

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

Complaint no.: 595 of 2024  
Complaint filed on: 23.02.2024  
Date of order: 01.05.2025

Late Sh. Baikunth Singh through his LR's

1. Anjana Singh
2. Ran Vijay Singh
3. Vimal Devi

All R/o -G-99, 3<sup>rd</sup> floor, Gali no.12, Som  
Bazar Road, Rajapuri, Uttam Nagar, New  
Delhi 110059

4. Poonam Singh Sisodia

R/o- A-104, Gayati Heritage CHS Plot no.  
377, Sector 20, Kharghar, Raigharh,  
Maharashtra - 410210

**Complainants**

Versus

Sunrays Heights Private Limited

Registered Office: 211, 2nd Floor, Ansal  
Bhawan, 16 Kasturba Gandhi Marg, New Delhi  
110001.

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**

In person

Sh. Gagan Sharma (Advocate)

**Complainants**

**Respondent**

**ORDER**

1. The present complaint has been filed by the complainant/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 to the allottee as per the agreement for sale executed inter-se them.

#### A. Unit and Project related details.

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

S. NO.	Particulars	Details
1.	Name of the project	"Sixty-Three Golf Drive", Sector 63A Gurugram
2.	Nature of the project	Affordable group housing
3.	RERA registered or not registered	249 of 2017 dated 26.09.2017 valid up to 25.09.2022
4.	DTCP license	82 of 2014 dated 08.08.2014 valid up to 31.12.2023
5.	Unit no.	148, tower J (page 38 of complaint)
6.	Unit admeasuring	356.18 sq. ft. (carpet area) 69.84 sq. ft. (balcony area) (page 38 of complaint)
7.	Provision Allotment Letter	03.06.2016 (page 21 of complaint)
8.	Date of execution of Buyers agreement	18.06.2016 (as on the stamp paper of the buyer agreement on page no. 24 of complaint)
9.	Possession clause	4.1 <i>The Developer shall endeavor to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure &amp; timely payments by the allottee towards the sale consideration, in accordance</i>



		<p><i>with the terms as stipulated in the present agreement.</i>  <i>(page 34 of complaint)</i></p> <p><b>*Note: As per affordable housing policy 2013</b>  1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "<b>date of commencement of project</b>" for the purpose of this policy. The licence shall not be renewed beyond the said 4 years from the date of commencement of project.</p>
10.	Date of building plan	10.03.2015 (taken from another file CR/2814/2021 decided on 30.11.2023 of same project)
11.	Date of environment clearance	16.09.2016 (taken from another file CR/5238/2022 of same project)
12.	Due date of possession	16.03.2021 (Calculated from date of environment clearance i.e., 16.09.2016 being later, which comes out to be 16.09.2020 + 6 months as per <b>HARERA notification no. 9/3-2020 dated 26.05.2020 for projects having completion date on or after 25.03.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic</b> )
13.	Basic sale price	Rs.14,59,640/- (as per allotment letter page 21 of complaint)
14.	Amount paid by the complainant	Rs.13,44,449 /- (as per written submissions filed by the complainant and as per SOA dated 15.03.2024 page 21 of reply)
15.	Final reminder	15.03.2024 (page 16 of reply)
16.	Newspaper Publication	06.04.2024 (page 23 of reply)
17.	Cancellation letter	22.04.2024

		(page 15 of reply)
18.	Occupation certificate	31.12.2024 (as per records available in other files of same project)
19.	Offer of possession	Not offered

**B. Facts of the complaint.**

3. The complainant has made the following submissions: -

- I. That the respondent announced Group Housing Complex under Haryana Affordable Housing Policy, named as '63 GOLF DRIVE' to be constructed in Sector 63, Gurugram, Haryana. As per the advertisement & catalogue of the respondent the project construction was to be completed within a period of 48 months.
- II. That the allotment was done on the basis the draw of the applications, Late Shri Baikunth Singh was allotted a dwelling unit in the respondent's project Tower J-148 vide the allotment letter dated. 03.06.2016, the project was to be in Sector 63 Gurugram, Haryana.
- III. That the subject unit bearing no. J148 along with a free two-wheeler parking having the carpet area of 356.18 sq. ft. @ Rs.4000/- per sq. ft. and balcony area of 69.84 sq. ft. @ Rs.500/- at a basic sale price amounting to Rs.14,59,640/- plus taxes and other charges, as applicable in the said project was allotted.
- IV. That till date Rs.13,29,280/- has been paid as per payment scheduled and demand note of the respondent which is more than 90% of the total cost. That on requesting for the latest statement of account, the respondent has replied with regret mentioning some deficiencies. However, they have not mentioned any details on the deficiency itself. Thus, the latest statement is not available with the complainant.



- V. That the subject unit was to be delivered by 16.03.2021. That the possession of the subject unit is much delayed (around 3 years delay) and owing to this delay the dependent widow wife (68 years old) of the allottee is suffering through mental & physical harassment by the respondent by such exponential delay in handing over the apartment for possession of the said flat in living condition.
- VI. That Late Shri Baikunth Singh has left the following survivor members in his family, the SURVIVING MEMBERS CERTIFICATE NO: 90660000150960 as issued by Revenue Department, Govt of NCT of Delhi, Office of the District
- VII. That on 04.05.2022 the complainant through her son Ran Vijay Singh informed the respondent about the sad demise of the allottee and requested for the subject unit to be transferred to the name of the surviving members of the allottee so that the same can be used by the widow wife of the allottee who a senior citizen and is ailing for various medical issues.
- VIII. That the senior executive of the respondent represented the respondent towards the mentioned transfer of the subject unit to the surviving members explained the entire process, which was after taking the legal opinion internally from his office, the following documents were asked to be submitted by us – As per the communication (WhatsApp message dated 4<sup>th</sup> May 2022 & 18<sup>th</sup> Jul 2022) by Mr. Arun Kaushik to Mr. Ran Vijay Singh, the following documents were desired by the OP to process the name transfer: Publication Notice in News Paper, Survival Certificate, Death Certificate, KYC of all Legal Heir (PAN CARD/AADHAR), Indemnity Bond cum Undertaking by Transferee, Affidavit from other Legal heirs (NOC)".
- IX. That within the month of July 2022, complainant submitted the desired documents by the respondent for the actions at the respondent end. However, continuous follows ups were done from our end to get the transfer to the surviving members/ legal heir & also requests regarding the early

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possession sighting the medical issues of the complainant, but it's since almost 20 months only excuses is what we have got from the respondent whether towards the project completion/ OC/ possession or towards the transfer of name.

**C. Relief sought by the complainants.**

4. The complainants have sought following relief:

- i. Direct the respondent to compensate for delay of possession, at the rate as currently prevailing MCLR plus 2% (per centum) as prescribed in the Real Estate (Regulation and Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017.
- ii. Direct the respondent to pay interest for every month of delay, from 16<sup>th</sup> March 2021 to date of offering possession of the Apartment to the Complainant, on the amount taken from the Complainant for the aforesaid Apartment, at the rate prescribed by the Act, 2016.
- iii. Direct the respondent to execute and register a conveyance deed of the Apartment in favour of legal heir as per the provision of section 17 of the Act, 2016.

**D. Reply by the respondent.**

5. The counsel for the respondent filed the reply during proceedings dated 08.08.2024 and has contested the complaint on the following grounds.

- I. That the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. That the complainant has miserably and wilfully failed to make payments in time or in accordance with the terms of the builder buyer's agreement. The complainant has frustrated the terms and conditions of the builder buyer's agreement, which were the essence of the arrangement between the parties and therefore, the complainant now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. The timely payment was the essence to ensure timely completion of construction and handover of the apartments as per the terms of the policy. The 'Pith & Substance' of the Affordable Housing Policy is clearly captured in its essence, wherein the 'Intended Beneficiaries' were given



Thirty-Six (36) months to pay the entire cost of the apartment (25% upfront and rest 75% in 6 equal monthly instalments), against which the Developer (respondent) was provided with the timeline of Forty-Eight (48) months to complete the project subject to timely payment.

- II. That it has been categorically agreed between the parties that subject to the complainant having complied with all the terms and conditions of the buyer's agreement and not being in default under any of the provisions of the said agreement and having complied with all provisions, formalities, documentation etc., the developer contemplates to complete construction of the project within a period of 48 (Forty Eight) months from the date of commencement of project subject to force majeure and timely payment by the allottee toward the sale consideration.
- III. That the present complaint is liable to be dismissed on the sole ground that the complainant has concealed the true and necessary facts from the Authority. The complainant is chronic defaulter in timely payment of the instalments as per the payment plan annexed with the builder buyer agreement.
- IV. That respondent has sent final payment reminder letter on 15.03.2024 and further for non-payment of instalments as per the payment plan the allotment in favor of complainant was cancelled vide publication dated 06.04.2024. Thereafter, the respondent sent a letter dated 22.04.2024 to the complainant to collect their payment from the respondent but thereafter the complainant never approached the respondent to restore the allotment and made payment.
- V. That despite many undulations such as Covid (loss of 6 months), GRAP restrictions and most importantly non-compliance on the part of the 'Intended Beneficiaries'/allottees/ complainant(s); i.e. non-payment, the respondent has still fulfilled its obligations in terms of completing the



construction, and has already applied for the OC in the month of December 2023 even whilst facing the disruption in supply chain, migration of labourers due to Covid, and without seeking any escalation linked to escalated cost of construction due to inflation. Further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the company then the company shall be automatically entitled to the extension of time for delivery of possession.

VI. That as per law of Affordable housing policy whom can apply this scheme only who have no house in their name and his spouse but, in this case, applicant is trying to put the curtain on this fact.

6. All other averments made in the complaint were denied in toto.
7. 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.
8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions oral as well as written (filed by the complainant) made by the parties.

**E. Jurisdiction of the authority.**

9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

**E. I Territorial jurisdiction**

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

**E. II Subject matter jurisdiction**



11. 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;*

**Section 34-Functions of the Authority:**

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

12. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside the compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**F. Findings on the objection raised by the respondent.**

**F.I Objection regarding force majeure conditions.**

13. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as construction ban, orders passed by various Authorities including orders passed by National Green Tribunal (hereinafter, referred as NGT), lockdown due to outbreak of Covid-19 pandemic:

14. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

*"All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the 'date of commencement of project' for the purpose of this policy. The licenses shall not be renewed*



*beyond the said 4-year period from the date of commencement of project."*

15. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. The Authority notes that the construction ban cited by the respondent, was of a short duration and is a recurring annual event, usually implemented by the National Green Tribunal (NGT) in November. These are known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Hence, all the pleas advanced in this regard are devoid of merits.
16. In accordance with the said policy the respondent was obligated to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of the building plan is 10.03.2015 and environment clearance is 16.09.2016. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 16.09.2020. Further ***as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.*** The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 16.09.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date for handing over possession ***in view of notification no. 9/3-2020 dated 26.05.2020,*** on account of force majeure conditions due to the outbreak of Covid-19 pandemic. So, in such a case the due date for handing over of possession comes out to 16.03.2021.

**G. Findings on the relief sought by the complainant.**

**G.I Direct the respondent to compensate for delay of possession, at the rate as currently prevailing MCLR plus 2% (per centum) as prescribed in the Real Estate (Regulation and Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017.**

**G.II Direct the Respondent to pay interest for every month of delay, from 16th March 2021 to date of offering possession of the Apartment to the**



**Complainant, on the amount taken from the Complainant for the aforesaid Apartment, at the rate prescribed by the Act, 2016.**

17. The complainant was allotted a unit no. J148 admeasuring carpet area of 356.18 sq. ft. and a balcony area of 69.84 sq. ft., in the respondent's project at basic sale price of Rs.14,59,640/- under the Affordable Group Housing Policy 2013. A buyer's agreement was executed between the parties on 18.06.2016. The possession of the unit was to be offered within 4 years from approval of building plans (10.03.2015) or from the date of environment clearance (16.09.2016), whichever is later, which comes out to be 16.09.2020 calculated from the date of environment clearance being later. Further, as per **HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 06.09.2020 i.e., after 25.03.2020.** Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. Therefore, the due date of handing over possession comes out to be 16.03.2021. The complainant had paid a sum of Rs.13,44,449/- towards the subject unit.
18. The respondent issued a final reminder letter dated 15.03.2024 to the complainant wherein it was specified that in case the complainant/allottee fails to make a payment of Rs.4,87,811/- within a period of 15 days of the said reminder, it shall result in automatic cancellation of the allotment without any further notice of communication by the respondent. Thereafter, the respondent made a publication in the newspaper "AAJ SAMAJ" on 06.04.2024 as required under Affordable Group Housing Policy, 2013 and following which issued a letter dated 22.04.2024 to the complainant to collect the refund of the paid-up amount as the unit stands cancelled.



19. The foremost question which arises before the authority for the purpose of adjudication is that "whether the said cancellation is a valid or not in the eyes of law?"
20. The Authority notes that the complainant has paid approx. 92 % of the sale consideration, and the respondent was required to hand over the project by 16.09.2020 under the Affordable Housing Policy, 2013, excluding the COVID-19 grace period. Even with a six-month grace period in lieu of Covid-19 pandemic to 16.03.2021, the respondent failed to complete the project. More than three years later, the respondent obtained the occupation certificate from the competent authority on 31.12.2024. The interest accrued during the delay period significantly reduces the amount payable by the complainant. Upon adjustment of this interest, the respondent would, in fact be liable to pay the complainant. Despite this, the respondent chose to cancel the unit on grounds of non-payment, while neglecting its own obligations. Such actions by the respondent displays bad faith, as it failed to adjust the delay period interest.
21. Additionally, as per Clause 9.2 of the Agreement for Sale, annexed as Annexure A to the Rules, 2017, the allottee has the right to stop making further payments if the promoter defaults on its obligations. The relevant portion is reproduced below:

**9.2 In case of Default by Promoter under the conditions listed above, Allottee is entitled to the following:**

- (ii) Stop making further payments to Promoter as demanded by the Promoter. If the Allottee stops making payments, the Promoter shall correct the situation by completing the construction/ development milestones and only thereafter the Allottee be required to make the next payment without any interest for the period of such delay; or,.....

**(Emphasis Supplied)**

22. In the present case, the promoter was obligated to complete the construction within four years from the date of either the environment clearance or the building plan approval, whichever was later, i.e., by 16.09.2020. However, the promoter failed to complete the project within this timeline. Even after granting



a six-month extension due to the Covid-19 pandemic, extending the deadline to 16.03.2021, the promoter did not complete the construction. Thus, in accordance with Clause 9.2, the allottee was fully justified in stopping further payments.

23. Considering the above findings, the cancellation of the allotment is deemed invalid and is hereby quashed as issued in bad faith. Thus, the respondent is directed to reinstate the unit allotted to the complainant.
24. In the present complaint, the complainants intend to continue with the project and are 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."*

25. Clause 4 of the buyer's agreement provides for time period for handing over of possession and is reproduced below:

***"4-Possession***

*4.1 The Developer shall endeavour to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure & timely payments by the allottee towards the sale consideration, in accordance with the terms as stipulated in the present agreement."*

26. The authority has gone through the possession clause of the agreement. At the outset, it is relevant to comment on the pre-set possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and the complainant not being in default under any provision of this agreement and in compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so



heavily loaded in favour of the promoter and against the allottee that even a single default by the allottee in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottee and the commitment date for handing over possession loses its meaning.

27. The buyer's agreement is a pivotal legal document which should ensure that the rights and liabilities of both builder/promoter and buyer/allottee are protected candidly. The apartment buyer's agreement lays down the terms that govern the sale of different kinds of properties like residentials, commercials etc. between the buyer and builder. It is in the interest of both the parties to have a well-drafted apartment buyer's agreement which would thereby protect the rights of both the builders and buyers in the unfortunate event of a dispute that may arise. It should be drafted in the simple and unambiguous language which may be understood by a common man with an ordinary educational background. It should contain a provision with regard to stipulated time of delivery of possession of the apartment, plot or building, as the case may be and the rights of the buyer/allottees in case of delay in possession of the unit.

**28. Admissibility of delay possession charges at prescribed rate of interest:**

The complainants are seeking delay possession charges at the prescribed rate. However, proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules, *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 the 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., 01.05.2025 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) 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;"*

*(iii)*

32. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 11.10 % by the respondent/promoter which is the same as is being granted to them in case of delayed possession charges.

33. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not

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handing over possession by the due date as per the agreement. By virtue of clause 4 of the buyer's agreement, the possession of the subject apartment was to be delivered within 4 years from the date of commencement of project (*as per clause 1(iv) of Affordable Housing Policy, 2013, all such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy*). In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is not given, so the date is taken from another file of the same project i.e., 16.09.2016. The date of environment clearance being later, the due date of handing over of possession is reckoned from the date of environment clearance. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as elaborated above an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As such the due date for handing over of possession comes out to be 16.03.2021. Further, a relief of 6 months will be given to the allottee that no interest shall be charged from the complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

34. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such the complainants are entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

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35. Further, as per Section 17(1) of the Act of 2016, the respondent is obligated to handover physical possession of the subject unit to the complainants. Therefore, the respondent shall handover the possession of the allotted unit as per specification of the buyer's agreement entered into between the parties as the respondent has already obtained the occupation certificate from the competent authority.

**G.III Direct the respondent to execute and register a conveyance deed of the Apartment in favour of legal heir as per the provision of section 17 of the Act, 2016.**

36. The original allottee i.e. Late Sh. Baikunth Singh, was allotted a subject unit in the respondent's project under the Affordable Housing Policy, 2013. The complainants, being the legal heirs of the deceased allottee, filed the present complaint seeking delay possession charges on account of delayed delivery of possession beyond the agreed timeline. During the course of adjudication, the Authority observed a technical defect in the complaint as not all legal heirs had been impleaded as parties. To rectify this, the complainant filed an application on 02.08.2024 seeking amendment in Proforma-B to implead all the legal heirs of the deceased allottee. As per the documents placed along with application, the surviving member certificate issued by the Revenue Department, Government of NCT of Delhi, Dwarka: South West District (Certificate No. 90660000150960 dated 15.06.2022), there are four legal heirs of the deceased allottee. Accordingly, the said application for impleadment was allowed vide proceedings dated 16.01.2025.

37. Further, as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainants. Whereas as per section 19(11) of the Act of 2016, the allottee are also obligated to participate towards registration of the conveyance deed of the unit in question.



38. In compliance with the obligations prescribed under Section 17(1) of the Act, and considering that the respondent has already obtained the Occupation Certificate for the subject unit, the respondent is hereby directed to execute and register the conveyance deed in favour of the legal heirs of the deceased allottee, on submission of requisite documents <sup>and stamp duty</sup> as per applicable local laws.

**H. Directions of the authority:**

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

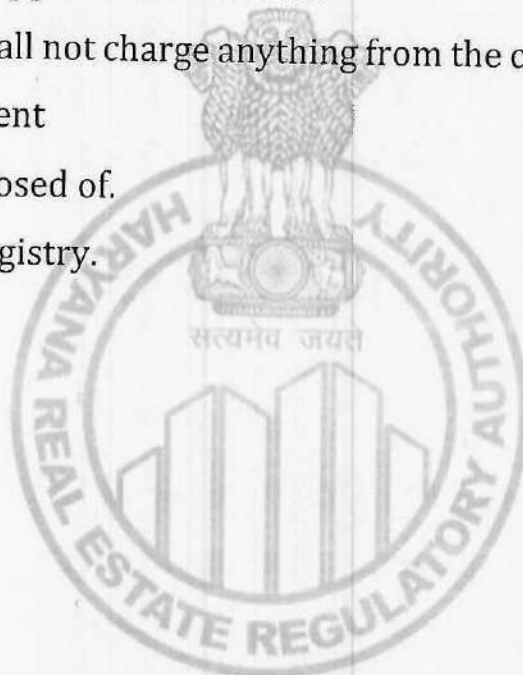
- I. The cancellation is hereby set aside being bad in the eyes of law. The respondent is directed to reinstate the subject unit. Further, the respondent is directed to pay interest on the amount paid by the complainants i.e. Rs. 13,44,449/- at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession whichever is earlier.
- II. The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10<sup>th</sup> of the subsequent month as per Rule 16(2) of the Rules, *ibid*.
- III. The respondent is directed to issue a revised account statement after adjustment of delay possession charges and thereafter the complainants are directed to pay outstanding dues if any.
- IV. The rate of interest chargeable from the allottees 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. Further no interest shall



be charged from complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

- V. The respondent is directed to handover the physical possession of the allotted unit to the complainants complete in all aspects of buyer's agreement.
- VI. The respondent is directed to execute and register the conveyance deed in favour of the legal heirs of the deceased allottee on submission of requisite documents as per applicable local laws.
- VII. The respondent shall not charge anything from the complainant which is not part of the agreement
40. Complaint stands disposed of.
41. File be consigned to registry.

Dated: 01.05.2025



**HARERA**  
**GURUGRAM**

  
(Vijay Kumar Goyal)  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram