

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

Complaint no.: 1540 of 2024  
Date of filing: 16.04.2024  
Date of first hearing: 24.07.2024  
Order pronounced on: 28.05.2025

1. Mr. Sandeep Suri  
2. Mrs. Neerja Suri  
**Both R/o:** - R/o 27, Bank Vihar, Sharda  
Niketan, Pitam Pura, Delhi- 110034

**Complainants**

Versus

M/s Vatika Limited  
**Regd. Office at:** - INXT City Centre, 4<sup>th</sup>  
floor, Block A, Sector-83, Vatika India Next,  
Gurugram- 122012, Haryana.

**Respondent**

**CORAM:**  
Shri Ashok Sangwan

**Member**

**APPEARANCE:**

Mr. Manoj Yadav (Advocate)  
Mr. Dhananjai Jain (Advocate)

Complainants  
Respondent

**ORDER**

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

**A. Unit and project related details.**

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

Sr. No.	Particulars	Details
1.	Name and location of the project	"Vatika Towers", Sector 54, Gurugram (As stated by complainants in their pleadings)
2.	RERA registered/ not registered and validity status	Not Registered
3.	Application form	01.04.2015 (Page no. 22 of complaint)
4.	<b>Acknowledgment Letter</b> issued by respondent (Provision as to payment of Assured returns added)	<b>28.08.2015</b> (Page no. 40 of complaint)
5.	Date of buyer's agreement	Not Executed
6.	Priority no.	P-54 (Page 40 of complaint)
7.	Unit area admeasuring	500 sq. ft. (Page 40 of complaint)
8.	Assured return and lease rentals clause	<p><i>"The broad terms of assured return are as under-</i></p> <p><i>a) Assured monthly commitment of Rs 129.72/- per sq. ft. payable till completion of the project.</i></p> <p><i>b) Post completion of the project an amount equivalent to Rs. 120/- (Rupees One Hundred Twenty Only) per sq. ft. super area of the unit per month shall be paid as committed return from the date of completion of construction of the said unit, for upto 36 (Thirty-six) months or till the said unit is put on Lease, whichever is earlier. After the said Unit is put on Lease, then payment of the aforesaid committed return will come to an end</i></p>

		<p>from the date of execution of Lease deed and the Buyer will start receiving Lease rental in respect of said Commercial Unit from the rent commencement date as per the Lease Deed of the said Unit.</p> <p>c) The obligation of the developer shall be to lease the premises of which your unit is part @ Rs. 120/- per sq. ft. In the eventuality the achieved return being higher or lower than Rs.120/- per sq. ft. the following would be applicable.</p> <p>1. If the achieved rental is less then Rs 120/- per sq. ft. then you shall be refunded @ Rs. 129.72/- per sq. ft. (Rupees One Hundred Twenty-Nine and Paise Seventy-Two Only) for every Rs.1/- by which achieved rental is less then Rs 120/- per sq. ft.</p> <p>2. If the achieved rental is above Rs 120/- per sq. ft then you will be liable to pay additional sale consideration @ Rs 64.86 per sq. ft. (Rupees Sixty-Four and Paise Eighty-Six Only) for every rupee of additional rental achieved. ."</p> <p>(Page 40 of complaint)</p>
9.	Assured Returns received till October, 2018	Rs. 26,18,182/- (As alleged by respondent in its pleadings at page 6 of reply and assured returns sheet at page 15 of reply)
10.	Total sale consideration	Rs.79,94,791/- (As pleaded by complainant)
11.	Amount paid by the complainants	Rs.79,94,791/- (Receipts annexed by complainant at page no. 29 to 39 of the complaint)
12.	Occupation certificate	Not obtained
13.	Offer of Possession	Not offered
14.	Cancellation Letter	15.10.2024 (Page 25 of reply)
15.	Amount refunded to complainants on 15.10.2024	Rs.80,72,631/- (As evident from e-mail dated

	16.10.2024 at page 32 of rejoinder filed by complainant on 21.03.2025)
--	--

**B. Facts of the complaint.**

3. The complainants have made the following submissions in the complaint dated 16.04.2024, further by way of rejoinder dated 21.03.2025 and written submissions dated 09.04.2025: -

- I. That the project was advertised by the respondent and the officials and brokers of the respondent made various lucrative representations. On the basis of these representation and the promises, the buyers/allotees including the present complainants applied for their respective commercial spaces in the above commercial complex vide an application and paid application money. The complainants had booked the said commercial space with the respondent on 01.04.2015. The complainants were allotted Priority No. P-54 for a unit measuring 500 sq. ft. super area by the respondent but no specific unit number was allotted to the complainant by the respondent. The respondent vide its letter dated 28.08.2015 had also committed to pay an assured return at the rate of Rs 129.72 per square feet to the complainants. The sale consideration of the unit was Rs. 79,94,791/- and since the unit was booked in assured return plan, the entire sale consideration amount was paid to the respondent in a short span of 3 months i.e. by 18.06.2015.
- II. That despite repeated requests from the complainants the respondent has failed to execute a buyer agreement for the unit till date. The respondents act of collecting the entire sale consideration of the unit is in violation of Section 13(1) of the RERA Act, 2016 , which provides that the developer cannot collect more than 10% of the sale consideration before entering into a detailed buyer agreement with the allottee. Further, as per Section 13(2) of the aforesaid act, the promoter is also liable to

specify/commit/communicate a specific date of possession of the unit to the allottee. Since there is no agreement executed between the complainants and respondent, a reasonable time has to be taken into consideration for ascertaining the date of delivery of possession of the said commercial space booked by the complainants. Therefore, the possession of the said commercial space was to be handed over within a reasonable period of 3 years from the date of booking of the said commercial space i.e. by 01.04.2018.

- III. That as per the assured returns commitment letter dated 28.08.2015 issued by the respondent, the complainants were entitled to assured return. As per these terms, the complainants were entitled to assured monthly commitment of Rs. 129.72/- per sq. ft. payable till completion of the project and post completion of the project an amount equivalent to Rs. 120/- per sq. ft. super area of the unit per month was agreed to be paid as committed return from the date of completion of construction of the said unit for upto 36 months or till the said unit is put on lease, whichever is earlier. The respondent has failed to pay the assured return to the complainants as promised. The total assured return paid to the complainants by the respondent till date is Rs 10,50,732/- ( for 18 months).
- IV. That the respondent has caused inordinate and extraordinary delay to initiate and construct the planned milestones of the project and the construction of the project has not been completed despite lapse of many years. This clearly demonstrates the unfair trade practices and restrictive trade practices on the part of the respondent. Despite the entire payment made to the respondent and despite repeated requests and reminders over letters, email, phone calls and personal visits by the complainants, the

respondent have failed to deliver the possession of the unit to the complainants and the respondent has also failed to pay the assured returns as promised till the date of filing of present complaint.

- V. That the total amount payable to the complainants as per the prescribed rate of interest under the Real Estate (Regulation and Development) Act, 2016 as on 26.02.2025 is Rs 1,66,15,858/-. The respondent has admittedly made some payments to the complainants which are to be adjusted against the interest component first. The amounts are summarized below:-

Sr. No.	Particular	Amount
1.	Principal Paid by Complainants	Rs 79,94,791/-
2.	Interest @ Prescribed Rate As on 26.02.2025	Rs 86,21,067/-
3.	Total Decretal Amount As on 26.02.2025	Rs 1,66,15,858/-
4.	Assured Return Paid by Respondent	Rs 26,18,182/-
5.	Other Amount Paid by Respondent ( To Be Adjusted Towards Interest First)	Rs 80,72,631/-
6.	Total Received from Respondent	Rs 1,06,90,813/-
7.	Balance Payable by Respondent to Complainants as on 26.02.2025	Rs 59,25,045/-

- VI. That any amount paid by the respondents to the complainants can be adjusted against from the total amount payable to the complainants however the amount paid has to be adjusted against the interest first before any amount can be appropriated / adjusted towards the principal. Thus, the respondent still has to pay an amount of Rs 59,25,045/- as on 26.02.2025 to the complainants and this amount shall continue to accrue/attract interest until this amount is fully paid to the complainants.
- VII. That the Vatika Investors Welfare Association which is the association of allottees for the project Vatika Towers (Comm 004A) had filed an FIR against the respondent and its promoters. The complainants are also a member of the aforesaid association. The criminal proceedings are for punishing the offenders for the criminal acts done by them and they are not recovery proceedings. The civil proceedings for recovery of the money can proceed in parallel along with the criminal proceedings. That the

complainant has not filed any civil case before any other Civil Court/Consumer Court/ Authority/Forum for the recovery of the money of the money paid by the complainants to the respondent.

VIII. That the cause of action for filing the present complaint arose on various dates as specifically mentioned hereinabove and the cause of action is still continuing in favour of the complainants and against the respondent as neither the unit has been delivered nor the full money with interest has been refunded to the complainants till date. Hence the present complaint is within limitation.

**C. Relief sought by the complainant:**

4. The complainant has sought following relief(s):

I. Direct the respondent to refund the amount paid by the complainants along with interest at the prescribed rate from the respective date of such deposits till its realization.

5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent.**

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

a. That the present complaint is not maintainable as the term "Assured Return" has not been defined under the Real Estate Regulatory Act, 2016 and therefore any such complaint is not maintainable under the present Act. The complainants in this case should have approached civil court being proper forum to adjudicate upon such disputes.

b. That as per the judgment in the case of Brhimjeet & Anr. Vs M/s. Landmark Apartments Pvt Ltd. (Complaint No. 141 of 2018) and Sh. Bharam Singh & Anr. Vs Venetian LDF Projects LLP (Complaint No. 175 of 2018) decided on 07.08.2018 and 27.11.2018, it was held that the Ld. Authority has no jurisdiction to deal with cases of assured returns.

- c. That the respondent had entered into an agreement of assured return with the complainants in the year 2015 however the government has enacted Banning of Unregulated Deposit Scheme Act, 2019 thereby putting a sanction on all such commitments made by the Builder under the agreement of assured return. Therefore, as per Section 2 (j) of the Contract Act "A Contract which ceases to be enforceable by law becomes void when it ceases to be enforceable" and therefore all such contracts after enactment of BUDS Act have been void contracts and therefore such agreements have no enforceability in the eyes of law.
- d. That it is an established fact that the complainants booked the said commercial unit with the respondent for investment purposes. The said complainants herein are not "Allottee", as the complainants approached the respondent with an investment opportunity in the form of a steady rental income from the commercial unit.
- e. That after having dire interest in the project constructed by the respondent the complainant booked a commercial unit under the assured return scheme, on her own judgement and investigation. It is evident that the complainant was aware of the status of the project and booked the unit to make steady monthly returns, without any protest or demur.
- f. That it is the admitted case of the complainant that he has booked a unit bearing no. COM-004A and priority no. P-54 in the project "Vatika Tower" located in Golf Course Road, Sector-54, Gurugram, Haryana for a total consideration of 77,84,000/-.
- g. That since starting the respondent had always tried level best to comply with the terms of the agreement and has always intimated the exact status of the project. However, the respondent herein could not continue with the payments of assured return after coming in force of the BUDS Act, 2019.

- h. That the complainants booking is in commercial project and not a residential project. Therefore, the relationship between the complainant and the respondent is not that of a "Builder-Buyer", the same has been reiterated in a catena of judgments by the Ld. National Consumer Disputes Redressal Commission.
- i. That the allotment of the said commercial unit contained a "Lease Clause" which empowers the developer to put a unit of complainant along with other commercial space unit on lease and does not have "Possession Clauses", for physical possession.
- j. That since starting the complainants have always been in advantage of getting assured return as agreed by the respondent. The complainants have received an amount of Rs. 26,18,182/- as assured return right from the date of allotment upto 2018 from the respondent. However, the complainant in its complaint has wrongly stated that they have received only Rs. 10,50,732/- towards assured return. Therefore, the complainant has come before his authority with wrongful facts with the intend to create bias in the eyes of the Authority against the respondent.
- k. That the respondent herein could not continue with the payments of assured return after coming in force of the BUDS Act, 2019. In this regard respondent had sent email dated 31.10.2018, 30.11.2018 to his customers and apprised them that the respondent shall not pay further any assured return due to change in law.
- l. That the respondent has cancelled the unit of the complainants vide its letter dated 15.10.2024 and the said letter was duly served upon the complainants vide speed post and also e-mail dated 16.10.2024. Further, it is stated that the respondent has refunded the entire amount paid by the complainant by way of RTGS.

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

**E. Jurisdiction of the Authority:**

9. The authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**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 allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

***"Section 11(4)(a)***

*Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*

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

*34(f) of the Act provides to ensure compliance of the obligations cast upon the 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 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.

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

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

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

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

**F.I Objection regarding maintainability of complaint on account of complainants being the investors.**

15. The respondent took a stand that the complainants are the investors and not the consumers and therefore, they are not entitled to protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the buyer's agreement, it is revealed that the complainants are the buyers and have paid a considerable amount to the respondent-promoter towards purchase of unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

*"2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

16. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the application form executed between the parties, it is crystal clear that the complainants are the allottees as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of an "investor". Thus, the contention of the promoter that the allottees being the investors are not entitled to protection of this Act also stands rejected.

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

**G.I Direct the respondent to refund the amount paid by the complainants along with interest at the prescribed rate from the respective date of such deposits till its realization.**

17. The factual matrix of the case reveals that the complainants were allocated a priority no. P-54 for a unit admeasuring 500 sq. ft., in the project "Vatika Towers" situated at Sector 54, Gurugram being developed by the respondent by way of an acknowledgement letter dated 28.08.2015. The builder buyer agreement was not executed between the parties. Further, clause (a) to the said acknowledgement letter dated 28.08.2015 provided for payment of assured returns to the complainants @ Rs.129.72/- per sq. ft. till completion of the project and after completion of the project @ Rs.120/- per sq. ft. for upto 36 months or till the said unit is put on lease, whichever is earlier. Clause (c) further provides that it is the obligation of the respondent promoter to lease the premises at a minimum rental of Rs.120/- per sq. ft. The complainants have paid an amount of Rs.79,94,791/- to the respondent against the basic sale consideration of Rs.79,94,791/- and an amount of Rs.26,18,182/- has been paid by the respondent to the complainants on account of assured returns.
18. It is further noted that during the pendency of the complaint before the Authority, the unit allotted to the complainants was cancelled by the respondent vide termination letter dated 15.10.2024. The cancellation was attributed to the postponement of the construction and development of the project due to unforeseen circumstances beyond the respondent's control, coupled with the discontinuation of the assured returns scheme. Consequent to the termination, an amount of Rs. 80,72,631/- was refunded to the complainants by the respondent through RTGS, bearing UTR No. HDFCR52024101552205211, on the same date, i.e., 15.10.2024.
19. Herein, the complainants herein intend to withdraw from the project and are seeking return of the amount paid by them in respect of subject unit along

with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference:

***"Section 18: - Return of amount and compensation***

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

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or***
- (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,***

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

20. The builder buyer agreement was not executed between the parties and acknowledgement letter was sent by the respondent to the complainants on 28.08.2015. No specific time period with respect to handover of possession of the allotted unit to the complainants had been prescribed. Therefore, in the case of ***Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018***, the Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract." Therefore, the due date comes out to be 28.08.2018.

21. Further, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondent-promoter. The authority is of the view that the allottees cannot be expected

to wait endlessly for taking possession of the allotted unit and for which they have paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in "**Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., Civil Appeal no. 5785 of 2019**", decided on 11.01.2021.

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

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

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

23. Keeping in view the fact that the allottee-complainants wishes to withdraw from the project and seeks refund of the amount received by the promoter in respect of the unit with interest, the matter is covered under Section 18(1) of the Act of 2016. The due date of possession was 28.08.2018 and occupation certificate of the buildings/towers where allotted unit of the complainants is situated is not yet received by the respondent. Accordingly, the respondents

are liable to return the amount received by him from the allottee in respect of the subject unit with interest at the prescribed rate.

24. There has been an inordinate delay in the project which cannot be condoned.

Thus, in such a situation, the complainants cannot be compelled to take possession of the unit and are well within right to seek refund of the paid-up amount. This is without prejudice to any other remedy available to the allottees including compensation for which the allottees may file an application for adjudging compensation with the adjudicating officer under Sections 71 and 72 read with Section 31(1) of the Act of 2016.

25. **Admissibility of refund along with prescribed rate of interest:** The Section 18 of the Act read with rule 15 of the rules provide that in case the allottee intends 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. 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."*

26. 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.

27. 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., 28.05.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.

28. 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, ...*

29. Therefore, the authority hereby directs the promoter to return the amount received by him i.e., Rs. 79,94,791/- with interest at the rate of 11.10% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in Rule 16 of the Rules, *ibid*. However, it is important to note that the amount already refunded by the respondent to the complainants i.e., Rs. 80,72,631/- as well as the amount of assured returns paid by the respondent to the complainant-allottees i.e., Rs. Rs. 26,18,182/- shall be adjusted/deducted from the payable amount.

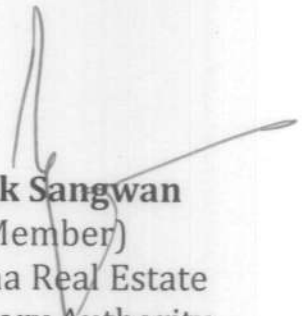
#### **H. Directions of the authority**

30. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations

cast upon the promoter as per the function entrusted to the authority under Section 34(f):

- I. The respondent is directed to refund the entire amount paid by the complainants, i.e., Rs.79,94,791/- along with interest at the rate of 11.10% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till its realization. However, the amount already refunded by the respondent to the complainants i.e., Rs. 80,72,631/- as well as the amount of assured returns paid by the respondent to the complainant-allottees i.e., Rs. Rs. 26,18,182/- shall be adjusted/deducted from the payable amount.
  - II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
31. Complaint stands disposed of.
  32. File be consigned to registry.

**Dated: 28.05.2025**



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