

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

Date of decision: 23.04.2025

Name of the Builder		Sidhartha Buildhome Private Limited	
Project Name		"NCR One", Sector 95, Gurugram	
Sr. No.	Case No.	Case title	Appearance
1.	CR/2890/2024	Sanjay Pruthi Vs. Sidhartha Buildhome Private Limited	Complainant-in-person None
2.	CR/2891/2024	Ashu Pruthi Vs. Sidhartha Buildhome Private Limited	Complainant-in-person None

CORAM:

Shri Ashok Sangwan

Member

ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this authority 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 project, namely, "NCR One" situated at Sector-95, Gurugram being developed by the same respondent/promoter i.e., "Sidhartha Buildhome Private Limited." The

terms and conditions of the buyer's agreements and fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking refund of the amount paid by the complainants along with interest at the prescribed rate.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	"NCR One" at Sector 95, Gurugram, Haryana
Nature of the Project	Residential Group Housing Colony
Project area	10.712 acres
DTCP License No. and validity	64 of 2008 dated 19.03.2008 Valid up to 18.03.2025
HRERA Registration	Not Registered
Possession Clause	11. Completion of Construction "11.1 The Developer based on its present plans and subject to all just exceptions, contemplates to complete the construction of said Apartment, within a period of 36 months from the date of start of foundation of a particular tower in which the apartment is located with a grace period of six(6) months, on receipt of sanction plans/revised plans and approvals of all the concerned authorities. " <i>(Emphasis supplied)</i>
Occupation certificate	Not Obtained

Sr. No.	Complaint No., Case Title, and Date of filing of complaint	Unit no. and size	Date of execution of BBA	Total Sale Consideration / Total Amount paid by the complainant
1.	CR/2890/2024 Sanjay Pruthi Vs. M/s Sidhartha Buildhome Private Limited DOF: 21.06.2024 Reply: Not Filed	Unit no. Ex-3-103 First Floor Block/tower no. Ex-3 Admeasuring 2230 sq. ft. super area (Page 28 of complaint)	27.12.2012 (Page 26 of complaint)	BSP-Rs. 57,98,000/- (Page 30 and 48 of complaint) AP-Rs. 17,87,176/- (As per receipts at page 21-24 of complaint)
2.	CR/2891/2024	Unit no. Ex-3-(G-3) Ground Floor	27.12.2012	BSP-Rs. 57,98,000/- (Page 30 and 48 of

	<p>Ashu Pruthi Vs. M/s Sidhartha Buildhome Private Limited</p> <p>DOF: 21.06.2024 Reply: Not Filed</p>	<p>Block/tower no. Ex-3 Admeasuring 2230 sq. ft. super area</p> <p>(Page 28 of complaint)</p>	<p>complaint)</p> <p>AP-Rs. 17,87,176/- (As per receipts at page 20-24 of complaint)</p>								
<p>The complainant herein is seeking the following reliefs:</p> <ol style="list-style-type: none"> 1. Initiate appropriate action against the respondent for not getting the project registered under the provisions of RERA Act (in case the project is not registered under RERA by the respondent). 2. Direct the respondent to refund a sum of Rs.17,87,176/- along with interest @12% per annum w.e.f. 29.03.2012. 3. Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant for making false and incorrect representations and for undue hardship and injury, both physical and mental, caused due to the acts of omissions and commissions on part of the respondent. 4. Direct the respondent to pay a sum of Rs.50,000/- to the complainant towards the cost of litigation. 											
<p>Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:</p> <table border="1"> <thead> <tr> <th>Abbreviation</th> <th>Full form</th> </tr> </thead> <tbody> <tr> <td>DOF</td> <td>Date of filing of complaint</td> </tr> <tr> <td>BSP</td> <td>Basic sale consideration</td> </tr> <tr> <td>AP</td> <td>Amount paid by the allottee/s</td> </tr> </tbody> </table>				Abbreviation	Full form	DOF	Date of filing of complaint	BSP	Basic sale consideration	AP	Amount paid by the allottee/s
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4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of subject unit for not handing over the possession by the due date, seeking refund of entire amount paid by the complainants along with interest at the prescribed rate.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the 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 allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of both the complaints filed by the complainant-allottee(s) are similar. Herein, the particulars of lead case **CR/2890/2024 titled as "Sanjay Pruthi Vs. M/s Sidhartha Buildhome Private Limited"** are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and Unit-related details

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

Sr. No.	Particulars	Details
1.	Name of the project	"NCR One" at Sector 95, Gurugram, Haryana
2.	Project area	10.712 acres
3.	Nature of the project	Residential Group Housing Colony
4.	DTCP license no. and validity status	64 of 2008 dated 19.03.2008 Valid up to 18.03.2025
5.	Name of licensee	Pashupati Buildwell Private Limited
6.	RERA Registered/ not registered	Not Registered
7.	Welcome Letter	07.04.2012 (Page no. 19 of complaint)
8.	Date of execution of BBA	27.12.2012 (Page no. 26 of complaint)
9.	Unit no.	Unit no. Ex-3-103 First Floor Block/tower no. Ex-3 Admeasuring 2230 sq. ft. super area (Page no. 28 of complaint)
10.	Possession clause	11. Completion of Construction <i>"11.1 The Developer based on its present plans and subject to all just exceptions, contemplates to complete the construction of said Apartment, within a period of 36 months from date of start of foundation of a particular tower in which apartment is located with a grace period of six(6) months, on receipt of sanction plans/ revised plans and approvals of all the concerned authorities."</i> (Emphasis supplied) (As per BBA at page no. 36 of complaint)
11.	Due date of possession	
12.	Total Sale Consideration	Rs. 74,64,050/-

		(As per Payment plan at page no. 48 of complaint)
13.	Amount paid by the complainants	Rs. 17,87,176/- (As per receipts at page no. 21-24 of complaint)
14.	Occupation certificate	Not Obtained
15.	Offer of Possession	Not offered
16.	Legal notice sent by complainant to respondent to refund the amount paid by them	09.08.2019 (Page no. 49 of complaint)
17.	Demand letter sent by respondent to complainant to pay outstanding dues of Rs.56,59,494/- within 60 days, failing which unit shall be cancelled	01.02.2024 (Page no. 88 of complaint)
18.	E-mail sent by complainant to respondent in response to the said demand letter	18.02.2024 (Page no. 90 of complaint)
19.	Cancellation Notice	01.06.2024 Amount forfeited- Rs.12,94,180/- Amount to be refunded to the complainant- Rs.4,92,996/- (Page no. 91 of complaint)

B. Facts of the complaint:

8. The complainant has made the following submissions by filing the present complaint: -
- That the complainant booked a unit for residential purpose in the project of the respondent namely the "NCR One" at Sector-95, Gurugram, Haryana.
 - That based on the representations of the respondent, the complainant applied for the unit by virtue of which the respondent allotted unit bearing no. Ex -103, First floor, in Block Ex-3 having super area of 2,330 sq. ft. in the project of the respondent by issuing a welcome letter dated 07.04.2012.
 - That a buyer's agreement was duly signed and executed between the parties on 27.12.2012.

- d) That the complainant has paid a sum of Rs. 17,87,176.00/- against the total sale consideration of Rs. 74,64,050.00/- towards the said unit. The payment was made as and when demands were raised by the respondent.
- e) That the respondent has failed to deliver the possession after expiry of 42 months (36 months as promised with 6 months grace period) from the date of buyer's agreement. The complainant approached the respondent several times, but it failed to give concrete schedule. There has been no update on the website. The complainant learnt that the respondent has cheated various customers in different projects. There is very slow progress at site and the project is lying abandoned.
- f) That to the knowledge of the complainant, the respondent has even failed to get the project registered under the relevant provisions of the Real Estate Regulatory Authority Act (RERA) and is thus acting in complete disregard of law. The RERA Act clearly stipulates that every on-going project within a period of three months from the date of commencement of Act, needs to file an appropriate application for registration.
- g) That the respondent has even changed the design of unit no. Ex-103, First floor, in Block Ex-3 without the complainant's consent. Same was not even informed in writing. Details of the original design are part of the buyer's agreement as independent floors, block 3. This has created mess in these independent floors and the complainant had lost his interest to go ahead for the said unit. Further numerous representations including legal notice has been made by complainant to the respondent in person/over phone /letters and emails for update.
- h) That the corporate insolvency was initiated for project by Hon'ble NCLT, New Delhi Bench - III on 4/3/2021 by accepting the application numbered C.P (IB) NO. 717/ND/2019. The National Company Law Appellate Tribunal,

Principal Bench, New Delhi vide their order dated 16.02.2024 for Company Appeal (AT) (Ins.) No. 1194, 791 and 982 of 2023 by which the project was given back for completion to the respondent.

- i) That the respondent issued fresh demand for entire remaining amount of the unit to complainant. The notice insists on payment despite the fact that no construction of the flat has been initiated. The complainant sent email to the respondent protesting demand and seeking clarifications.
- j) That between 18.02.2024 to 04.06.2024, the complainant did correspondence with respondent over phone, email, zoom calls, SMS and WhatsApp wherein the complainant was given to understand that the construction cannot pursue due to alteration in executive floor layout plan and the same is submitted for revision with the authorities. A zoom meeting was held between NCR homebuyers and Mr. Siddharth Chauhan on 03.04.2024 at 9pm wherein the respondent agreed to issue refund/swap unit with another unit and agreed to meet on 08.04.2024 with the complainant. The respondent postponed the meeting to 10.04.2024. Again on 10.04.2024 respondent was not in the office and made to meet Mr. S. Kumar from Accounts/ Finance. But inspite of a fervent follow up with the respondent, the respondent kept postponing meeting the complainant or giving excuses for not meeting the complainant.
- k) That on 04.06.2024, the respondent sent letter to the complainant cancelling the unit devoid of legal basis and is in flagrant violation of the Real Estate (Regulation and Development) Act, 2016 (RERA). The complainant is entitled for refund of amount paid by him with interest of 12% as per clause 22.1 of the buyer's agreement and legal fees of this court and advocates for filing case, sending notices and compensation for harassment.

C. Relief sought by the complainant:

9. The complainant has sought the following relief(s):

- I. Initiate appropriate action against the respondent for not getting the project registered under the provisions of RERA Act (in case the project is not registered under RERA by the respondent).
 - II. Direct the respondent to refund a sum of Rs.17,87,176/- along with interest @12% per annum w.e.f. 29.03.2012.
 - III. Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant for making false and incorrect representations and for undue hardship and injury, both physical and mental, caused due to the acts of omissions and commissions on part of the respondent.
 - IV. Direct the respondent to pay a sum of Rs.50,000/- to the complainant towards the cost of litigation.
10. The present complaint was filed on 21.06.2024 in the Authority. On 23.10.2024, the counsel for the respondent was directed to file the reply within 3 weeks in the registry of the Authority. However, despite specific directions, the respondent has failed to file reply. Therefore, in view of order dated 02.04.2025, the defence of the respondent was struck off on failure of the respondent to file reply despite the lapse of approximately one year. In view of the same, the matter is proceeded ex-parte against the respondent.

D. Jurisdiction of the authority:

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

D. I Territorial jurisdiction

12. 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 the entire Gurugram District for all purposes 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.

D. II Subject matter jurisdiction

13. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the 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 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 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 real estate agents under this Act and the rules and regulations made thereunder.

14. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.
15. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357 and reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a

complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

16. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

E. Findings on relief sought by the complainants.

E.I Initiate appropriate action against the respondent for not getting the project registered under the provisions of RERA Act (in case the project is not registered under RERA by the respondent).

17. The planning branch of the authority is directed to take necessary action under the provision of the Act of 2016 for violation of proviso to Section 3(1) of the Act.

E.II Direct the respondent to refund a sum of Rs.17,87,176/- along with interest @12% per annum w.e.f. 29.03.2012.

18. The factual matrix of the case reveals that the complainant was allotted a unit no. Ex-3-103, 1st floor, Block/tower no. Ex-3 admeasuring 2230 sq. ft. in the respondent's project "NCR One" vide buyer's agreement executed between the parties on 27.12.2012. The complainant paid an amount of Rs. 17,04,297/- against the total sale consideration of Rs.74,64,050/-. Further, perusal of case file reveals that on 09.08.2019 the complainant sent a legal notice to the respondent requesting for refund of amount paid by him along with interest @ 12% per annum in terms of clause 22.1 of the buyer's agreement executed between the parties on 27.12.2012. On the other hand, the unit allotted to the complainant was cancelled by the respondent on

01.06.2024 owing to non-payment of outstanding dues amounting to Rs.56,59,494/-.

Now, the question before the authority is whether cancellation of allotment of the complainant is valid or not?

19. The Authority has gone through the payment plan which was duly agreed between the parties and the same is reproduced below for ready reference:

Sr. No.	Instalments	Charge	Total Amount
1.	On Booking	10%	5,79,800/-
2.	Within 30 days of booking	10%	5,79,800/-
3.	Within 90 days of booking	10%	5,79,800/-
4.	On start of Foundation	15%	12,37,650/-
5.	On start of Ground Floor Roof Slab	10%	9,47,750/-
6.	On start of First floor Roof Slab	10%	10,81,550/-
7.	On Start of Top Floor Roof Slab	10%	6,79,800/-
8.	On start of Brick Work	10%	6,79,800/-
9.	On Start of Flooring	10%	6,29,800/-
10.	On Handing Over of Possession	5%	4,68,300/-
	Total Consideration (in Rs.)		74,64,050/-

20. It is matter of record that the complainant booked the aforesaid unit under the above-mentioned payment plan and paid an amount of Rs.17,87,176/- towards total consideration of Rs.74,64,050/- which constitutes 30% of the total sale consideration. The complainant duly paid the respondent against the stage "Within 90 days of Booking". A careful scrutiny of demand letter issued by respondent to the complainant on 01.02.2024 reveals that all the payment demands starting from "On start of Foundation" stage to "On Handing Over of Possession" stage were raised simultaneously on the said date. The respondent in the same letter has stated as under:

"As your good self is aware that pursuant to acceptance of Withdrawal Proposal" under Section 12-A of IBC by the Hon'ble NCLT, New Delhi vide Order dated 24.05.2023, the homebuyers are required to pay 95% of the agreed sale consideration within 60 days of the Demand....."

21. The Authority has examined the order passed by Hon'ble National Company Law Tribunal, New Delhi (NCLT) dated 24.05.2023 and observes that no such

direction was passed by the said Tribunal requiring the homebuyers to pay 95% of the agreed sale consideration within 60 days of the respondent's demand. Further, the buyer's agreement was executed between the parties in 2012, the due date of handing over of possession was 27.06.2016 and the occupation certificate with respect to the project "NCR One" had not been obtained by the respondent till date. Upon consideration of the record and conduct of the respondent, the Authority finds that the actions of the respondent appear to be actuated by malafide intent.

In light of these findings, the cancellation of the allotment on 01.06.2024 is deemed invalid and is hereby quashed as issued in bad faith.

22. Herein, the complainant intend to withdraw from the project and is seeking return of the amount paid by him in respect of subject unit along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building.-

(a) **in accordance with the terms of the agreement for sale** or, as the case may be, duly completed by the date specified therein; or

(b) **due to discontinuance of his business as a developer on account of the suspension or revocation of the registration under this Act or for any other reason,**

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

23. Clause 11.1 of the buyer's agreement dated 27.12.2012 provides the time period of handing over possession and the same is reproduced below:

*"11.1 The Developer based on its present plans and subject to all just exceptions, contemplates to complete the construction of said Apartment, **within a period of 36 months from the date of start of foundation of a particular tower in which the apartment is located with a grace period of six(6) months**, on receipt of sanction plans/revised plans and approvals of all the concerned authorities."*

(Emphasis supplied)

24. The due date of possession had to be calculated to be 36 months from the date of start of foundation of a particular tower in which unit is located with a further grace period of six months. However, the date of start of foundation of a tower in which unit is located cannot be ascertained on the basis of documents available on record. Therefore, the due date of possession had to be calculated from the date of execution of the buyer's agreement (27.12.2012) in view of "**Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018.**"
25. Thus, the unit was to be offered on or before 27.12.2015 to the complainant-allottee. As per clause 11.1 of the buyer's agreement the due date of possession comes out to be 27.06.2016 subject to grace period of 6 months. The occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondent-promoter. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the allotted unit and for which she has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in "**Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors.**", **Civil Appeal no. 5785 of 2019, decided on 11.01.2021.**

"...The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."

26. It has come on record that the complainants have paid an amount of Rs.17,04,297/- against the sale consideration of Rs.74,64,050/-. However,

the complainant contended that the due date of possession has been lapsed, and no occupation certificate has been obtained against the said project by the respondent. Hence, in case if allottee wish to withdraw from the project, the respondent is liable on demand to return amount received by it with interest at the prescribed rate if it fails to complete or is unable to give possession of the unit in accordance with the terms of buyer's agreement. Further in the judgement of the Hon'ble Supreme Court of India in the cases of "**Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.**" 2021-2022(1) RCR (c), 357 reiterated in case of "**M/s Sana Realtors Private Limited & other Vs Union of India & other**"s SLP (Civil) No. 13005 of 2020 decided on 12.05.2022, it was observed as under:

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

27. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a) of the Act. The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottees, as the allottees wish to withdraw from the project, without prejudice to any other remedy available, to return the amount

received by him in respect of the unit with interest at such rate as may be prescribed.

28. There has been an inordinate delay in the project which cannot be condoned. Thus, in such a situation, the complainant cannot be compelled to take possession of the unit as he is well within his right to seek refund of the paid-up amount. This is without prejudice to any other remedy available to the allottee(s) including compensation for which allottee may file an application for adjudging compensation with the adjudicating officer under Sections 71 and 72 read with Section 31(1) of the Act of 2016.
29. **Admissibility of refund along with prescribed rate of interest:** Section 18 of the Act read with Rule 15 of the Rules, 2017 provide that in case the allottees intend to withdraw from the project, the respondent shall refund of the amount paid by the allottee in respect of the subject unit with interest at prescribed rate as provided under Rule 15 of the Rules, *ibid*. Rule 15 has been reproduced as under:
- “Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***
- (1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the “interest at the rate prescribed” shall be the State Bank of India highest marginal cost of lending rate +2%.***
- Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.”***
30. 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.
31. 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., 21.05.2025

is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.

32. The definition of term "interest" as defined under Section 2(za)(ii) of the act provides that the interest payable by the promoter to the allottee shall be from the date the promoter received the amount. The relevant section is reproduced below: -

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

.....

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded,

.....

33. Therefore, The authority hereby directs the promoter to return the amount received by it i.e., Rs.17,04,297/- with interest at the rate of 11.10% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in Rule 16 of the Rules, *ibid.*

E.III Direct the respondent to pay a sum of Rs.5,00,000/- to the complainant for making false and incorrect representations and for undue hardship and injury, both physical and mental, caused due to the acts of omissions and commissions on part of the respondent.

E.IV Direct the respondent to pay a sum of Rs.50,000/- to the complainant towards the cost of litigation.

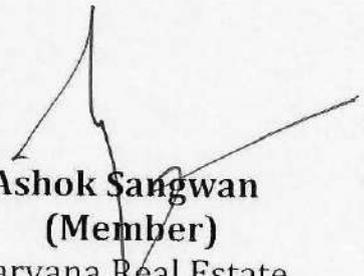
34. The complainant is seeking the above-mentioned reliefs with respect to compensation. The Hon'ble Supreme Court of India in case titled as "*M/s Newtech Promoters and Developers Private Limited V/s State of Up & Ors. 2021-2022(1) RCR (C), 357*" held that an allottee is entitled to claim compensation and litigation charges under Sections 12,14,18 and section 19

which is to be decided by the Adjudicating Officer as per Section 71 and the quantum of compensation and litigation expense shall be adjudged by the 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 and legal expenses.

F. Directions issued by the Authority:

35. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:
- I. The respondent/promoter is directed to refund the entire amount i.e., Rs.17,87,176/- received by it from the complainants along with interest at the rate of 11.10% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules 2017 from the date of each payment till its realization.
 - II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
36. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
37. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
38. File be consigned to the Registry.

Dated: 21.05.2025



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