BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Order pronounced on: 30.07.2025

NAME OF THE BUILDER			M/s Green Heights Pvt. Ltd.
PROJECT NAME:		**Bani City Centre**	**APPEARANCE**
1.	CR/4169/2024	Gurpreet Singh Johar & Gaurav Batra Vs. Green Height Projects Private Limited	Advocate Garvit Gupta **(Complainant)** Advocate Harshit Batra **(Respondent)**
2.	CR/3844/2024	Jashneev Kapoor Vs. Green Heights Projects Private Limited	Advocate Garvit Gupta **(Complainant)** Advocate Harshit Batra **(Respondent)**

CORAM:

Shri Ashok Sangwan — Member

ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority in Form CRA 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 projects, namely, 'Bani Centre Point' being developed by the same respondent-

promoter i.e., M/s Green Heights Pvt. Ltd. The terms and conditions of the builder buyer's agreements that had been executed between the parties inter se are also almost similar. The fulcrum of the issue involved in all these cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the units in question, seeking award for delayed possession charges and other reliefs.

3. The details of the complaints, reply status, unit no., date of agreement, plans, due date of possession, offer of possession and relief sought are given in the table below:

Sr. No	Complaint No./Title/ Date of filling	Reply Status	Unit no. & Area admeasuring	Date of allotment letter	Date of execution of builder buyer's agreement	Due of possession	Offer of possession	Relief Sought
1.	CR/4169/2024 Gurpreet Singh Johar & Gaurav Batra V/s M/s. Green Height Projects **02.09.2024**	15.01.2025	GF-099, Ground Floor Admea-suring 401 sq.ft. (As on page no. 58 of reply)	01.12.2014	02.01.2017	**30.03.2018**	OC – Not obtained **TC –** Rs.30,07,500/- **AP –** Rs.33,69,098/-	1. DPC from 30.03.2018 till actual handing over of possession. **2.** Direct the respondent to handover possession of the unit in a habitable state after obtaining the occupation certificate from the concerned authorities **3.** Direct the respondent to execute the Conveyance deed of the unit in favour of the complainant **4.** To not raise any payment

								demand in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the agreement.
2.	CR/3844/2024 Jashnee v Kapoor V/s M/s. Green Height Projects **02.09.2024**	15.01.2025	GF-045, Ground Floor, Admeasuring 416 sq.ft. of Super-Area (As on page no.31 of complaint)	01.12.2014	**01.03.2017**	**30.03.2018**	OC-Not obtained TC-Rs.24,96,000/- AP-Rs.33,28,997.34/-	1. DPC from 30.03.2018 till actual handing over of possession. 2. Direct the respondent to handover possession of the unit in a habitable state after obtaining the occupation certificate from the concerned authorities 3. Direct the respondent to execute the Conveyance deed of the unit in favour of the complainant 4. To not raise any payment demand in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the agreement.

4. The aforesaid complaints were filed by the complainant against the promoter on account of violation of the space buyer's agreement executed

between the parties inter se in respect of said units for not handing over the possession by the due date. In the complaints, issues other than delay possession charges in addition or independent issues have been raised and consequential reliefs have been sought.

5. The delay possession charges to be paid by the promoter is positive obligation under proviso to section 18(1) of the Act in case of failure of the promoter to hand over possession by the due date.

6. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/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 allottees and the real estate agents under the Act, the rules and the regulations made thereunder.

7. The facts of all the complaints filed by the complainant/ allottee are also similar. Out of the above-mentioned cases, the particular's of lead case **CR/4169/2024** at serial no. 1 titled as ***Gurpreet Singh Johar & Gaurav Batra Vs. M/s Green Heights Pvt. Ltd.*** are being taken into consideration for determining the rights of the allottees qua delay possession charges, and other reliefs sought by the complainants.

A. Unit and project related details

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

Sr. No.	Particulars	Details
1.	Name of the project	"Banni Centre Point"

2.	Location of the project	Sector-M1D, Urban Complex, Village-Nakhnaula, Sector-M-1D, Tehsil-Manesar, Gurugram.
3.	Nature of the project	Commercial Colony
4.	DTCP license no.	59 of 2009 dated-26.10.2009
5.	Registered/not registered	Registered Vide registration no. 187 of 2017 dated-14.09.2017
6.	Provisional allotment letter	01.12.2014 (As on page no. 28 of complaint)
7.	Office/Shop/Commercial space/Food Court no.	GF-099, ground floor (As on page no. 50 of complaint)
8.	Area of the unit	401 sq.f.t [Super Area] (As on page no. 50 of complaint)
9.	Commercial Space Buyer's Agreement	02.01.2017 (As on page no. 45 of complaint)
10.	Possession clause	***Clause 2*** ***Possession:*** *The possession of the said premises shall be endeavored to be delivered by the Intending Seller to the Intending Purchaser by a* ***tentative date of 30.09.2017 with a grace period of six (6) months beyond this date,*** *however, subject to completion of construction and subject to clause 9 herein and strict adherence to the payment plan and other terms and conditions of this Agreement by the Intending Purchaser.* [Emphasis supplied]

		(As on page no. 54 of complaint)
11.	Due date of possession	30.03.2018 [Calculated 30.09.2017 plus 6 months]
12.	Sale consideration	Rs.30,07,500/- (As on page no. 52 of complaint)
13.	Total amount paid by the complainants	Rs.33,69,098/-
14.	Occupation certificate	Not obtained
15.	Offer of possession	Not offered

B. Facts of the complaint

9. The complainants have submitted as under:

I. That the complainants are simple, law abiding and peace -loving person. The complainants have throughout acted as per the terms of the allotment, rules and regulations and the provisions laid down by land no illegality whatsoever has been committed by them in adhering to their contractual obligations.

II. That the respondent is a company incorporated under the Companies Act, 1956 having its registered office at the above-mentioned address and existing under the Companies Act, 2013. The respondent is comprised of several clever and shrewd types of persons.

III. That the respondent offered for sale units in a commercial complex known as 'Baani Centre Point' which claimed to comprise of commercial units, car parking spaces, recreational facilities, gardens etc. on a piece and parcel of land situated in Sector M1D, Gurugram, Haryana. The respondent also claimed that the DTCP, Haryana had granted license bearing no. 59 of 2009 on a land area of about 2.681 acres in Village Lakhnaula, Tehsil Manesar, Gurugram to its associates companies for development of a commercial colony in accordance with the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and Rules made thereunder.

IV. That the complainants received a marketing call from the office of respondent in the month of December, 2012 for booking in commercial project of the respondent.

V. The complainants had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. That the complainant, induced by the assurances and representations made by the respondent, decided to book a commercial unit in the project as the complainants required the same in a time bound manner for their own use. This fact was also specifically brought to the knowledge of the officials of the respondent who confirmed that the possession of the commercial unit to be allotted to the complainant would be positively handed over within the agreed time frame.

VI. That the respondent provisionally allotted a shop no. GF-099 having a super area of 401sq. ft. at the rate of Rs.7,500 per sq. ft.. Moreover, at the time of booking, it was promised and assured by the respondent that the agreement would be executed in a short span of time and the said unit would be handed over to the complainants by 30.09.2017.

VII. That the respondent sent a demand letter dated 03.11.2015 intimating the complainant about the due instalment. Payments towards all the instalments demands sent by the respondent were made by the complainants.

VIII. That the respondent had failed to execute the Buyer's Agreement with the complainant despite lapse of three years from the date of booking. The Buyer's Agreement was executed between the parties on 02.01.2017. Despite having made the Buyer's Agreement dated 02.01.2017 containing terms very much favourable as per the wishes of the respondent, still the respondent miserably failed to abide by its obligations thereunder. The respondent/promoter has even failed to perform the most fundamental obligation of the agreement which was to handover the possession of the commercial within the promised time frame, which in the present case has been delayed for an extremely long period of time. The failure of the respondent and the fraud played by it is writ large.

IX. That as per Clause 2.1 of the Agreement, the possession of the unit was to be handed over by the respondent by 30.09.2017 with a grace period of six months. Thus, the due date to handover the possession of the allotted unit was 30.03.2018.

X. Then subsequently, the respondent on 20.12.2016 sent the payment demand against "1st Basement Roof Slab" . The complainants without delay or defaults fulfilled the said payment demands. Thereafter, the respondent sent the payment demand dated 09.03.2017 against "On Casting of 2nd Floor Roof Slab" and the same was duly paid by the complainants on 30.03.2017 and 03.04.2017. The respondent sent the payment demand dated 10.05.2017 against the "On Casting of 4th Floor Roof Slab" and the same was duly paid by the complainants.

XI. That the complainants have till date made the payment of Rs33,69,098/- out of Rs.37,25,543/-. That since the due date of handing over the possession had lapsed, the complainants requested the respondent telephonically, and by visiting the office of the respondent to update them about the date of handing over of the possession. The representatives of the respondent assured the complainants that the possession of the unit would be handed over to him very shortly as the construction was almost over. The respondent has continuously been misleading the allottees including the complainants by giving incorrect information and timelines within which it was to hand over the possession of the unit to the complainants. The respondent/promoter had represented and warranted at the time of booking that it would deliver the commercial unit of the complainants to them in a timely manner.

XII. That the respondent has committed various acts of omission and commission by making incorrect and false statements at the time of booking. There is an inordinate delay of 76 months calculated up to August, 2024 and till date the possession of the allotted unit has not been offered by the respondent to the complainants.

C. Relief sought by the complainants:

10. The complainants have sought following relief(s):

    i. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 30.03.2018 till actual handing of the possession

    ii. Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the Occupation Certificate from the concerned authorities.

    iii. Direct the respondent to execute the conveyance deed of the unit in favour of the complainant.

iv. Direct the respondent to not raise any payment demand, in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the agreement.

11. 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

12. The respondent has contested the complaint on the following grounds:

I. That the commercial relationship between the parties revolves around a commercial unit in the project. Upon gaining knowledge of the project, the complainants applied for a provisional allotment in the project by submitting an application form dated 19.03.2013.

II. The said request for allotment was accepted by the respondent and a unit bearing tentative number GF-099 tentatively admeasuring 401 sq.ft. was allotted to the complainants.

III. Thereafter, the respondent requested for details of allottees for execution of the BBA and upon the same being provided , the buyer's agreement was executed between the parties on 02.01.2017.

IV. That from the beginning of the implementation of the oroject, there have been various intervening circumstances, beyond the control and apprehension of the respondent that have affected this commercial relationship between the parties. For ease of reference all the factors and events having a direct effect on the project have been delineated hereinbelow.

Category I:	*Period between 06.04.2004 and 23.04.2015*	*The events that transpired under this category show that there was not one event that could have been pre-conceived by the Respondent and neither*

		was there any event / default on part of the Respondent that has led to the subsequent stay and the departmental delays.
Category II:	*Period between 24.04.2015 and 13.03.2018 (hereinafter referred to as Zero Period I)*	*Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time, the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.*
Category III:	*Period Between 14.03.2018 and 12.10.2020*	*After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments.*
Category IV:	*Period Between 13.10.2020 – 21.07.2022 (hereinafter referred to as the Zero Period II)*	*The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC.*
Category V:	*Period from 22.07.2022 till Date*	*The Respondent is seeking the benefit of this period as a grace period from this ld. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on part of the Respondent.*

V. That the project land had become a part of certain land acquisition proceedings by the State. The following detailed list of dates, shows the detailed events that have transpired relating such land acquisition proceedings, within the period falling in the aforesaid categories:

S. No.	CATEGORY	DATE	EVENTS
1	CATEGORY I: The events that transpired prior to the effect of the Hon'ble Supreme Court's orders over the Project. This shows the required permissions for the project were obtained in a timely fashion.	06.04.2004 07.04.2024	Paradise Systems Pvt. Ltd. purchased 2.681 acres of land in the village Lakhnaula by registered sale deeds, hence Paradise Systems Pvt. Ltd. is the landowner of the project in question (hereinafter referred to as **"Paradise"**)
2		27.08.2004 24.08.2007	A notice was issued by Haryana Govt, industries Department under Section 4 of Land Acquisition Act, 1894 for acquiring land admeasuring 912 acres 7 Marlas from village Manesar, Lakhnaula and Naurangpur, Tehsil & Dist Gurugram for setting up Chaudhari Devi Lal Industrial Township. Paradise's Land fell under the above mentioned 912 acres. The land acquisition proceedings were withdrawn by the State Government on 24.08.2007
3		09.09.2007	Paradise entered into a collaboration agreement with the erstwhile developer - Sunshine Telecom Services Pvt. Ltd. Paradise granted the 'absolute developmental right' of land for construction of commercial office space to Sunshine.
4		20.09.2007	Haryana State Industrial & Infrastructure Development Corporation (hereinafter referred to as the **"HSIIDC"**) proposed to constitute an Inter Department Committee to submit a report with recommendations regarding issuance of fresh acquisition.
5		26.10.2009	Paradise had obtained license for of land measuring 2.681 acres situated at village Lakhnaula Manesar M1D, from the Town and Country Planning Department, Govt. of Haryana (hereinafter referred to as the **"DTCP"**) vide License No. 59/2009 dated 26.10.2009, being valid up to 25.10.2013. The license was granted for the development of the Project in question.

6		29.01.2010	*The report of the interdepartmental committee was submitted and the said report was duly endorsed by HSIIDC. The State Government in Industries and Commerce Department decided to close the acquisition proceedings in view of the recommendations of the Inter Departmental Committee.*
7		30.03.2013	*Paradise alleged that Sunshine did not adhere to the terms of the collaboration agreement. Paradise claims to have refunded all amounts received by it and annulled that transaction by deed dated 30.03.2013.*
8		30.03.2013	*Paradise thereafter entered into a collaboration agreement with Green Heights projects Pvt. Ltd. (the* ***Respondent*** *herein) for the development of the Project in question.*
9		22.05.2013	*The bonafide of the Respondent is evident from the fact that in order to comply with the then applicable guidelines and regulations, the Respondent paid the entire External Development Charges and Internal Development Charges (EDC & IDC) to the DTCP.*
10		01.04.2014	*Paradise was granted the NOC for Height clearance from the Airports Authority of India.*
11		23.07.2014	*The building plans for the development of the Project in question were approved by DTCP.*
12		17.10.2014	*Environment clearance was granted for construction of the commercial project in question.*
13		24.04.2015	*The said Land became the subject of the proceedings before the Hon'ble Supreme Court in a case titled Rameshwar & Ors. vs. State of Haryana & Ors. bearing Civil Appeal No. 8788 of 2015. The Hon'ble Apex Court, vide its order dated 24.04.2015 in the Rameshwar Case, stayed the construction on the said land with effect from 24.04.2015, which was eventually affected till 12.03.2018. Notably, on 24.04.2015, the Project land, inter alia, became the subject land in the legal proceedings in the Rameshwar Case.*

14		27.04.2015	*Pursuant to the directions passed by the Apex Court, the DTCP directed all Owners/Developers to stop construction in respect of the entire 912 Acres of land which included our Real Estate Project Baani Center Point vide letter dated 27.04.2015.*
15	***CATEGORY II:*** *ZERO PERIOD I*	21.08.2015	*Paradise approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether order dated 24.04.2015 was applicable to the land and license no. 59 of 2009. Paradise contended that their land was distinct from the land involved in the Rameshwar case. The Hon'ble Supreme Court directed Paradise to seek clarifications from DTCP, designating the DTCP as the appropriate authority to issue orders in the matter.*
16	*Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions concerning the project.*	25.08.2015 08.01.2016	*Paradise approached DTCP on 25.08.2015 for clarification and stated that the land owned by Paradise doesn't fall within the ambit of the Rameshwar case. Paradise had also issued a reminder dated 08.01.2016 to DTCP for the clarification being sought.*
17		15.01.2016	*In the meanwhile, the permissions and approvals, previously granted qua the project had expired and hence, Paradise had also requested DTCP for renewal of the permissions. Paradise also submitted an application for transfer of license and change in developer, in favour of Green Heights Projects Pvt. Ltd.*
18		20.04.2016	*That Paradise approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation (hereinafter referred to as the "CBI") of all the projects and till original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations.*

19		13.09.2016 (receiving dated 14.09.2016) 21.10.2016 (receiving dated 25.10.2016) 01.02.2017 (Received on 02.02 2017)	*Paradise again wrote to DTCP to retrieve the original files from CBI. It was informed that in the writ petition filed seeking retrieval of the original files, directions for handing back of the original files as already passed. It was requested that such retrieval be done and DTCP should process the pending application for renewal and transfer of License and sanction of revised building plans.* *Due to the non-action part of DTCP, multiple reminders and representations were written by Paradise with a bonafide attempt towards the completion of the project.*
20		27.03.2017	*Paradise then approached Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of Green Heights and the High Court by order dated 27.03.2017 noting the handover.*
21		09.05.2017	*Paradise approached DTCP to issue BR-III for revised building plans stating that the conditions of the in-principle approval have been complied with.*
22		07.08.2017	*Paradise again approached DTCP to issue BR-III for revised building plans.*
23		2015-2017	*Despite various efforts and representatives DTCP did not clarify about the status of land and license of Paradise thus the order of the Supreme Court de-facto remained applicable on the said project.*
24		14.09.2017	*After the implementation of the RERA Act, the Real Estate Project Baani Center Point was registered under RERA Act 2016 and Haryana RERA Rules 2017. The project was registered on 14.09.2017 vide registration no. 187 of 2017.*
25		23.10.2017	*Paradise wrote to DTCP detailing all the facts and events that have led to the present situation and again requested the DTCP to issue BR-III revised building plans. It was also highlighted that the delay in issuance of BR III is also delaying the service plan estimates and fire scheme approvals.*

26		27.11.2017	*Paradise requested DTCP to consider the period during which the no construction order is in frame, as the cooling period and extend the license accordingly.*
27		15.12.2017	*DTCP wrote to Paradise that the final approval for sanction of building plans on BR-III will be issued only after the Hon'ble Supreme Court of India removes the restrictions imposed for not raising further construction in the area.*
28		12.03.2018	*The stay of supreme court was lifted and the project Baani Center Point was not included in tainted projects.*
29	**CATEGORY III:** *After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments*	14.03.2018	*Paradise wrote to DTCP that the order dated 12.03.2018 has clarified that lands transferred/purchased prior to 24.08.2004 are not governed by the directions being given by Hon'ble Supreme Court which only pertain to lands transferred/purchased between the period from 27.08.2004 till 29.01.2010 only. The land owned by Paradise stands excluded from the dispute as the land was purchased on 06.04.2004 and 07.04.2004. Paradise requested DTCP to consider the period as Zero Period and requested for the renewal of the license and issue BR-III.*
30		23.07.2018	*Paradise approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018. That while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.*
31		01.07.2019	*The HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 in the matter of Rameshwar & Ors. Vs. State of Haryana & Ors. to include the land of Paradise developed by Green Heights in the award dated 26.08.2007, being Application for Clarification of Final Judgment dated 12.03.2018 passed by the Supreme Court.*

32		31.08.2019 13.09.2019	*DTCP has passed an order dated 31.08.2019 stating that the renewal and transfer of license of Paradise and approval of revised building plan will be processed only after clarification is given by the Hon'ble Supreme Court on the application filed by HSIIDC. The intimation of this order was received from DTCP vide letter dated 13.09.2019.*
33	***CATEGORY IV:*** ***ZERO PERIOD II*** *The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC*	13.10.2020	*The Hon'ble Supreme Court through its order dated 13.10.2020 granted injunction on further construction and creating third party rights of projects to the said case including project Baani Center Point.*
34		21.07.2022	*Through the judgment dated 21.07.2022 in Rameshwar Case, the stay on construction was cleared by the Hon'ble Supreme Court of India with directions to Green Heights for payment of Rs. 13,40,50,000/- (Rupees Thirteen crores forty lakhs and fifty thousand only) as additional cost of land payable to HSIIDC @ Rs. 5 crores per acre. This order was passed by the Hon'ble Supreme Court after considering the development status of the project, amount received from the allottees, and to protect the interest of the allottees.*
35	***CATEGORY V:*** *The Respondent is seeking the benefit of this period as a grace period from this ld. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental*	25.07.2022 (Receiving dated 26.07.2022) 04.08.2022 (Receiving dated 05.08.2022)	*Paradise approached DTCP to issue BR-III for revised building plans as the land owned by Paradise shall be excluded from the deemed award after depositing a sum of 13,40,50,000/- to HSIIDC. It was highlighted that DTCP had previously (vide its letter dated 15.12.2017) stated that any application of the Project will be processed only after the restrictions imposed by Hon'ble Supreme Court were removed.* *Due to such acts of DTCP, there had been many delays in getting the necessary permissions. It was intimated that no such restriction is effective now and hence, DTCP was requested to process the following:* • *Renewal of license no. 59 of 2009;* • *Application dated 07.09.2020 with request to consider the period between 23.07.2018 till 21.07.2022 as cooling / zero period as no approvals were granted;*

	delays due to no fault whatsoever on part of the Respondent.		• *BR-III for revised building plans which were approved on 22.02.2017* • *Grant of approval of transfer of license and change of developer*
36		04.08.2022	*Green Heights filed an application for extension of the RERA registration under section 7 sub clause 3 dated 04.08.2022 which is awaited.*
37		16.11.2022 14.12.2022	*In complete compliance of the order passed by the Hon'ble Supreme Court, and with an intent to complete the development of the Project, Green Heights projects Pvt. Ltd. paid the amount ₹ 13,40,50,000/- from its own resources on 16.11.2022 and requested for confirmation of such compliance.* *HSIIDC wrote to Green Heights confirming the amount 13,40,50,000/- received in HSIIDC account and that Green Heights has complied with the orders of Hon'ble Supreme Court.*
38		15.12.2022 (Receiving dated 16.12.2023)	*Paradise approached DTCP to issue BR-III for revised building plans as the sum of 13,40,50,000/- was deposited by Green Heights to HSIIDC and now the land was excluded from the deemed award.*
39		05.01.2023 (Receiving dated 11.01.2023)	*Paradise approached DTCP to process the pending applications for transfer of license.*
40		02.09.2023 (Receiving dated 04.09.2023)	*Paradise again approached DTCP to process the pending applications for renewal and transfer of license and issuance of BR-III.*
41		03.10.2023	*Paradise vide letter dated 03.10.2023 again approached for renewal of license no. 59 of 2009 and grant of approval for transfer of license and change of developer.*

42		17.10.2023 23.10.2023	*DTCP renewed the license no.59. of 2009 up to 21.01.2025. DTCP granted Zero Period from 23.07.2018 to 21.07.2022. BR III was also issued.*
43		31.10.2023	*Paradise vide letter dated 31.10.2023 again approached DTCP for grant of pending approval of transfer of license no. 59 of 2009 and change of developer.*
44		20.02.2024 04.04.2024	*The Hon'ble Supreme Court had directed the enforcement directorate to inquire about the projects falling within the purview of the subject matter. While following up from DTCP, it came within the knowledge of Green Heights Projects Pvt. Ltd. that DTCP is awaiting clearance from the enforcement directorate before proceeding towards the grant of pending permissions.* *Taking matters in its own hands, Green Heights Projects Pvt. Ltd. approached the enforcement directorate seeking a closer report.*
45		15.04.2024 17.05.2024 (Receiving dated 20.05.2024) 03.06.2024	*Paradise has been approaching DTCP, time and again, seeking the issuance of the pending permission for change of developer and transfer of license. Highlighting the urgency of the matter, it was informed that the project has been completed and around 400 customers are awaiting the possession.* *As part of the proactive approach of the company, Paradise also conveyed DTCP of the relevant email ids that need to be addressed while seeking clarifications from the enforcement directorate.*
46		26.11.2024	*Paradise again wrote to DTCP. It was highlighted that while DTCP allowed the BR III on 26.10.2023 and had also renewed the license, no further approvals were granted. It was highlighted that the project is complete and requested for grant of pending approvals.*
47		As on date	*The approval for transfer of license and change of developer is pending at the department's end, due to no fault of the Respondent or Paradise.*

VI. That the entire project, along with other land parcels, were entangled with the land acquisition proceedings, as noted above. However, at every stage and instant, the respondent had, communicated the complainants of all the updates of the matter. For instance, reference may be given to the letters dated 26.03.2021, 26.07.2022, and 06.12.2022 which show that the respondent had duly informed the complainants about the injunction over the project, the resumption of the construction works, and the imposition of additional fee of Rs. 13.405 crore upon the respondent. Hence, no interest can be sought at this stage on such a ground, over which, acquiescence of the customer has already been noted.

VII. That a perusal of the Builder Buyer Agreement dated 02-01-2017 shows that as per Clause 2.1 of the Agreement, the tentative date of possession is 30.09.2017 with a grace period of 6 months beyond this date, hence, the tentative due date comes out to be 30.03.2018, however the possession of the unit is subject to completion of the construction; force majeure circumstance as per clause 9 of the Agreement; strict adherence to timely payment of the instalments by the allottee.

VIII. That at the sake of repetition, it is pertinent to mention herein that the Hon'ble Supreme Court in the matter titled *Rameshwar & Ors. vs. State of Haryana* & Ors. bearing Civil Appeal No. 8788 of 2015 vide its order dated 24.04.2015 stayed the construction on the project land for the period between 24.04.2015 till 12.03.2018. That in lieu of the same, DTCP on 23.07.2018, exempted the period from **24.04.2015 till 12.03.2018 as 'Zero Period I'**. That the said period of Zero Period I amounts to a period of 1054 days.

IX. That although the project land was freed by the Hon'ble Supreme Court in *Rameshwar (Supra)*, however, HSIIDC filed an application seeking clarification and inclusion of project land in the Award. During this period, the Hon'ble Supreme Court had again effective an injunction on further construction from 13.10.2020. The said application was dismissed with directions of payment of Rs.13.405 Cr to HSIIDC vide order dated 21.07.2022. Considering all the facts, the DTCP renewed License No. 59 of 2009 up till 21.01.2025 and granted **'Zero Period II' for the period of 23.07.2018 to 21.07.2022**. That the said period of Zero Period II amounts to a period of 1460 days.

X. That the concept of force majeure is not codified; however, it is of essence to note that even the Authority considers the period of force majeure under the Model RERA Agreement. Clause 7.1 of Annexure A of the Haryana Real Estate (Regulation and Development) Rules, 2017 exempts the Promoter from such charges in cases of delay attributable to *force majeure* events, court orders, or government policies. The imposition of the aforementioned zero periods by the DTCP and Supreme Court orders unequivocally falls within these exemptions, thereby absolving the respondent from liability for delayed possession charges.

XI. Hence, adding such time period (2514 days) to the tentative due date (30-03-2018), the date comes out to be 15-02-2025 that the said date has not been crossed yet and hence the complaint filed by the complainants is pre-mature. That the section 18 (1)(b) of the Act allows that the relief of delayed possession charges arises only in case of failure of the promoter to deliver the project/unit in accordance with the promised timelines.

XII. That apart from the requirement of the permissions, as noted above, the real estate industry faced other force majeure circumstances from 2015 to 2023. Some of which, are detailed hereunder:

S. No .	Date of order	Directions	Period of Restriction	Days affected	Comments
1.	07.04.2015	National Green Tribunal had **directed that old diesel vehicles (heavy or light) more than 10 years old would not be permitted to ply on the roads of NCR, Delhi**. It has further been directed by virtue of the aforesaid order that all the registration authorities in the State of Haryana, UP and NCT Delhi would not register any diesel vehicles more than 10 years old and would also file the list of vehicles before the tribunal and provide the same to the police and other concerned authorities.	7th of April, 2015 to 6th of May, 2015	30 days	The aforesaid ban affected the supply of raw materials as most of the contractors/ building material suppliers used diesel vehicles more than 10 years old. The order had abruptly stopped the movement of diesel vehicles more than 10 years old which are commonly used in construction activity. The order had completely hampered the construction activity.
2.	19.07.2016	National Green Tribunal in O.A. No. 479/2016 had directed that no stone crushers be permitted to operate unless they operate consent from the State Pollution Control Board, no objection from the concerned authorities and have the Environment Clearance from the competent Authority.		30 days	The directions of NGT were a big blow to the real estate sector as the construction activity majorly requires gravel produced from the stone crushers. The reduced supply of gravels directly affected the supply and price of ready mix concrete required for construction activities.
3.	08.11.2016	National Green	8th Nov, 2016 to	7 days	The bar imposed by Tribunal was

		Tribunal had directed all brick kilns operating in NCR, Delhi would be prohibited from working for a period of 2016 one week from the date of passing of the order. It had also been directed that no construction activity would be permitted for a period of one week from the date of order.	15th Nov, 2016		absolute. The order had completely stopped construction activity.
4.	07.11.2017	Environment Pollution (Prevention and Control Authority) had directed to the closure of all brick kilns, stones crushers, hot mix plants, etc. with effect from 7th Nov 2017 till further notice.		**90 days**	The bar for the closure of stone crushers simply put an end to the construction activity as in the absence of crushed stones and bricks carrying on of construction were simply not feasible. The respondent eventually ended up locating alternatives with the intent of expeditiously concluding construction activities but the previous period of 90 days was consumed in doing so. The said period ought to be excluded while computing the alleged delay attributed to the Respondent by the Complainant. It is pertinent to mention that the aforesaid bar stands in force regarding brick kilns till date is evident from orders dated 21st

					Dec, 19 and 30th Jan, 20.
5.	09.11.2017	National Green Tribunal has passed the said order dated 9th Nov, 2017 completely prohibiting the carrying on of construction by any person, private, or government authority in NCR till the next date of hearing. (17th of Nov, 2017). By virtue of the said order, NGT had only permitted the competition of interior finishing/interior work of projects. The order dated 9th Nov, 17 was vacated vide order dated 17th Nov, 17.	**09.11.2017 to 17.11.2017**	**9 days**	On account of passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.
6.	29.10.2018	Haryana State Pollution Control Board vide Notification HSPCB/MS/2018/2939-52	**01.11.2018 to 10.11.2018**	**11 days**	All construction activities involving excavation, civil construction (excluding internal finishing/work where no construction material is used) to remain closed in Delhi and other NCR Districts from November 01.10.2018
7.	24.12.2018	Delhi Pollution Control Committee vide Notification DPCC/PA to MS/2018/7919-7954	**24.12.2018 to 26.12.2018**	**3 days**	Construction activities in Delhi, Faridabad, Gurugram, Ghaziabad and Noida to remain closed till December, 26th 2018
8.	01.11.2019	Environment Pollution (Prevention and Control) Authority for National Capital Region vide	**01.11.2019 to 05.11.2019**	**6 days**	Construction activities in Delhi, Faridabad, Gurugram, Ghaziabad, Noida

		Direction bearing no. EPCAR/2019/L—53			and Greater Noida to remain closed till morning of November 5, 2019 (current ban on construction was only 6 PM to 6 AM and this is new extended to be complete banned till Monday, November 5, 2019, morning)
9.	24.07.2019	NGT in O.A. no. 667/2019 & 679/2019 had again directed the immediate closure of all illegal stone crushers in Mahendergarh Haryana who have not complied with the siting criteria, ambient, air quality, carrying capacity, and assessment of health impact. The tribunal further directed initiation of action by way of prosecution and recovery of compensation relatable to the cost of restoration.		30 days	The directions of the NGT were again a setback for stone crushers operators who have finally succeeded to obtain necessary permissions from the competent authority after the order passed by NGT on July 2017. Resultantly, coercive action was taken by the authorities against the stone crusher operators which again was a hit to the real estate sector as the supply of gravel reduced manifolds and there was a sharp increase in prices which consequently affected the pace of construction.
10.	11.10.2019	Commissioner, Municipal Corporation, Gurugram has passed an order dated 11th of Oct 2019 whereby the construction activity has been prohibited from 11th	11th Oct 2019 to 31st Dec 2019	81 days	On account of the passing of the aforesaid order, no construction activity could have been legally carried out by the

		Oct/ 2019 to 31st Dec 2019. It was specifically mentioned in the aforesaid order that construction activity would be completely stopped during this period.			Respondent. Accordingly, construction activity has been completely stopped during this period.
11.	04.11.2019	The Hon'ble Supreme Court of India vide its order dated 04.11.2019 passed in writ petition bearing no. 13029/1985 titled as "MC Mehta vs. Union of India" completely banned all construction activities in Delhi-NCR which restriction was partly modified vide order dated 09.12.2019 and was completely lifted by the Hon'ble Supreme Court vide its order dated 14.02.2020.	**04.11.2019 to 14.02.2020**	**102 days**	These bans forced the migrant labourers to return to their native towns/states/villages creating an acute shortage of labourers in the NCR Region. Due to the said shortage the Construction activity could not resume at full throttle even after the lifting of ban by the Hon'ble Apex Court.
12.	11.10.2019	Commissioner of Municipal Corporation Gurugram issued direction to issue Challan for Construction Activities and lodging of FIR from 11th October to 31st December, 2019 as per the direction issued by the chairman of EPCA vide letter EPCA-R/2019/L-42 dated October 09, 2019.	**11.10.2019 to 31.12.2019**	**81 days**	
13.	02.11.2023 and 05.11.2023	Commission for Air Quality Management in NCR and Adjoining Areas vide Order No. 120017/27/GRAP/2021/CAQM	**02.11.2023 to 18.11.2023**	**17 days**	The commission for Air Quality Management in NCR and adjoining areas, vide Direction No. 77 dated 6th October,2023, issued statutory

					direction for implementation of the revised schedule of the Graded Response Action Plan (GRAP) with immediate effect as and when orders under GRAP are invoked. The Sub-Committee constituted for invoking actions under the GRAP in its meeting held on 2nd November,2023 comprehensively reviewed the air quality scenario in the region as well as the forecasts for meteorological conditions and air quality index made available by IMD/IITM. Keeping in view the prevailing trend of air quality, in an effort to prevent further deterioration of the air quality, the sub-committee decided that ALL actions as envisaged under stage III of the GRAP -'Severe' Air Quality (DELHIAQI ranging between 401-450) be implemented in right earnest by all the agencies concerned in the NCR, with

					immediate effect, in addition to the stage I and II actions are already in force. These include: 4. Construction & Demolition activities. In furtherance of the same vide Order dated 05.11.2023 GRAP IV was implemented continuing the ban on construction and demolition activity.
14.				497 days	

XIII. That from the facts indicated above, it is comprehensively established that a period of 497 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of Orders by the statutory authorities and the Covid-19 pandemic. That the Hon'ble Haryana Real Estate Regulatory Authority, Gurugram granted 6 months extension for all ongoing projects vide Order/Direction dated 26th of May, 2020 on account of 1st wave of COVID-19 Pandemic. It is pertinent to mention herein that the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula had decided to grant extension of 3 months in addition to waiver granted during first wave of COVID Pandemic from 1st of April 2021 to 30th of June 2021 considering the 2nd wave of COVID-19 as a Force Majeure event.

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 those undisputed documents and submissions 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 complaints for the reasons given below:

E.I Territorial jurisdiction

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

E.IISubject matter jurisdiction

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

Section 11(4)(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;

17. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaints regarding non-compliance of obligations by the promoter leaving aside compensation

which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the objections raised by the respondent

18. The respondent took a plea that as per the Clause 9 - Force Majeure of the Space Buyer Agreement "The intending seller shall not be held responsible or liable for failure or delay in performing any of its obligation or undertakings as provided for in this agreement, if such performance is prevented, delayed or hindered by an act of god, fire, flood, civil commotion, war, riot, explosion, terrorist acts, sabotage, or general shortage of energy, labour, equipment, facilities, material or supplies, failure of transportation, strike, lock-outs, action of labour union, change of Law, new legislation, enactment, court orders, delays in Government approval, change of Law, new legislation, enactment, court orders, delays in government approval, Act of Government or Intervention of Statutory Authorities or any other cause not within the reasonable control of the Intending Seller". Therefore, as the project "Baani Centre Point" was under stay orders of the Hon'ble Supreme Court of India for 7 years 3 months (24.04.2015 To 21.07.2022) which was beyond the respondent's reasonable control and because of this no construction in the project could be carried. Hence, there is no fault of the respondent in delayed construction which has been considered by DTCP and the Authority while considering its applications of considering zero period, renewal of license and extension of registration by the Authority.

19. Due to reasons stated hereinabove it became impossible to fulfil contractual obligations due to a particular event that was unforeseeable and unavoidable by the respondent. It is humbly submitted that the stay on construction order by the Hon'ble Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing

over possession of the unit. The intention of the Force Majeure clause is to save the performing party from consequences of anything over which he has no control. It is no more res integra that force majeure is intended to include risks beyond the reasonable control of a party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. Thus, it was submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension in terms of the buyer agreement.

20. The Authority is of the view that the pivotal issue arises from the builder's actions during the period between **24.04.2015 to 01.03.2018** in question that is despite claiming force majeure due to external impediments, the builder continued construction activities unabated thereafter concurrently received payments from the allottees. During the period 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in ***M.A No. 50 of 2019*** vide order dated 21.07.2022 which was in operation from **13.10.2020** to **21.07.2022** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, there was no construction carried out in the project nor any demands made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view

of the stay order of Hon'ble Supreme Court on further construction/development works on the said project

G. Findings on the relief sought by the complainant

G.I Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 30.03.2018 till actual handing of the possession.

G.II. Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the Occupation Certificate from the concerned authorities.

21. The above mentioned reliefs are being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected

22. The complainants have submitted that they booked a unit bearing no. GF-099 on ground floor admeasuring 401 sq.ft of super area and the same was allotted to them by the respondent via Allotment Letter dated 01.12.2014. Thereafter, the Space Buyer Agreement was executed between the complainants and the respondent on 02.01.2017. As per clause 2 of the said agreement dated 02.01.2017, the respondent undertook to handover possession of the unit to the complainants tentatively by 30.09.2017 alongwith a grace period of six months. The complainants have till date made a payment of Rs.33,69,098/- out of the sale consideration of Rs.30,07,500/-.

23. The respondent stated that a collaboration agreement dated 30.03.2013 was entered into between M/s Paradise Systems Pvt. Ltd. being the original landholder and M/s. Green Heights Projects Pvt. Ltd., being the developer for the project namely "Baani Center Point". Thereafter, the construction was initiated in the project and during that process a letter was received from Directorate of Town and Country Planning directing to stop the construction in compliance of the Injunction Order from the Hon'ble Supreme Court of India dated 24.04.2015. Thereafter the

respondent-builder approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether it is applicable to the land and license however the Hon'ble Supreme Court directed it to approach DTCP for clarifications. The respondent builder approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation of all the projects and till original files are returned back by CBI, DTCP will not be in a position to provide clarification in respect of various representations. The landowner then approached Hon'ble Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of respondent and the High Court by order dated 27.03.2017 passed appropriate directions. It is pertinent to mention here that between the periods of 24.04.2015 till 12.03.2018, the Hon'ble Supreme Court of India had passed directions in respect of 912 acres of land in 3 villages including the land where the present project (Baani Center Point) is constructed. That vide judgment dated 12.03.2018, the project of the respondent was not included in tainted projects which clearly meant that respondent could commence construction subject to renewal of licenses and other permissions. Shortly after the stay was lifted on 12.03.2018, M/s Paradise Systems Pvt. Ltd. approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018 and thereafter the respondent has developed the project which is almost complete and was left for some finishing works and interiors. It shall be pertinent to mention that while renewing the license, the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.

24. Later on, the HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 through M.A. No. 50 of 2019 in the matter of ***Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015*** being "Application for Clarification of Final Judgment dated 12.03.2018 passed by the Hon'ble Court". It is submitted that the Hon'ble Supreme Court through its order dated 13.10.2020 again granted an injunction on further construction of projects of the parties to the said case including M/s. Paradise Systems Pvt. Ltd. project of Baani Center Point. The relevant portion of the said order stated that: - *"Pending further considerations, no third-party rights shall be created and no fresh development in respect of the entire 268 acres of land shall be undertaken. All three aforesaid developers are injuncted from creating any fresh third-party rights and going ahead with development of unfinished works at the Site except those related to maintenance and upkeep of the site".* That finally through the recent judgment on 21.07.2022, the stay on the construction was cleared by the Hon'ble Supreme Court of India in ***M.A. 50 of 2019*** in the matter of ***Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015.***

25. After consideration of all the facts and circumstances, the Authority is of the view that the matter concerns two distinct periods: from 24.04.2015 to 12.03.2018 and from 13.10.2020 to 21.07.2022. The respondent collected payments and executed buyer's agreements during the first period, i.e. 24.04.2015 to 12.03.2018, which indicates their active involvement in real estate transactions. Further, it is important to note that during the "stay period", the respondent –builder raised demands which are reproduced as:

Demand Raised On	Demand Raised ON Account Of
03.11.2015	On laying of raft
03.02.2016	On casting of 3rd basement roof raft

11.04.2016	On casting of 2nd basement roof slab

26. As per aforementioned details, the respondent has raised the demands during the period in which 'stay' was imposed. Also, the builder continued construction activities unabated thereafter concurrently received payments from the allottees during that time. This sustained course of action strongly suggests that the builder possessed the capability to fulfil their contractual obligations despite the purported hindrances. Hence, granting them a zero period for the purpose of completion of the project would essentially negate their involvement and the actions they took during that time. Therefore, it is justifiable to conclude that the respondent is not entitled to a zero period and should be held accountable for their actions during the stay period.

27. However, during the period 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in ***M.A No. 50 of 2019*** vide order dated 21.07.2022 which was in operation from ***13.10.2020 to 21.07.2022*** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, no construction was carried out in the project nor any demands were made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.

28. In both the complaints, the allottee intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Section 18(1) proviso reads as under:

> *"Section 18: - Return of amount and compensation*
>
> *18(1). If the promoter fails to complete or is unable to give possession of 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."*

29. **Due date of possession**: As per Clause 2.1 of the buyer's agreement, the time period of handing over possession and the same is reproduced below:

> *""......2.1 Possession*
>
> *The possession of the said premises shall be endeavoured to be delivered by the intending purchaser by tentative date* ***30.09.2017*** *with a grace period of 6 months beyond this date subject to clause 9 and completion of construction..."*
>
> *[Emphasis supplied]*

30. Thus, the due date for handing over of possession as per the above mentioned clause was 30.09.2017. Also, the grace period of 6 months being unqualified is granted to the respondent. Therefore, the due date comes out to be 30.03.2018.

31. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

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

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:
Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

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

33. 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%.

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

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.
Explanation. —For the purpose of this clause—
(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.
(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

35. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 2.1 of the agreement executed between the respondent and the allottees of the same project, the due date of possession comes out to be 30.03.2018 including grace period being unqualified.

36. The Authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the unit which is allotted to her and for which they have paid a considerable amount of money towards the sale consideration. Further, the Authority observes that there is no document placed on record from which it can be ascertained that whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

37. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 30.03.2018 till valid offer of possession after obtaining occupation certificate from the competent Authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules. No interest shall be payable by the respondent as well as complainant from 13.10.2020 to 21.07.2022 in view of judgement of Hon'ble Supreme Court wherein this was explicitly instructed to cease any further development in the project. Further, the

respondent is directed to offer the possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupation certificate, after paying the outstanding dues.

G.III. Direct the respondent to execute conveyance deed of the allotted unit in favour of the complainant.

38. In the present complaint, the respondent has not obtained the Occupation Certificate yet. As per Section 11(4)(f) and Section 17 (1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the allottees. Also, as per Section 19 (11) of the Act, 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

39. In view of the above, the respondent is directed to execute conveyance deed in favour of the complainant in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining Occupation Certificate.

H. Directions of the authority

40. The Authority hereby passes this order and issues the following directions under section 37 of the Act in respect all matter dealt jointly 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 to pay interest to the complainants 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 30.03.2018 till valid offer of possession after obtaining occupation

occupation certificate, plus two months or actual handing over of possession, whichever is earlier as per proviso to section 18(1) of the Act read with rule 15 of the rules. No interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.

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 allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.

iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

iv. The respondent is directed to offer possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupation certificate.

v. 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 allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act. No interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.

vi. The respondent is directed to execute conveyance deed in favour of the complainant in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining Occupation Certificate.

vii. The respondent-builder is directed not to charge anything which is not part of buyer's agreement.

41. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
42. Complaints stands disposed of. True certified copy of this order shall be placed in the case file of each matter.
43. Files be consigned to registry.

(Ashok Sangwan)
Member
Haryana Real Estate Regulatory Authority

Dated- 30.07.2025