

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

Complaint no.:	3438 of 2023
Date of complaint:	03.08.2023
Date of First Hearing:	06.12.2023
Date of decision:	30.07.2025

**Akshay Sharma, Mamta Sharma and
Rashmi Mohan****R/o: K-3/10, 2nd Floor, DLF-II, Gurugram,
Haryana- 122002****Complainants****Versus****M/s Vatika Limited****Regd. office:** Flat no. 621A, 6th Floor,
Devika Towers, 6, Nehru Place, New Delhi
- 110019**Corporate office:** 7th Floor, Vatika
Triangle, Block A, Sushant Lok, Gurgaon-
1220022**Respondent****CORAM:****Shri Ashok Sangwan****Member****APPEARANCE:****Mr. Abhijeet Gupta (Advocate)****Ms. Ankur Berry (Advocate)****Complainants****Respondent****ORDER**

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions as provided

under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Project and unit related details

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

Sr. No.	Particulars	Details
1.	Name of the project	"India Next City Centre", Sector-83A, Gurugram
2.	Type of colony	Commercial Space
3.	Registered/ not registered	Registered 36 of 2022 dated 16.05.2022 valid upto 31.03.2029
4.	License no. and validity	122 of 2008 dated 14.06.2008 valid upto 13.06.2016
5.	Unit no.	COM-012-Tower-F-7-719 (As per SOA dated 28.10.2024 submitted by respondent by additional submissions dated 07.11.2024)
6.	Date of execution of buyer's agreement	Not Executed
7.	Due date of possession	10.08.2014 (In terms of <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018</i> - Calculated to be three years from the date first payment made by the complainants to the respondent as reflected in SOA submitted by the respondent, by way of additional submissions dated 07.11.2024)
8.	Total sale consideration	Rs. 38,02,500/- (As per SOA dated 28.10.2024 submitted by respondent by additional submissions dated 07.11.2024)
9.	Paid up amount	Rs. 39,40,340/- (As per SOA dated 28.10.2024 submitted by respondent by additional submissions dated 07.11.2024)
10.	Assured returns paid by respondent	Rs.30,00,508/-

		(As per additional submissions submitted by respondent dated 07.11.2024)
11.	E-mails sent by respondent to complainant regarding stoppage of assured returns	31.10.2018, 30.11.2018, 28.12.2018 (Page 8, 9 and 11 of written submissions filed by respondent respectively)
12.	E-mail sent by respondent to complainant regarding reconciliation of accounts of the complainant	14.06.2019 (Page 15 of written submissions filed by respondent)
13.	Occupation certificate/Completion certificate	Not obtained

B. Facts of the complaint:

3. The complainants have made the following submissions in their complaint:
 - a) That, pursuant to the elaborate advertisements, assurances, representations and promises made by respondent in the brochure circulated by them about the timely completion of a premium project, named as "India Next City Centre"- a commercial colony with impeccable facilities having license No. 122 of 2008 from the Director Town and Country Planning, Haryana, Chandigarh. Believing the same to be correct and true, the complainants considered the purchasing a unit in the project of the respondent.
 - b) That after several meetings with the respondent about the project and the unit, the complainants paid a sum of Rs. 5,00,000.00/- as a booking amount on 08.08.2011 vide Cheque No. 999221. Then the complainants further paid the amount of Rs. 33,02,500.00/- vide Cheque No. 999223 as a final instalment against the total consideration amount of Rs. 38,02,500/-.
 - c) That thereafter a builder buyer agreement (BBA) dated 18.01.2012 was executed between both the parties, wherein the respondent explicitly

assigned all the rights and benefits of unit bearing no. 308A, admeasuring 500 sq. ft. on 3rd floor, Block-A at India Next City Centre, Sector- 83A, Gurugram, Haryana-122001 to the complainants.

- d) That, in pursuant to the said BBA executed between the parties which included all the details of the project such as amenities promised, site plan, payment schedule, date of completion etc., vide clause 12, the respondent agreed to pay Rs. 71.50/-.
- e) That the respondent continuously paid the amount of assured return initially but then committed default on paying the assured return many times. To the shock of the complainants, the respondent reduced the amount of assured return from 71.50/- per sq. ft. to Rs. 65.00/- per sq. ft. from March 2018, without giving any prior information to the complainants. The situation got even worse and the respondent arbitrarily stopped making the payment of assured return from the October 2018.
- f) That the complainants approached the respondent several times for the payment of assured return and executing the conveyance deed in respect of the unit but respondent gave no hope to any of the request of the complainants.
- g) That at the time of booking the unit in the project, the respondent assured the complainants that once the construction work of the project will get complete, the respondent will lease out the units and a lease rental will be paid to the complainants. The same has been agreed between the parties in the BBA vide clause 12.
- h) That vide clause 6 of the BBA, the respondent undertook to execute the conveyance deed of the said unit. However, even after more than 12 years of executing the BBA, the respondent has not completed the construction

work of the project and hence couldn't apply for the occupation certificate from the competent authority.

- i) That, even at the time of the execution of the BBA the respondent had represented to the complainants that they are in possession of the necessary approvals from the DTCP, Haryana to commence with the construction work of the commercial project. However, till date the construction work of the project is incomplete and the respondent is neither paying the amount of assured return to the complainants and nor in the position to execute the conveyance deed.
- j) That the respondent is guilty of deficiency in service within the purview of provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017. The complainants have suffered on account of deficiency in service by the respondent and as such the respondent is fully liable to cure the deficiency as per the provisions of the Real Estate (Regulation and Development) Act, 2016 (Central Act 16 of 2016) and the provisions of Haryana Real Estate (Regulation and Development) Rules, 2017.
- k) That the complainants purchased the above said unit as an asset for their mother so that she can fulfil her basic needs through the promised committed return by the respondent. However, the sheer negligence of the respondent caused financial loss to the complainants and the unit has become a liability on the complainants.
- l) That the complainants herein are constrained and left with no option but to cancel the allotment of the said unit. Further, the complainants are seeking and entitled to full refund of the amount including but not limited to all the payments made in lieu of the said unit, as per the terms and

conditions of the BBA executed by the respondent and even otherwise are entitled to the same.

- m) That as per Section 12 of the RERA Act. 2016, the promoter is liable for giving any incorrect, false statement etc. Further, as per Section 11 (4) of the RERA Act. 2016, the promoter is liable to abide by the terms and agreement of the sale. Herein, as per Section 18 of the RERA Act. 2016, the promoter is liable to refund the amount and pay interest at the prescribed rate of interest and compensation to the allottee of an apartment, building or project for a delay or failure in handing over such possession as per the terms and agreement of the sale. In addition to the abovementioned provision, the respondent is also bound by the Haryana Real Estate Regulation Rules, 2017 which lists the interest to be computed while calculating compensation to be given by a promoter to an allottee in case of a default.
- n) The complainants after losing all the hope from the respondent, after being mentally tortured and also losing considerable amount, are constrained to approach this Hon'ble Authority for redressal of their grievance. Further, the complainants herein reserve their right(s) to add/supplement/amend/change/alter any submission(s) made herein in the complaint and further, reserve the right to produce additional document(s) or submissions, as and when necessary or directed by this Hon'ble Authority.

C. Relief sought by the complainants:

4. The complainants herein are seeking the following relief(s):
 1. Direct the respondent to refund the total amount received by the respondent in respect of the allotted unit.
5. On the date of hearing, the authority explained to the respondent/ promoters 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 respondents:

6. The respondent has contested the complaint by filing its reply dated 11.12.2023 on the following grounds: -

- a) That the present complaint being filed for refund, CANNOT BE ALLOWED BY THIS Authority in view of the fact that the complainants have intentionally hidden the fact that there is no executed BBA between the complainants and the respondent. Thus, the present complaint must be dismissed outrightly.
- b) That the complainants have got no locus standi or cause of action to file the present complaint. The present complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the RERA Act which has only been enacted for resolution of disputes between allottee and promoter.
- c) That the commercial project of the respondent namely "Vatika India Next City Centre" was commercial project with the sole purpose of investment with committed returns and leasing and thus there was never any promise of handing over physical possession of the project. Further, the committed return was stopped after the the enactment of the Banning of Unregulated Deposit Schemes Act, 2019, (hereinafter referred as BUDS Act). The respondent having not taken registration from SEBI board cannot run, operate, continue an assured return scheme. The implications of enactment of BUDS Act read with the Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014, resulted in making the assured return/committed return and similar schemes as unregulated schemes as being within the definition of "Deposit".
- d) That as per section 3 of the BUDS Act all unregulated deposit scheme have been strictly banned and deposit takers such as builders, cannot, directly

or indirectly promote, operate, issue any advertisements soliciting participation or enrolment in; or accept deposit. Further as per the Securities Exchange Board of India Act, 1992 collective investment schemes as defined under Section 11 AA can only be run and operated by a registered person/company. Hence, the assured return scheme of the respondent has become illegal by the operation of law and the respondent cannot be made to run a scheme which has become infructuous by law.

- e) That the complainants have failed to show that any relief as claimed in the present complaint could be adjudicated by this Authority since the RERA Act limits its jurisdiction to adjudicate upon issues and grievances between the allottee and promoter/builder. The complainants have failed to show/prove that they fall within the definition of 'Allottee' defined within the Act and thus the complaint in the present form ought to be dismissed.
- f) That for fair adjudication of the grievance as alleged by the complainants, detailed deliberation by leading evidence and cross-examination is required, thus only the Civil Court has jurisdiction to deal with cases requiring detailed evidence for proper and fair adjudication.
- g) That the agreement attached with the complaint was never executed and the complainants cannot derive any rights out of an unexecuted agreement.
- h) That the Act has been enacted to balance the interests of the consumer and promoter by imposing certain responsibilities on both. Thus, while Section 11 to Section 18 of the RERA Act, 2016 describes and prescribes the function and duties of the promoter, Section 19 provides the rights and duties of the allottees. Hence, the RERA Act was never intended to be

a biased legislation preferring the allottees rather the intent was to ensure that both the allottee and the developer are kept at par and either of the party should not be made to suffer due to act/omission on part of the other.

7. Copies of all relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided based on these undisputed documents and submissions made by both the parties.

E. Written submissions on behalf of the complainants:

8. The complainants have made the following additional submissions by way of written submissions dated 08.07.2025:
- a) That at the time of booking the unit in the project, the respondent assured the complainants that once the construction of the project will get complete, the respondent will lease out the units and lease rental will be paid to the complainants.
 - b) That as per clause 6 of the BBA, the respondent undertook to execute the conveyance deed of the said unit. However, even after more than 12 years of executing the BBA, the respondent has not completed the construction work of the project and hence could not apply for the occupation certificate from the competent authority.
 - c) That the respondent has stated time and again that no BBA was executed between both the parties and hence no assured return was given by the respondent to the complainants which is a half-baked truth as the BBA was duly executed by both the parties evidence of which is provided in the complaint as the signed and stamped BBA by the respondent is annexed in the complaint.

F. Written submissions on behalf of the respondent:

9. The respondent has made the following additional submissions by way of written submissions dated 01.08.2024 and 07.07.2025:

- a) That the respondent issued communication to all its allottees of the project "INXT City Centre" from company e-mail id noreply@salesforce.com and noreply@vaticagroup.com regarding committed returns/assured returns suspension vide e-mail dated 31.10.2018. The respondent issued second communication to all allottees, through e-mail dated 30.11.2018 detailing therein the amendments in law regarding the SEBI Act, Bill No. 85 (Regarding the BUDS Act) and other statutory changes which led to stoppage of all the return based/ assured / committed return based sales and the respondent's proposal to reconcile accounts as of July 2019. The respondent issued third e-mail to all the allottees on 28.12.2018 regarding stoppage of assured rentals and reconciliation of all dues by June 2019 and issued communication regarding addendum agreement containing revised clauses excluding assured return/committed return clause alternatively giving option to allottees to shift to another project.
- b) That the respondent on 14.06.2019, issued update to all its allottees regarding reconciliation of accounts as of 30.06.2019 and issuance of addendum agreement for revising the clause of assured return and finally stopping the assured returns. The allottees who chose to cancel the allotment were also provided required document e-mails and were refunded investments.
- c) Thus, the respondent admittedly paid assured returns from the date of execution of BBA till September 2018 and at the time of stoppage of assured returns in September 2018, the respondent provided timely detailed communication to all its allottees in the project, however the complainant chose to sit the filing of this complaint and now cannot be allowed the relief as prayed.

- d) That the issue regarding jurisdiction over complaint pertaining to assured return is pending before various Courts and Tribunals. One of such matters pertaining to the question of law "whether the authorities or tribunal can grant relief of assured return after the commencement of BUDS Act" is pending before the Hon'ble Punjab and Haryana High Court. In the bunch of petitions tagged with the matter of 'Vatika Limited vs. Union of India and Anr.' in CWP No. 26740 of 2022, the Hon'ble High Court at Punjab and Haryana has restrained the respondents therein from taking any coercive steps in criminal cases registered against the respondent herein, for seeking recovery of assured return till next date of hearing.
- e) That the true nature of the relief sought is kind of specific performance of the assured returns commitment. The relief of specific performance flows from the Specific Relief Act, 1963 and no part of the Real Estate (Regulation and Development) Act, 2016 clothes this Authority to exercise powers under Specific Relief Act, 1963. Thus, this Authority not being a civil court could not assert to itself the jurisdiction to grant specific performance of the "Assured Returns" which is a relief under the Specific Performance Act, 1963.
- f) That the assured returns were received by the allottees/complainants from the date of booking/allotment till 2018, when the complainant was duly intimated about stoppage of assured return. In the event the refund is granted, the Authority may duly note that such relief ought not cause prejudice to the respondent who has paid the said an amount of Rs.30,00,58/- as assured return and the said amount along with interest thereon ought not to be deducted from the refundable amounts in case of refund.

- g) That the only document placed on record by the complainants is an unexecuted BBA which neither bears signature nor the stamp of the respondent and therefore cannot be treated as a valid and enforceable agreement. The respondent cannot be held to be bound by such unexecuted agreement. Consequently, no rights can accrue in favor of the complainants from an agreement that lacks legal sanctity.

G. Jurisdiction of the authority

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

G.I Territorial jurisdiction

11. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the 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 completed territorial jurisdiction to deal with the present complaint.

G.II Subject matter jurisdiction

12. 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;

Section 34-Functions of the Authority:

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

13. 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.
14. Further, the Authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (Supra)*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

15. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount along with interest.

H. Findings on objections raised by the respondent:**H.I Objection regarding maintainability of the complaint.**

16. The respondent-promoter has raised a preliminary objection regarding the maintainability of the complaint, asserting that the complainants do not qualify as 'allottees' under the RERA Act, and therefore, this Authority lacks jurisdiction to adjudicate the matter. However, upon careful examination of the material on record, this objection is found to be untenable.
17. Firstly, it is not in dispute that the respondent-promoter paid Rs.30,00,508/- till September 2018 to the complainants as assured returns. In the absence of a promoter-allottee relationship, there is no plausible reason why such payments would be made by the promoter to the complainants. The act of paying assured returns is indicative of a contractual relationship consistent with that of a promoter and an allottee under the RERA framework.
18. Secondly, the statement of accounts submitted by the respondent itself bears a specific unit number against the complainants names, thereby corroborating the fact of allotment. This record serves as direct evidence of the allocation of a unit in favour of the complainants and reinforces their status as 'allottees' as defined under Section 2(d) of the Act.
19. In light of the above, the complainants do fall within the definition of 'allottee' under the RERA Act. Accordingly, this Authority holds that the complaint is maintainable, and the objection raised by the respondent-promoter is hereby rejected.

H.II Objection regarding non-payment of assured return due to implementation of BUDS Act.

20. The respondent/promoter raised the contention that the respondent has stopped the payment of assured return due to implementation of BUDS Act by legislature, as the BUDS Act bars the respondent for making payment of assured return and assured rental linked with sale consideration of

immovable property of allottee(s). But the plea advanced in this regard is devoid of merits as the complainants wish to withdraw from the project and are seeking refund of the amount paid against the allotted unit. Hence, the plea w.r.t. non-payment of assured return is hereby dismissed.

I. Findings on the relief sought by the complainants.

II Direct the respondent to refund the total amount received by the respondent in respect of the allotted unit.

21. The factual matrix of the case reveals that the complainants were allotted a unit no. COM-012-Tower-F-7-719 measuring 263.72 sq. ft. carpet area in the project "Vatika India Next City Centre" being developed by the respondent. The builder buyer agreement was not executed between the parties. It is pertinent to note that no specific time period with respect to handover of possession of the allotted unit to the complainants had been prescribed. Therefore, in the case of *"Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors."* (12.03.2018 - SC); MANU/SC/0253/2018, the Hon'ble Apex Court observed that *"a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."*

22. Herein, in the peculiar facts and circumstances of the present case, the due date of possession has to be calculated to be three years from the date first payment made by the complainants to the respondent (10.08.2011) as reflected in SOA submitted by the respondent by way of additional submissions dated 07.11.2024. Therefore, the due date comes out to be 10.08.2014.

23. The complainants have paid an amount of Rs.39,40,340/- to the respondent and an amount of Rs.30,00,508/- has been paid by the respondent to the complainants on account of assured returns.
24. Further, the complainants herein intend to withdraw from the project and are seeking return of the amount paid by them in respect of subject unit along with interest 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.-

(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...."

(Emphasis supplied)

25. The due date of delivery of possession of the subject unit was 10.08.2014. Further, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondent-promoter. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the allotted unit and for which they have paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in **Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., Civil Appeal no. 5785 of 2019**, decided on 11.01.2021.

"...The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted

to them, nor can they be bound to take the apartments in Phase 1 of the project....."

26. Moreover, the Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs. State of U.P. and Ors. (supra)*** reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020*** decided on 12.05.2022. observed as under: -

"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."

27. There has been an inordinate delay in the project which cannot be condoned. Thus, in such a situation, the complainants are well within right to seek refund of the paid-up amount. This is without prejudice to any other remedy available to the allottees including compensation for which the allottees may file an application for adjudging compensation with the Adjudicating Officer under Sections 71 and 72 read with Section 31(1) of the Act of 2016.
28. **Admissibility of refund along with prescribed rate of interest:** The complainants are seeking refund the amount paid by them at the prescribed rate of interest as provided 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."

29. 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, 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 cases.
30. 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., 30.07.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
31. The definition of term "interest" as defined under Section 2(za)(ii) of the act provides that the interest payable by the promoter to the allottee shall be from the date the promoter received the amount. 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—

... (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, ...

32. Therefore, the authority hereby directs the respondent to return the amount received by him i.e., Rs. 39,40,340/- with interest at the rate of 11.10% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in

Rule 16 of the Rules, ibid. However, it is important to note that the amount of assured returns paid by the respondent to the complainants i.e., Rs.30,00,508/- shall be adjusted/deducted from the payable amount.

J. Directions of the authority

33. Hence, the authority hereby passes this order and issues 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 refund the entire amount paid by the complainants, i.e., Rs. 39,40,340/- along with interest at the rate of 11.10% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till its realization. However, the amount of assured return already paid by the respondent to the complainants w.r.t. unit allotted i.e., Rs.30,00,508/- shall be adjusted/deducted from the payable amount.

II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

34. Complaint stands disposed of.

35. File be consigned to the registry.

Dated: 30.07.2025



(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram