

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

**Date of Order: 28.05.2025**

<b>Name of Promoter</b>		<b>Mascot Buildcon Pvt. Ltd.</b>	
<b>Project Name</b>		<b>Oodles Skywalk</b>	
<b>S.no.</b>	<b>Complaint No.</b>	<b>Complaint title</b>	<b>Attendance</b>
1.	CR/983/2024	Shailender Godara V/s Mascot Buildcon Pvt. Ltd.	Harshit Batra (Complainant) Gulshan Sharma (Respondent)
2.	CR/984/2024	Shailender Godara V/s Mascot Buildcon Pvt. Ltd.	Harshit Batra (Complainant) Gulshan Sharma (Respondent)

**CORAM:**

Ashok Sangwan

Member

**ORDER**

1. This order shall dispose of both the complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, **"Oodles Skywalk"** being developed by the same respondent/promoter i.e., **Mascot Buildcon Private Limited**. The terms and conditions of the buyer's

agreements fulcrum of the issue involved in all these cases pertains to delay possession charges along with execution of conveyance deed.

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

**Project: "Oodles Skywalk", Sector-83, Gurugram**

**Clause-38** "The "Company" will, based on its present plans and estimates, contemplates to offer possession of said unit to the Allottee(s) within 36 months (refer cl.37 above) of signing of this Agreement or within 36 months from the date of start of construction of the said Building whichever is later with a grace period of 3 months, subject to force majeure events or Governmental action/inaction. If the completion of the said Building is delayed by reason of slow down, strike or due to a dispute with the construction agency employed by the "Company", lock out or departmental delay or civil commotion or by reason of war or enemy action or terrorist action or earthquake or any act of God or any other reason beyond the control of the "Company", the "Company" shall be entitled to extension of time for delivery of possession of the said premises....."

1. **Occupation certificate-** 26.10.2023
2. **Date of start of construction-** Not on record
3. **Due date of possession-** 07.10.2017 (calculated from the date of execution of agreement as date of start of construction is not available on record. Further, the grace period of 3 months is disallowed as no substantial evidence/document has been placed on record to corroborate that any such event, circumstances, condition has occurred which may have hampered the construction work.)
4. **DTCP License no. 8 of 2013 dated 05.03.2013, Valid up to- 04.03.2017.** Dharam Singh is the licensee for the project as mentioned in land schedule of the project.
5. **Nature of Project-** Commercial Colony
6. **RERA registration** – Registered vide no. 294 of 2017 dated 13.10.2017, Valid up to- 31.12.2019



Sr. No.	Complaint no./title/ date of complaint	Reply status	Unit No. and area admeasuring	Date of execution of agreement for sale	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant (s)	Relief Sought
1.	CR/983/2024  Shailender Godara V/s Mascot Buildcon Pvt. Ltd.  DOF- 22.03.2024	Reply received on 17.07.2024	G-85, Ground floor (page 23 of complaint)	07.10.2014 (page 21 of complaint)	07.10.2017 (Calculated as 36 months from date of execution of BBA as date of start of construction is not available on record)  Offer of possession- Not on record (page 64 of complaint)	TSC: Rs.34,45,163/- (Exclusive of applicable taxes and charges) (As per BBA on page 24 of complaint)  AP: Rs.33,56,874.76/- (as per demand letter dated 08.11.2023 on page 64 of complaint)	DPC, CD.
2.	CR/984/2024  Shailender Godara V/s Mascot Buildcon Pvt. Ltd.  DOF- 22.03.2024	Reply received on 17.07.2024	G-82, Ground floor (page 25 of complaint)	07.10.2014 (page 22 of complaint)	07.10.2017 (Calculated as 36 months from date of execution of BBA as date of start of construction is not available on record)  Offer of possession- Not on record	TSC: Rs.80,51,733/- (Exclusive of applicable taxes and charges) (As per BBA on page 25 of complaint)  AP: Rs.73,96,652.73/- (as per demand letter dated 08.11.2023 on page 64 of complaint)	DPC, CD.

**Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:**  
**Abbreviations Full form**

DOF- Date of filing complaint  
TSC- Total sale consideration  
AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainants against the promoter on account of contraventions alleged to have been committed by the promoter in relation to Section 11(4)(a) of the Act, 2016.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoters/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/983/2024 titled as Shailender Godara V/s Mascot Buildcon Pvt. Ltd.*** are being taken into consideration for determining the reliefs of the allottee(s) qua delay possession charges along with execution of conveyance deed.

**A. Project and unit related details**

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

***CR/983/2024 titled as Shailender Godara V/s Mascot Buildcon Pvt. Ltd.***

S. No.	Particulars	Details
1.	Name and location of the project	"Oodles Skywalk", Sector 83, Gurugram
2.	Project area	3.03 acres
3.	Nature of the project	Commercial Colony
	DTCP license no. and other details	8 of 2013 dated 05.03.2013, Valid up to- 04.03.2017, Licensee- Dharam Singh
4.	RERA Registered/ not registered	Registered vide no. 294 of 2017 dated 13.10.2017, Valid up to- 31.12.2019
5.	Unit no.	G-85, Ground floor (page 23 of complaint)
6.	Unit area admeasuring (super area)	238.75 sq. ft. (page 23 of complaint) Revised super area- 228.04 sq.ft. (page 80 of complaint)
7.	Allotment Letter	25.09.2014

		(Page 18 of complaint)
8.	Date of execution of buyer's agreement	07.10.2014 (page 21 of complaint)
9.	Possession Clause	<b>38. The "Company" will, based on its present plans and estimates, contemplates to offer possession of said unit to the Allottee(s) within 36 months (refer d. 37 above) of signing of this Agreement or within 36 months from the date of start of construction of the said Building whichever is later with a grace period of 3 months, subject to force majeure events or Governmental action/inaction.</b>
10.	Date of start of construction	Not on record
11.	Due date of possession	07.10.2017 (Calculated as 36 months from date of execution of BBA as date of start of construction is not available on record) (Grace period of 3 months is disallowed as no substantial evidence/document has been placed on record to corroborate that any such event, circumstances, condition has occurred which may have hampered the construction work)
12.	Total sale consideration	Rs.34,45,163/- (Exclusive of applicable taxes and charges) (As per BBA on page 24 of complaint)
13.	Amount paid by the complainant	Rs. 33,56,874.76/- (as per demand letter dated 08.11.2023 on page 64 of complaint)
14.	Occupation certificate	26.10.2023
15.	Demand letter for offer of possession	08.11.2023 (page 64 of complaint)
16.	Possession certificate	14.02.2024 (page 82 of complaint)

#### A. Facts of the complaint:

- The complainant vide complaint has made the following submissions: -



- I. That the complainant was allotted a unit bearing no. G-85 in the project of the respondent named "Oodles Skywalk" vide allotment letter dated 25.09.2014. Consequently, a space buyer's agreement was executed between the parties on 07.10.2014.
- II. That as per the clause 38 of the agreement, the due date of possession has to be calculated as 36 months from the start of construction or execution of agreement, whichever is earlier.
- III. That the respondent malafidely delayed the development of the project, without giving any updates to the complainant of the status of the project. The respondent has violated Section 18(1) by causing such delay and hence, is liable for paying the delay possession charges to the complainant.
- IV. That the complainant visited the site and were shocked to see the loading factor of the unit being over a 100% and the development of a pillar in the shop. The carpet area or built-up area was not disclosed by the respondent at the time of allotment, and the complainant was kept in dark with respect to the actual authorised area of the unit. The respondent kept raising demands on an illegal/unauthorised area, without resolving the queries of the complainant.
- V. That the super area of the unit was stated to be 228.04 sq. ft. while the carpet area is stated to be 102.62 sq. ft and hence, the loading factor of the unit comes out to be 1.22 or 122%. That it is a very well-known and accepted thumb rule that the loading factor in Delhi NCR is around 0.25 of 25%. However, the respondent has unlawfully quadrupled the loading, which under no circumstance, can be accepted. Since the unit was sold on carpet area, the respondent should be put to strict proof of the actual loading factor and the actual super area as per the permissions and sanctioned drawing from the competent authority and the refund of the illegally charged area should be rightly given by the authority.

- VI. That no letter offering possession was given to the complainant, only a demand letter was raised on 08.11.2023. It was not intimated whether the occupation certificate was received by the respondent or not. Various illegal demands were raised in the said letter dated 08.11.2023 including alleged interest of Rs.3,36,016/-. As evident from the said demand letter itself, only one previous outstanding payment of Rs.8,398.96/- was remaining and no logistics or mathematics explain the levy of interest of Rs.3,36,016/- on this amount. Moreover, multiple emails have been written by the complainant in respect to the said demand, however, no heed was paid by the respondent. The super area amounts to 226.54 (later changed to 228.04 sq. ft.)
- VII. That in the absence of any information on occupation certificate or letter offering possession, no demand as per the demand letter dated 08.11.2023 was required to be paid. That thereafter, another illegal demand for IFMS and IFCRF was raised on 01.02.2024. At this stage, it is pertinent to note that in the agreement, the IFMS and IFCRF have been interchangeably used, however, the respondent cannot charge both separately. It was on the very next date, on 02.02.2024 the unit was illegally terminated.
- VIII. That the complainant has always made timely payments, however, the complainant was shocked to receive the cancellation letter and frightened to safeguard the rights in the unit, the complainant rushed to the respondent's office on 14.02.2024 and made all the illegal payment as was demanded by the respondent, under duress. That the respondent had made it amply clear that in case of no immediate payment being made, third-party rights will be created by the respondent and entire paid amount already forfeited, shall not be refunded. That the complainant was made to write a hand-written letter for the restoration of the unit with false submissions.

- IX. That the complainant was terrified by the threats of the respondent and succumbed to the illegal demands of the respondent, made the payment of over and above the sale consideration.
- X. That it was on the same day of the visit of the complainant to the respondent's office on 14.02.2024 that the cancellation letter was revoked and the possession certificate was given wherein the unit was handed over in a bare shell condition. It was one-sidedly noted that the complainant is satisfied with the unit, with no consent of the complainant. The possession certificate was executed under coercion wherein the builder has one-sidedly noted that no DPC can be claimed.
- XI. That the respondent being in a position of power, engaging in one-sided conduct, malafide noted in the waiver letter and the possession letter that the same shall be subject to no claim having been raised. That such terms and conditions are absolutely illegal and expressly barred under Section 28 of the Indian Contracts Act, 1972.
- XII. That on the same day, i.e., 14.02.2024, the complainant was coerced to execute the maintenance agreement with RDAG Buildcon Pvt. Ltd. and issue a cheque bearing no. 857846 dated 10.03.2024 for Rs.68,412/- , drawn on Axis Bank in favour of RDAG Buildcon Pvt. Ltd. It is absolutely unclear as to what demands did the said payment correspond to. The said cheques were issued under duress and coercion and cannot be considered to be valid. The said cheques, if encashed, be treated as conditional payment, subject to the final decision of the authority.
- XIII. That there is no electricity meter or water connection inside the unit till date, despite the handover having been made and contrary to clause 42 of the agreement. That in the absence of the essential services like electricity and water connection, the possession cannot be considered to be valid. That the physical possession of the Shop has no meaning till the essential services are provided.



XIV. That the conduct of the respondent has always been malafide and illegal and against the settled position of law, which should be rightly taken note of. The complainant had no other option than to approach this authority to safeguard his rights. It is also of relevance to state that although the booking was made by the complainant and his ex-wife, Devyani Godara, however, upon the divorce of Mr. Shailender and Ms. Devyani, the present unit was endorsed to the complainant. Such endorsement has also been marked on the allotment letter.

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

2. The complainant has sought following relief(s):
  - a) Direct the respondent to pay delay possession charges and to execute conveyance deed of the unit in favor of the complainant.
  - b) Direct the respondent to reduce the area of pillar.
  - c) Direct the respondent to calculate the super area with the thumb rule of loading of 25% instead of 122% as illegally done by respondent.
  - d) Direct the respondent to revise the total sale consideration as per the revised super area after reducing the loading factor and refund the excess amount paid by the complainant.
  - e) Direct the respondent to give electricity and water connection along with all essential services.
  - f) Direct the respondent/its maintenance agency to charge maintenance as per revised area.
  - g) Direct the respondent to charge either IFMS or IFCRF and refund the excess amount received.
3. 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 respondent:**

4. The respondents vide its reply and written submission dated 24.09.2024 contested the complaint on the following grounds:
  - i. That the construction activity of the project got delayed due to ban on construction, non-availability of raw material, restriction on use of

groundwater in construction activity due to orders passed by Hon'ble Supreme Court, Hon'ble Punjab & Haryana High Court, National Green Tribunal and other authorities, non-availability of raw materials, nationwide lockdown due to COVID-19 pandemic, shortage of labour and bricks, implementation of social schemes like NREGA and JNURM, demonetization, introduction of new regime, delay on part of government agencies in providing relevant permissions, licenses approvals and sanctions for project, non-payment of instalments by several allottees etc.

ii. That the complainant has entered into execution of space buyer agreement on 7.10.2014 with the respondent, which he has never objected to till date and the complainant cannot at this belated stage approbate and reprobate and taken the plea of "delay". In this regard, it is respectfully submitted that in the present case the complainant has already taken the possession of the unit concerned on 14.02.2024 and has not resisted all such issues which he is now igniting frivolously in the present case. In fact, through letter dated 14.02.2024, on the same very day, when the possession of the unit was given, a discount/waiver of Rs.6,36,824.12/- was given to the complainant relating to the unit concerned, whereby the complainant clearly undertaken not to claim any penalty/damages/interest of any form or nature including the delay possession charges from the builder, including GST. Thus, at this belated stage, the complainant cannot approbate and reprobate.

5. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the parties.

**E. Jurisdiction of the authority:**

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

**E. I Territorial jurisdiction**

7. 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**

8. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee's 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.*

9. 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.

**F. Findings on the objections raised by the respondent:**

**F.I Objection regarding the project being delayed because of force majeure circumstances.**

10. The respondent-promoter has raised the contention that the construction of the project was delayed due to force majeure circumstances such as orders/restrictions of the NGT as well as competent authorities, High Court and Supreme Court orders, shortage in supply of raw material, non-payment of instalment by different allottee of the project and major spread of Covid-19 across worldwide etc. However, all the pleas advanced in this regard are devoid of merit. First of all, the possession of the unit in question was to be offered by 07.10.2017. Hence, events alleged by the respondent do not have any impact on the project being developed by it. Further, the orders passed by NGT banning construction in the NCR region was for a very short period of time and thus, cannot be said to impact the respondent-builder leading to such a delay in the completion. Furthermore, time taken in governmental clearances cannot be attributed as reason for delay in project. Moreover, the events alleged by the respondent do not have any impact on the project being developed by the respondent and some of the events mentioned above are of routine in nature happening annually and the promoter is required to take the same into consideration while launching the project. Thus, the promoter-respondent cannot be granted any leniency on based of aforesaid reasons and it is a well settled principle that a person cannot take benefit of his own wrong.

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

**G.I Direct the respondent to pay delay possession charges and to execute conveyance deed of the unit in favour of the complainant.**

11. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

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

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

.....

*Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of*



*delay, till the handing over of the possession, at such rate as may be prescribed."*

12. **Due date of possession:** As per clause 38 of the buyer's agreement, the possession of the unit was to be offered within a stipulated time frame of 36 months from the date of signing of buyer's agreement or from the date of start of construction including a grace period of 3 months for force majeure events. In the present case, the buyer's agreement was executed between the parties on 07.10.2014 whereas the date of start of construction is not available on record. Therefore, the due date of possession is being calculated from the date of execution of buyer's agreement. Further, the grace period of 3 months is not allowed to the respondent in the present case as no substantial evidence/document has been placed on record by it to corroborate that any such event, circumstances, condition has occurred which may have hampered the construction work. Accordingly, the due date of possession was 07.10.2017.

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

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

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

*Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*

14. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable

and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

15. 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%**.
16. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay to the allottee, in case of default. The relevant section is reproduced below:

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

*Explanation. —For the purpose of this clause—*

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

17. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., **11.10%** by the respondent/promoter which is the same as is being granted to him in case of delay possession charges.
18. After considering the documents available on record as well as submissions made by the parties, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 38 of the agreement executed between the parties on 07.10.2014, the possession of the subject unit was to be delivered by 07.10.2017. The occupation/completion certificate was granted by the competent authority on 26.10.2023 and thereafter, the possession of the subject unit was handed over to the complainant vide possession certificate dated 14.02.2024

respectively. Copies of the same have been placed on record. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 07.10.2014 to hand over the possession within the stipulated period.

19. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation/completion certificate was granted by the competent authority on 26.10.2023 whereas, the document pertaining to offer of possession is not available on record. It is further observed that vide possession certificate dated 14.02.2024, possession of subject unit was handed over to the complainant. However, delay possession charges for the delayed period have not been paid to the complainant till date.
20. The counsel for the respondent vide its reply dated 17.07.2024 has submitted that in the present case the complainant has already taken the possession of the unit concerned on 14.02.2024 and has not resisted all such issues which he is now igniting frivolously in the present case. In fact, through letter dated 14.02.2024, on the same very day, when the possession of the unit was given, a discount/waiver of Rs.6,36,824.12/- was given to the complainant relating to the unit concerned, whereby the complainant clearly undertaken not to claim any penalty/damages/interest of any form or nature including the delay possession charges from the builder, including GST. Thus, at this belated stage, the complainant cannot approbate and reprobate. The complainant has submitted that the respondent being in a position of power, engaging in one-sided conduct, malafide noted in the waiver letter and the possession letter that the same shall be subject to no claim having been raised and such terms and

conditions are absolutely illegal and expressly barred under Section 28 of the Indian Contracts Act, 1972. After considering the above, the authority is of view that at times, the allottee is asked to give the affidavit or sign waiver letter before taking possession of the unit. The allottee has waited for long for his cherished dream unit and now when it is ready for taking possession, he has either to sign the pre-printed draft on which the allottee had no choice to refuse and take possession or to keep struggling with the promoter if said draft is not signed by him. Such a draft of the possession certificate and discount/waiver letter creates a doubt that the said letter was not executed in an atmosphere free of doubts and suspicions. No reliance can be placed on any such letters and the same is liable to be discarded. Further, the essence and purpose of the Act is to curb the menace created by the developer/promoter and to safeguard the interests of the allottees by protecting them from being exploited by the dominant position of the developer which he thrusts on the innocent allottees. By virtue of proviso to Section 18(1), the Act has created statutory right of delay possession charges in favour of the allottee and the 'discount/waiver letter' dated 14.02.2024 does not preclude the complainant-allottee from exercising his right to claim delay possession charges as per the provisions of the Act. Thus, the liability of the promoter continues even after the execution of discount/waiver letter dated 14.02.2024 and it does not abrogate the statutory rights of the complainant-allottee.

21. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with Section 18(1) of the Act on part of the respondent is established. As such, the allottee shall be paid by the promoter, interest for every month of delay from due date of possession i.e., 07.10.2017 till expiry of 2 months from the date of offer of possession or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules. Out of the amount so assessed, the amount



already credited vide letter dated 14.02.2024, shall be deducted from the payable amount.

22. Further, the complainant is seeking relief w.r.t execution of conveyance deed of the unit in question in his favour. The authority observes that as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas, as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
23. The occupation/completion certificate of the project was obtained by the respondent on 26.10.2023 and possession of the unit was handed over to the complainant on 14.02.2024. However, the conveyance deed of the unit in question has not been executed in favour of the complainant till date. Therefore, the respondent/promoter is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.

**G.II a) Direct the respondent to reduce the area of pillar.**

**b) Direct the respondent to calculate the super area with the thumb rule of loading of 25% instead of 122% as illegally done by respondent and to revise the total sale consideration as per the revised super area after reducing the loading factor and refund the excess amount paid by the complainant.**

**c) Direct the respondent/its maintenance agency to charge maintenance as per revised area**

24. The authority observes that the complainant during pendency of the complaint, has never pressed the above said reliefs and also there is no documents available on record to substantiate the claim of the complainant. Moreover, the complainant has already taken possession of the unit and the

said issue cannot be entertained at this belated stage. Thus, in view of the above, the said reliefs sought by the complainant are declined.

**G.III Direct the respondent to give electricity and water connection along with all essential services.**

25. The authority observes that when a person purchases a unit, he presupposes provision of all basic services like drinking water, drainage, sewerage system, electricity supply, road, street light system etc. and providing of such services is necessary for making a unit habitable and ready for possession to the allottee. Further, the occupation certificate dated 26.10.2023, granted to the promoter was subject to the compliance of several conditions including provision of water supply, drainage, disposal of sewerage, electricity supply, street light system etc. and any violation of the said conditions shall render the occupation certificate null and void. Moreover, as per Section 19(2) of the Act, 2016, the promoter is obligated to provide provisions for water, sanitation, electricity and other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale. Thus, in case, the promoter has not provided the electricity and water connection along with all essential services to the complainant, then the same shall be provided to the complainant within a period of 60 days.

**G.IV Direct the respondent to charge either IFMS or IFCRF and refund the excess amount received.**

26. The complainant is seeking additional relief with respect to restraining the respondent from charging IFMS and IFCRF both. The authority observes that the definition as well as justification for charging the amount under the head of 'IFCRF' is not provided in the buyer's agreement executed between the parties and it is considered that the IFMS/IFCRF collected by the developer from the allottees of the project is charged in addition to the consideration of the unit for future contingencies of the project which is meant to be handed over to the association whenever a lawful association

is created, and the project is handed over to them. Accordingly, the respondent can charge amount on account of IFMS only and shall refund the amount collected if any, under the head of IFCRF from the complainant within a period of 30 days.

**H. Directions of the Authority:**

27. 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 functions entrusted to the Authority under Section 34(f) of the Act of 2016:

- i. The respondent/promoter is directed to pay interest to the complainant on the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 07.10.2017, till offer of possession plus two months or actual handing over of possession, whichever is earlier as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per Rule 16(2) of the Rules. The respondent is further directed to deduct the amount already credited vide letter dated 14.02.2024, from the payable amount.
- ii. The respondent is directed to supply a copy of the updated statement of account after adjusting the delay possession charges within a period of 30 days to the complainant.
- iii. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- iv. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.



- v. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.
  - vi. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
  - vii. The respondent is directed to provide provisions of electricity and water connection along with all essential services to the complainant within a period of 60 days, if not already provided.
  - viii. The respondent can charge amount on account of IFMS only and shall refund the amount collected if any, under the head of IFCRF from the complainant within a period of 30 days.
28. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
29. Complaint stands disposed of.
30. File be consigned to the registry.

**(Ashok Sangwan)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram  
Dated: 28.05.2025