting possession as per agreement for sale, the allottee has an unqualified right to seek refund of amounts paid to the promoter along with interest. Para 25 of this judgement is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer; the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

30. The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession.

31. Authority observes that the project i.e. " Parsvnath Pleasant" is already delayed by several years. It is still not complete and admittedly respondents are not in a position to complete the project within reasonable time. The complainant wishes to withdraw from the project of the respondents,

Rathee

therefore, the Authority finds it to be a case fit for allowing refund in favour of the complainant. So, the Authority hereby concludes that complainant is entitled to receive a refund of the paid amount along with interest as per Rule 15 of HRERA Rules 2017 on account of failure on part of the respondent. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. Section 18 of RERA Act, 2016 is reproduced below for reference:

"If the promoter fails to complete or is unable to give possession of an apartment, plot or building,- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason. He shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: 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"

Further, the definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

(z) "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;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

“Rule 15: “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 (NCLR) 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”

32.Hence, Authority directs the respondents to refund to the complainant the paid amount along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending rate SBI (MCLR)+ 2 % which as on date works out to 10.90% (8.90% + 2.00%) from the date amounts were paid till the actual realization of the amount.




33. Authority has got calculated the interest on total paid amount from date of payments till date of order(i.e 29.07.2025) and same is depicted in the table below:

Complaint No. 601 of 2024

Sr. No.	Principal Amount (in ₹)	Date of Payment	Interest Accrued till date of order i.e 29.07.2025 (in ₹)
1.	4,50,000/-	11.04.2006	947404
2.	4,50,000/-	13.08.2007	881691
3.	3,75,898.69/-	15.07.2008	698842
Total=12,75,898.69/-			25,27,937/-
Total payable to complainant=1275898.69+2527937=38,03,835.69/-			

Complaint No. 621 of 2024-Rakesh

Sr. No.	Principal Amount(in ₹)	Date of Payment	Interest Accrued till date of order i.e 29.07.2025(in ₹)
1.	4,50,000/-	11.04.2006	947404
2.	4,50,000/-	13.08.2007	881691
3.	4,50,000/-	13.08.2007	881691
Total=13,50,000/-			27,10,786/-
Total payable to complainant=1350000+2710786=40,60,786/-			




F. DIRECTIONS OF THE AUTHORITY

34. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- i. In complaint no. 601 of 2024 respondent is directed to refund the entire amount along with interest @ 10.90% ₹ 38,03,835.69/- to the complainant. Interest shall be paid up till the time period under section 2(z a) i.e till actual realization of amount.
- ii. In complaint no. 621 of 2024 respondent is directed to refund the entire amount along with interest @10.90% ₹ 40,60,786/- to the complainant. Interest shall be paid up till the time period under section 2(z a) i.e till actual realization of amount.
- iii. A period of 90 days is given to the respondents to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.



35. **Disposed of**. File be consigned to record room after uploading on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


.....
DR. GEETA RATHEE SINGH
[MEMBER]