



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1850 of 2023
Date of filing:	06.09.2023
First date of hearing:	17.10.2023
Date of decision:	12.05.2025

Vinod Gupta

S/o Sh. Raghu Nandan Lal
R/o House no. 331, Sector-4,
Urban Estate, Karnal

.....COMPLAINANT

Versus

RAS Development Pvt. Ltd. (through its authorized person)

Registered Office: 812-812A,
Chiranjiv Tower, 43, Nehru Place,
New Delhi-110019

.....RESPONDENT

CORAM: Nadim Akhtar

Member

Chander Shekhar

Member

Hearing: 5th

Present: - Adv. Akshat Mittal, counsel for the complainant through VC.

Adv. Rohit Goswami, counsel for the respondent.

ORDER (NADIM AKHTAR –MEMBER)

1. Present complaint has been filed by the complainant on 06.09.2023 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the RERA, Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

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 table:

S.No.	Particulars	Details
1.	Name and location of the project	"RAS Basera", Village Padhana District Karnal, Haryana
2.	Name of the promoter	M/s RAS Developments Pvt. Ltd.
3.	RERA registered/not registered Unit No.	Registered vide registration no. 283 of 2017 dated 10.10.2017 Lapsed on 25.07.2022
4.	Unit No.	507/ Tower- A-2, 5 th floor
5.	Carpet area	479.51 sq. ft.



6.	Date of allotment	09.05.2016
7.	Date of execution of flat Buyer Agreement	24.01.2017
8.	Deemed date of possession	24.01.2021 (4 years from the date of flat buyer agreement, i.e., 24.01.2017)
9.	Total sale consideration	₹14,81,315/-
10.	Amount paid by the complainant	₹11,61,701/-
11.	Offer of possession	Not given till date

B. FACTS OF THE COMPLAINT

3. Case of the complainant is that the present complaint is being filed for seeking refund of the amount paid by the complainant along with interest and compensation on account of inordinate delay in handing over possession of the allotted residential unit in the affordable group housing project titled "RAS Basera", being developed by the Respondent at Village Padhana, Sector 16, Taraori, District Karnal, Haryana. The said project is registered with the Haryana Real Estate Regulatory Authority (HRERA) under Registration No. 283 of 2017 dated 10.10.2017.
4. The Complainant was allotted a 2 BHK residential apartment bearing Unit No. 507, located on the 5th Floor of Tower A2, having a carpet area of 479.51 sq. ft. and balcony area of 85.57 sq. ft., for a total sale consideration of



₹14,81,315/-. An Allotment Letter dated 09.05.2016 was issued to the Complainant by the Respondent. A copy of the said allotment letter is annexed as Annexure C-1.

5. Subsequently, a Builder Buyer Agreement was executed between the parties on 24.01.2017, laying down the terms and conditions governing the allotment. As per Clause 3.6 of the agreement, Respondent undertook to deliver possession of the unit within a period of 4 years from the date of execution of the agreement or from the date of requisite approvals, whichever is later. Accordingly, the committed date for possession was 23.01.2021. A copy of the Builder Buyer Agreement is annexed as Annexure C-3.
6. In compliance with the payment schedule, Complainant paid a total amount of ₹11,61,701/- to the Respondent. The said payment was made through a combination of personal funds and a home loan availed from M/s ART Housing Finance (India) Ltd., disbursed directly to the Respondent. Copies of the payment receipts and the loan account statement reflecting disbursements made are annexed and collectively marked as Annexure C-2 colly.
7. Despite lapse of more than four years from the committed possession date, Respondent has failed to offer the possession of the unit or to provide any justified explanation or revised timeline. The Respondent has thus failed to honour its contractual obligations and has caused undue financial hardship



and mental agony to the Complainant, who continues to bear the burden of EMIs without the benefit possession of property. Furthermore, it is pertinent to note that more than 10% of the sale consideration was collected by the Respondent from the complainant before the execution and registration of the Agreement for Sale, in violation of Section 13(1) of the Act. This further highlights the arbitrary and non-transparent conduct of the Respondent.

8. The Respondent is also in contravention of Section 18(1)(a) of the Act, which mandates that in case the promoter fails to hand over possession by the agreed date, the allottee shall be entitled to withdraw from the project and claim refund of the amount paid along with interest at the prescribed rate. The Respondent's RERA registration of the said project expired on 25.07.2022 and has not been renewed till date, clearly indicating the lack of bona fide intent to complete the project.

C. RELIEFS SOUGHT

9. Complainant has sought following reliefs:
 - i. To direct the respondent to refund the entire deposited amount of ₹11,61,701/- (Rupees Eleven Lakh Sixty One Thousand Seven Hundred and One) which has been deposited against the property in question so booked by the complainants along with interest as prescribed, on the amounts from the respective dates of deposit till its



actual realization/refund according to Section 18(1) Real Estate (Regulation And Development) Act 2016 read with Rule 15 8 16 of Haryana Real Estate (Regulation & Development) Rules.

- ii. To direct the respondent to pay an adequate compensatory interest on the entire deposited amount of ₹11,61,701/- for delayed offer of possession, as deemed fit by the authority.
- iii. To direct the respondent to pay a sum of ₹15,00,000/- on account of grievance and frustration caused to the complainants by the miserable attitude of the respondent and deficiency in service and for causing mental agony cause to complainants along with interest from the date of filing the present complaints till its realization.
- iv. The registration granted to the Respondent for the project namely, "RAS Basera" being situated in Revenue Estate of Village Padhana, District Karnal, Haryana, under RERA read with relevant Rules may kindly be revoked under Section 7 of the RERA for violating the provisions of The Act.
- v. Penalty under section 61 may kindly be imposed upon the respondent for violation of the provisions of the Act, 2016.
- vi. The complainant may be allowed with costs and litigation expenses of ₹1,50,000/-;



- vii. Any other relief as this Hon'ble Authority may deem fit and appropriate in the facts and circumstances of the instant complaint.

D. REPLY ON BEHALF OF RESPONDENT

That the respondent asserts that the present complaint is not maintainable before this Hon'ble Authority on multiple legal and factual grounds, as elaborated hereinbelow:

10. The complaint is *barred by limitation* under Section 69 of the Real Estate (Regulation and Development) Act, 2016. The Complainant alleges that possession was due by 23.01.2021 but has chosen to file the present complaint only in the year 2025 after a delay of more than four years. The cause of action, if any, arose much earlier. The Intimation Letter dated 11.10.2018 (annexed as Annexure R-1) had clearly notified the Complainant of the payment obligations and relevant timelines, yet no legal action was initiated within the prescribed limitation period. By virtue of Section 29(2) of the Limitation Act, 1963, which applies to proceedings under RERA, the complaint is clearly time-barred and liable to be dismissed on this ground alone.
11. That there arises *no valid cause of action* against the Respondent in light of the express terms of the Builder-Buyer Agreement. Clauses 3.6 and 10 of the agreement, duly executed and consented to by the complainant, provide for a



possession timeline of four years from the date of requisite statutory approvals, not from the date of allotment. The agreement further permits reasonable extensions of time on account of force majeure events, including but not limited to the COVID-19 pandemic, labour shortages, construction bans, and related disruptions. That the delay, if any, is wholly attributable to force majeure conditions beyond the control of the Respondent. The Respondent's construction activities were adversely impacted due to government-imposed lockdowns, labor migration, material shortages, and regulatory restrictions, all of which were beyond the Respondent's control.

12. That the Complainant is in *default of his payment obligations* under the Agreement. The Statement of Accounts, annexed as Annexure R-2, clearly reflects the Complainant's outstanding dues. The Complainant's failure to adhere to the agreed-upon payment schedule constitutes a breach of contract. As per the provisions of RERA itself, an allottee is required to fulfill his financial commitments and non-compliance absolves the developer of any resultant delay in project completion or possession.
13. That the Complainant has misrepresented the terms of the Builder-Buyer Agreement by falsely alleging that possession was to be handed over within three years. Clause 3.6 of the Agreement, however, unambiguously stipulates a four-year timeline from the date of statutory approvals, with permissible



extensions. The Complainant had voluntarily executed the Agreement after being fully aware of its terms and conditions and cannot now claim such terms to be “unfair” merely because of a change in position or perception.

14. That the project in question—RAS Basera—was duly registered with this Hon’ble Authority under Registration No. 283 of 2017. Furthermore, an application for extension of the said registration has already been submitted and is pending consideration. The allegation that the project registration has “lapsed” is therefore incorrect, misleading, and intended to misguide the Authority.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

15. Learned counsel for the complainant stated that in compliance with the directions issued by the Authority vide order dated 03.03.2025, the complainant has filed an affidavit dated 02.05.2025 in the Registry, enclosing complete details and copies of receipts evidencing the amount paid by the complainant. It was further submitted that the complainant had booked Unit No. 507 in the respondent’s project on the bona fide belief that the respondent would adhere to the terms and conditions stipulated in the Builder Buyer Agreement dated 24.01.2017. However, the respondent has failed to deliver



possession of the said unit within the agreed timeline. Thus, complainant prays for a relief of refund of the amount paid by him along with interest.

16. On the other hand, learned counsel Mr. Rohit Goswami appeared on behalf of the respondent and submitted that the previous counsel, who had been representing the respondent, had filed an application dated 27.02.2025 seeking withdrawal of his *vakalatnama*. He further requested that a short adjournment be granted to enable him to formally file his *vakalatnama* and place his appearance on record. However, the Authority observes that this matter has already been listed for hearing on four previous occasions, and today marks the fifth hearing in the present complaint. Despite multiple opportunities, the respondent has failed to take effective steps to proceed with the matter, which reflects a pattern of deliberate delay in the adjudication process. In the interest of justice and to ensure timely disposal of the complaint, the Authority finds no justification to grant any further adjournments and accordingly rejects the request.

F. ISSUE FOR ADJUDICATION

17. Whether the complainant is entitled for refund of the amount deposited by him along with interest in terms of Section 18 of RERA, Act of 2016?



G. OBSERVATIONS AND DECISION OF AUTHORITY

18. The Authority has gone through rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both the parties, Authority observes that the complainant booked a unit in the real estate project; "RAS Basera" being developed by the promoter namely; "RAS Developments Pvt. Ltd." and in consonance to the same, complainant was allotted unit no. 507, 5th floor in Tower no. A-2, admeasuring 479.51 sq. ft. in the project known as "RAS Basera" situated at GT Road, Sector-16, Taraori, Karnal, Haryana through allotment letter dated 09.05.2016. Builder Buyer Agreement was executed between the parties on 24.01.2017. Complainant has paid a total sum of ₹11,61,701/- against the total sale consideration of the unit amounting to ₹14,81,315/- .
19. As per clause 3.6 of the builder buyer agreement "*possession of the flat shall be offered within a period of four years from the date of approval of building plans or grant of environmental clearance, date of issuance of this flat buyer agreement or any other sanction by the competent authorities, whichever is later and within such extended time (if any) as may be allowed by the competent authorities.*" The respondent, in his reply and during arguments, has not provided any documentary evidence or disclosed the exact date of approval of building plans, environmental clearance, or any other statutory



sanction. So without having any exact date of approval of sanctioning of building plans, the Authority deems it appropriate to rely on the **execution date of the Flat Buyer Agreement** to calculate the deemed date of possession. The Flat Buyer Agreement was executed on **24.01.2017**, and as per the stipulated timeline in Clause 3.6, possession was to be handed over within 4 years. This calculation leads to a deemed date of possession of **27.01.2021**.

20. Further respondent has challenged the maintainability of the complaint on various grounds such as:

i. The complaint is barred by limitation under Section 69 of the Real Estate (Regulation and Development) Act, 2016.

Reference in this regard is made to the judgement of Apex court Civil Appeal no. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise.

"It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963." 20. In Kerala State Electricity Board v. T.P"

The promoter has till date failed to fulfill his obligations because of which the cause of action is re-occurring. RERA is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963 would not be applicable to the



proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority set up under that Act being quasi-judicial and not Courts.

- ii. *That no cause of action lies against the Respondent, as the Agreement allows possession within four years from statutory approvals, with extensions for force majeure events. Delay, if any, was due to COVID-19 related disruptions, recognized as force majeure by the Hon'ble Supreme Court in Suo Motu W.P. (C) No. 3 of 2020.*

Authority is of the view that the Respondent contends that possession was to be delivered within four years from the date of statutory approvals and seeks shelter under the force majeure clause in light of the COVID-19 pandemic, as recognized in *Suo Motu Writ Petition (Civil) No. 3 of 2020* by the Hon'ble Supreme Court. However, this contention is not supported by any credible documentary evidence on record. Firstly, the Respondent has failed to place on record any document evidencing the actual date of statutory approvals, including the approval of building plans or grant of environmental clearance. In the absence of such disclosure, the Complainant has relied on the date of execution of the Builder Buyer Agreement, i.e., 24.01.2017. Accordingly, the possession was due on or before 24.01.2021. Even assuming a limited extension due to the COVID-19 pandemic, the Respondent has still not delivered possession till date. Further, the Respondent has not annexed any Occupation Certificate to demonstrate that the project is complete and fit for possession. Neither any formal offer of possession has been placed on record.



These omissions cast serious doubt on the Respondent's claim that possession was due or imminent and demonstrate continued non-compliance with contractual obligations. The Complainant filed the present complaint on 06.09.2023. Even prior to that, there had already been a delay of more than two years beyond the agreed possession timeline. Despite receiving approximately 90% of the total sale consideration from the Complainant, the Respondent has failed to provide any update on the construction status or timeline for possession, thereby breaching the legitimate expectations and contractual rights of the Complainant. Thus, the objection raised by the Respondent, claiming that no cause of action lies against them due to the force majeure clause and the possession timeline under the Builder Buyer Agreement, is wholly untenable and devoid of merit.

iii. That the Complainant is in default of their payment obligations under the Agreement. The Statement of Accounts, annexed as Annexure R-2, clearly reflects the Complainant's outstanding dues.

Authority observes that the Complainant has already paid approximately 90% of the total sale consideration, as acknowledged by the Respondent. No formal demand notices or reminders alleging default have been placed on record by the Respondent prior to the filing of this complaint. Furthermore, the Respondent has failed to substantiate how the alleged dues, if any, are linked to the delay in offering possession. It is also pertinent to note that



despite having received substantial payment, the Respondent has neither completed construction nor obtained the Occupation Certificate, nor made any formal offer of possession. In the absence of completion of construction and compliance with statutory requirements, any remaining payment obligations under the agreement cannot be used as a ground to deny relief or justify delay. Hence, the allegation of default is an afterthought and a diversionary tactic to escape liability for the inordinate delay in handing over possession. The objection is therefore liable to be rejected.

21. Authority observes that complainant had opted for a Time-Linked Payment Plan. The Time-Linked Payment Plan is designed to ensure that the complainant makes payments in a staggered manner based on the construction progress. The complainant has complied with the payment schedule, as evidenced by the payment receipts and the customer ledger annexed by the complainant. Even respondent in his reply has admitted receiving of amount paid by the complainant. However, the respondent failed to meet the agreed construction milestones, leading to a significant delay in the completion of the project, and no possession is provided within the stipulated time frame. Moreover, by failing to adhere to the Time-Linked Payment Plan, the respondent has not only breached the terms of the agreement but has also failed to meet the essential condition of delivering possession or executing the



Builder-Buyer Agreement. The respondent's failure to execute the Builder-Buyer Agreement and deliver possession as per the agreed timelines makes the complainant eligible for relief under RERA, as the promoter is bound to deliver possession within a reasonable period after receiving substantial payments. Conclusively, it is the respondent who has failed to fulfill their contractual obligations, and thus they are responsible for the delay. The complainant had no obligation to continue payments when no progress was made, and they had already been deprived of their rightful possession long after the contractual deadline.

22. Lastly, the complainant cannot be expected to wait indefinitely for possession when the respondent has not demonstrated any significant progress in construction. Thus, the inordinate delay in completing the project and the failure to deliver possession justify the complainant's request for a refund of the amounts paid along with interest. Given the circumstances, the Authority finds that the complainant is entitled to a refund of the money paid, as well as compensation for the delay caused by the respondents' negligence in completing the project.
23. Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to



seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

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

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

The complainant wishes to withdraw from the project of the respondent; therefore, Authority finds it to be fit case for allowing refund in favour of complainant.

24. The definition of term ‘interest’ is defined under Section 2(za) of the Act which is as under:



(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;

25. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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".

26. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e.,



12.05.2025 is 9.1%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.1 %.

27. From above discussions, it is amply proved on record that the respondent have not fulfilled its obligations cast upon them under RERA Act, 2016 and the complainant is entitled for refund of her deposited amount along with interest as per RERA rules, 2017. Accordingly, respondent will be liable to pay the interest to the complainant from the dates when amounts were paid till the actual realization of the amount. Hence, Authority directs the respondent to refund the paid amount to the complainant along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR) + 2% which as on date works out to 11.1% (9.1% + 2.00%) from the date amounts were paid till the actual realization of the amount.

Authority has got calculated the total amount to be refunded along with interest calculated at the rate of 11.1% from the date of payment till the date of this order, which comes to ₹20,67,995/- (₹11,61,701/- (principal amount) + ₹9,06,294/- (interest accrued till 12.05.2025). According to the receipts/ statement of accounts provided by the complainant, details of which are given in the table below –



Sr.no	Principal amount (in ₹)	Date of payments	Interest accrued till 12.05.2025 (in ₹)
1.	74066	2016-01-19	76627
2.	74066	2016-06-03	73564
3.	50715	2018-08-25	37832
4.	962854	2018-08-25	718271
Total	1161701		906294
Total amount to be refunded by respondent to complainant= ₹11,61,701/- + ₹9,06,294/- = ₹20,67,995/-			

28. Further, complainant is seeking ₹15,00,000/- on account of grievance and frustration caused to the complainant by the miserable attitude of respondent and deficiency in service and for causing mental agony cause to the complainants along with interest and from the date of filing the present complaints till its realization and ₹1,50,000/- for litigation cost. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. &ors.*" (supra,), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in



Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

29. Lastly, with regard to the relief sought by the complainant in the paragraph 9(iv) and (v), Authority observes that the complainant neither argued nor pressed the same during the course of the hearing. Accordingly, the Authority cannot adjudicate upon such relief.

H. DIRECTIONS OF THE AUTHORITY

30. Hence, the Authority hereby passes this order and issue 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) Respondent is directed to refund the entire amount deposited by the complainant along with interest of @11.1% to the complainant as specified in the table provided above in para no 27 from the dates when amounts were paid till the actual realization of the amount.
- (ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of



Haryana Real Estate (Regulation & Development) Rules, 2017

failing which, legal consequences would follow against the respondent.

31. Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]