

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

Complaint no. : 344 of 2022
Order reserved on: 07.03.2025
Order pronounced on: 09.05.2025

1. Mr. Jina Mullick
2. Saurabh Das

Both Address at: 44, Anupam Apartment,
Mehrauli Badarpur Road, Saket,
Delhi-110030.

Complainants

Versus

M/s Imperia Structures Ltd.

Regd. office: A-25, Mohan Co-operative
Industrial Estate, New Delhi-110044

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Varun Chugh
Sh. Yash Gupta

Advocate for the complainants
Advocate for the respondent

ORDER

1. The present complaint has been filed by the complainants/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 provisions of the Act or the Rules and regulations made there under 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:

S. N.	Particulars	Details
1.	Name and location of the project	"The Esfera" Phase II at sector 37-C, Gurgaon, Haryana
2.	Nature of the project	Group Housing Complex
3.	Project area	17 acres
4.	DTCP license no.	64 of 2011 dated 06.07.2011 valid upto 15.07.2017
5.	Name of licensee	M/s Phonix Datatech Services Pvt Ltd and 4 others
6.	RERA Registered/ not registered	Registered vide no. 352 of 2017 issued on 17.11.2017 up to 31.12.2020
7.	Apartment no.	1702, 17 th floor (pg. 21 of complaint)
8.	Unit area admeasuring	1850 sq. ft.
9.	Date of booking/application	13.12.2014 (pg. 19 of complaint)
10.	Date of builder buyer agreement	29.01.2015 (pg. 18 of complaint)
11.	Possession clause	10.1. SCHEDULE FOR POSSESSION "The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said building/said apartment within a period of three and half years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause 11.1, 11.2, 11.3,

		<p><i>and clause 41 or due to failure of allottee(s) to pay in time the price of the said unit along with other charges and dues in accordance with the schedule of payments given in annexure C or as per the demands raised by the developer from time to time or any failure on the part of the allottee to abide by all or any of the terms or conditions of this agreement."</i></p> <p>(Emphasis supplied)</p>
12.	Due date of possession	<p>29.07.2018</p> <p>[calculated as per possession clause]</p>
13.	Total sale consideration	<p>₹ 1,15,96,250</p> <p>[as per the agreement at pg. 21 of complaint]</p>
14.	Amount paid by the complainants	<p>₹ 75,07,748/-</p>
15.	In principle Occupation certificate	<p>13.03.2024</p> <p>[pg. 5 of written submission filed by respondent on 03.01.2025]</p>
16.	Offer of possession for fit outs	<p>15.03.2024</p> <p>[pg. 7 of written submission filed by respondent on 03.01.2025]</p>
17.	Pre-cancellation letter and reminders issued on	<p>17.07.2024 and 28.08.2024</p>
18.	Cancellation letter issued on	<p>27.11.2024</p>
<p>Note: - Subsequent to the cancellation, the Respondent agrees to deliver possession of the property, provided that the Allottee pays all outstanding dues in full.</p>		

B. Facts of the complaint

- The complainants have made the following submissions in the complaint:

- i. That, the property in question i.e. apartment bearing No. 1702, 17th Floor, Tower-A, initially admeasuring 1850 Sq Ft (now 2035 Sq Ft.), in the project of the Respondent i.e. Imperia Structures Limited, known as "The Esfera" (the "Project") situated at Sector-37 C, Gurugram, Haryana, was booked by the Complainants on 03.12.2014.
- ii. That, it is pertinent to mention here that the total cost of the apartment was Rs 1, 15, 96, 250/- and since it was a construction linked plan under subvention scheme, hence the payment was to be made on the basis of schedule of payment, provided by the respondent mentioned in the Builder Buyer's agreement as Annexure F. That, thereafter, on 29.01.2015, the complainants entered into a builder buyer's agreement with the respondent, by virtue of which the Respondent allotted Apartment No. 1702, 17th Floor, Tower-A, having super area 1850 sq. ft. (now 2035 Sq Ft.), along-with car parking space in the project known as "The Esfera" situated at Sector-37 C, Gurugram, Haryana.
- iii. That, the complainants were greatly influenced by the fancy brochure which depicted that the Project will be developed and constructed as state of the art and one of its kinds with all modern amenities and facilities, which led to the purchase of the property in question, by the complainants. That, it was represented to the Complainants, by the respondent, by way of various advertisements, that the Project in question shall be constructed, developed and designed by a team of ace architects and structural designers to meet world class infrastructure quality and standards. The Complainants were induced by the representations of the



Respondent/Promoter and thereby purchased the property in question.

- iv. That, in the said Buyer's Agreement dated 29.01.2015 (the "Agreement"), the Respondent had categorically stated that the possession of the said Apartment would be handed over to the Complainants within 42 months from the date of signing of the builder buyer's agreement.
- v. That, said buyer's agreement is totally one sided, which impose completely biased terms and conditions upon the Complainants, thereby tilting the balance of power in favour of the Respondent, which is further manifest from a bare perusal of the clauses set forth in the Buyer's agreement.
- vi. That, in all these years, the Complainants also visited at the site and observed that there are serious qualities issues with respect to the construction carried out by Respondent. The Apartments were sold by representing that the same will be luxurious apartment however all such representations seem to have been made in order to lure Complainants to purchase the apartments at extremely high prices. The Respondent has compromised with levels of quality and is guilty of mis-selling. There are various deviations from the initial representations. The Respondent marketed luxury high end apartments, but, they have compromised even with the basic features, designs and quality to save costs. The structure, which has been constructed, on face of it is of extremely poor quality. The construction is totally unplanned, with sub-standard low grade defective and despicable construction quality.

- vii. That, the Complainants, without any default, had been timely paying the instalments towards the property, as and when demanded by the respondent, towards the aforesaid Project. The balance payment was to be made at the time of offering of possession. That the Respondent had promised to complete the project by July 2018. The Apartment Buyer's Agreement was executed on 29.01.2015 and till date the construction is not complete, which is resulting in extreme kind of mental distress, pain and agony to the Complainants.
- viii. That, the respondent has also unilaterally increased the area of Flat from 1850 Sq. Ft. to 2035 Sq. Ft. i.e. a substantial increase of 185 Sq. Ft and increased the price of apartment additionally by Rs. 11,14,625/- thereby causing an additional financial burden upon the complainants. Moreover, as per clause 9.2. of the Builder Buyer's agreement, the respondent was under a legal obligation to intimate the complainants through notice in writing inviting objections regarding the increase in super area of the apartment, however, the respondent has not complied with the said requirement set forth in the agreement deliberately and intentionally and in fact has miserably failed to explain as to how and where the area of 185 Sq. Ft has increased in the apartment, booked by the complainants.
- ix. That, in the absence of any explanation as to the increase in super area of the apartment @ 185 Sq. Ft, booked by the complainant, the said additional demand of Rs 11,14,625/- is without any basis and void ab initio. That, the respondent has levied escalation charges upon the complainants to the tune of Rs 9,93,535/- which is

absolutely wrong on the face of it and calculated in gross violations of the terms of the buyer's agreement. In fact, as per clause 1.2B of the agreement, which deals with escalation costs, the escalation charges has to be computed in accordance with RBI index for the month of September 2012 and March 2016, as opening and closing index for the purpose of computation of escalation charges whereas the respondent has not calculated the escalation charges in accordance with clause 1.2B of the agreement and levied huge escalation charges based on wrong and baseless calculations.

- x. That the Respondent has not acknowledged the requests of the Complainants in regard to the status of the project. There are no signs of completion of the Project. The promised amenities are missing. The complainants were made to make advance deposit on the basis of information contained in the brochure, which is false on the face of it as is evident from the construction done at site so far.
- xi. That, the respondent had committed gross violation of the provisions of section 18 (1) of the Act by not handing over the timely possession of the apartment in question and not giving the interest and compensation to the buyers. The Project, as stated above, was to be completed by July 2018. The progress of the Project updated on the website of the respondent clearly shows that there is no headway and the respondent has been misleading the customers and not giving them concrete schedule of completion.

C. Relief sought by the complainants:

- 4. The complainants have sought following relief(s).

- i. Direct the respondent to handover the actual, physical and vacant possession of the apartment along with delay possession charges.
 - ii. Direct the Respondent to cancel increase in super area charges @ Rs 11,14,625/-;
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.
- I. That the complainants have not approached the authority with clean hands and thus suppressed misconceived the material facts with an intention to mislead the authority by making incorrect and false averments and stating untrue and incomplete facts and as such is guilty of suppression very suggestion false.
 - II. That after making independent enquiries and only after being fully satisfied about the project, the complainants approached the respondent company for booking of a residential unit in its project "The ESFERA", phase II, located in sector-37-C, Gurugram, Haryana. The respondent company provisionally allotted the unit bearing no. tower A-1702 admeasuring with of 1850 sq. ft. to complainants for a total consideration of Rs.1,43,52,270/- (including applicable tax) plus other charges vide booking dated 03.11.2014 and opted the construction linked plan on the terms and conditions mutually agreed by them.

- III. That the complainants have failed to make a case under section 18 of Act, as the respondent has already completed the construction and development of the towers and applied to the competent authority for grant of occupancy certificate on 15.04.2021 after complying with all the requisite formalities.
- IV. That, the respondent company is in extreme liquidity crunch at this critical juncture and has also been saddled with orders of refund in relation to around 20-25 apartments in the project, on account of orders passed by various other courts. The total amount payable in terms of those decrees exceeds an amount of Rs.20 crores.
- V. That, on account of many allottees exiting the project and many other allottees not paying their installment amounts, the company, with great difficulty, in these turbulent times has managed to secure a last mile funding of Rs.99 crores from SWAMIH Investment Fund - I. The said alternate investment fund (AIF) was established under the special window declared on 6.11.2019 by the Hon'ble Finance Minister to provide priority debt financing for the completion of stalled, brownfield, RERA registered residential developments that are in the affordable housing/mid-income category, are net-worth positive and require last mile funding to complete construction. The company was granted sanction on 23.09.2020 after examination of its status and its subject project "Esfera" for the amount of Rs.99 crores. The first transaction of

instalment has already been received by the respondent company from the said fund as loan.

- VI. That the respondent company is extremely committed to complete the phase 2 of the project Esfera. In fact, the super structure of all towers in phase 2 (incl. Tower B) has already been completed. The internal finishing work and MEP works is going in a full swing with almost 450 construction labourers are working hard to chieve the intent of the appellant to complete the entire project despite all prevailing adversaries.
- VII. That the respondent company fulfilled its promise and had constructed the said unit of the complainants and with due procedure of law, applied for occupation certificate.
- VIII. As per the additional documents submitted by the respondent on 03.01.2025 the occupation certificate was received on 13.03.2024 and offer of possession was made on 15.03.2024 to the complainants. That on account of wilful breach of terms of buyers agreement by failing to clear the outstanding dues despite reputed requests. It is submitted that the complainants have till date made a payment of Rs. 64,76,472/- as raised by the respondent in accordance with the payment plan and the terms of the buyers agreement. thereafter the unit of the complainant cancelled on 27.11.2024. The respondent is ready to offer the possession of the unit to the complainants, if they ready to immediately pay the outstanding dues to revive the unit bearing no. 1702.

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

E. Jurisdiction of the authority

8. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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

10. 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) The promoter shall-

(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.

11. 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 complainants at a later stage.

F. Findings on the relief sought by the complainants.

- i. Direct the respondent to handover the actual, physical and vacant possession of the apartment along with delay possession charges.
 - ii. Direct the Respondent to cancel increase in super area charges @ Rs 11,14,625/-.
12. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. 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."

13. Clause 10.1 of the buyer's agreement provides the time period of handing over possession and the same is reproduced below:

"10.1. SCHEDULE FOR POSSESSION:

"The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete the construction of the said building/said apartment within a period of three and half years from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clause 11.1, 11.2, 11.3, and clause 41 or due to failure of allottee(s) to pay in time the price of the said unit along with other charges and dues in accordance with the schedule of payments given in annexure C or as per the

demands raised by the developer from time to time or any failure on the part of the allottee to abide by all or any of the terms or conditions of this agreement."

14. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges, 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.

15. 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.
16. 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., 09.05.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10% per annum.
17. The definition of term 'interest' as defined under section 2(z a) of the Act provides that the rate of interest chargeable from the allottee by the



promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

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

Explanation. —For the purpose of this clause—

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

18. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 11.10% p.a. by the respondent/promoter which is the same as is being granted to the complainants in case of delay possession charges.
19. On consideration of the circumstances, the evidence and other record and submissions made by the parties, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. It is a matter of fact that buyer's agreement executed between the parties on 29.01.2015, the possession of the booked unit was to be delivered within a period of three and half years from the date of execution of this agreement which comes out to be 29.07.2018. In the present case, the complainant was offered possession for fit outs by the respondent on 15.03.2024 after obtaining In-principal occupation certificate dated 13.03.2024 from the competent Authority. But the Validity of such an offer of possession is in question. Possession must be offered after obtaining Occupation certificate from the competent Authority.



20. In the present matter, the respondent has obtained in principal Occupation certificate from the concerned department on 13.03.2024. the said provisional occupation certificate was issued specially for the purpose of inviting objection/suggestion for construction of the 256 units (3 no's extra units) Tower A, B and C instead of sanctioned 253 no's units, without approval of building plans subject to the conditions. Further the competent Authority has clearly stated that "Final approval of the provisional occupation along with sanction letter BR-VII will be conveyed after examination of the objections, if any received in the regard from the General Public/exciting allottees within 30 days after issuance of communication as and when issued by you."
21. In view of the above the In-Principal occupation certificate cannot be considered as a valid OC for the purpose of handing over of physical possession. The authority is of the considered view that there is delay on the part of the respondent to offer valid 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 29.01.2015 to hand over the possession within the stipulated period.
22. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of the interest @ 11.10% p.a. w.e.f. 29.07.2018 till the expiry of 2 months from the date of valid offer of possession plus two months or the date of actual handing over whichever is earlier as per provisions of section 18(1) of the Act read with rule 15 of the rules.

G.II. Direct the Respondent to cancel increase in super area charges @ Rs 11,14,625/-.

23. The complainants have contended about increase in super area raised by the respondent-promoter detailed as under:

S. No.	Particulars	Amount (Rs.)
1A	Demand towards Balance Sale Consideration	56,59,713/-
2B	Increased Area Charges (i.e., Increase in Area x Booking/ Allotment Rate)	11,14,625/-
3C	Average Escalation Cost, as per indexed construction Escalation between 2014-2017	9,93,535 /-
4(D)	GST	7,20,783.34/-
5(E)	Delay Possession Penalty @ Rs. 5/- sq. ft.	6,92,069.58 /-
9(F)	Total Outstanding Dues [i.e., (A+B+C+D+E) =F	64,76,471.75/-

24. A buyer's agreement w.r.t allotted unit was executed between the parties on 29.01.2015 and clause 9.2 provides with regard to major alteration/modification resulting in excess of +/- 10% change in the super area of the apartment or material/ substantial change in the sole opinion of and as determined by the developer/company. A reference to clause 9.2 of the agreement as under:

9.2 Major alteration/modification

In case of any major alteration/modification resulting in excess of +10% change in the super area of the aid apartment or material/substantial change, in the sole opinion of and as determined by the Developer/company, in the specifications of the materials to be used in the said building/said apartment any time prior to and upon the, grant of occupation certificate, the develop/company shall intimate the intending allottee(s) in

writing the changes thereof and the resultant change, if any, in the price of the said apartment to be paid by him/her and the intending allottee agrees or deliver to the Developer/Company his/her written consent or objections to the changes within thirty days from the date of dispatch by the Developer/Company of such notice failing which the intending allottee shall be deemed to have given his/her full and unconditional consent to all such alterations/modifications and for payment, if any to be paid in consequence thereof.....

25. It is not disputed that the due date for completion of the project has already expired on 29.07.2018. The impugned demand against the above-mentioned head was raised vide letters dated 15.03.2024 (offer for fit outs) and the same is as per the above-mentioned provision of the buyer agreement. If the complainants have any objection against the purposed change/increase, then they have a right to challenge the same within the period stipulated as per buyers' agreement. However, the respondent-builder is also duty bound to explain that increase in the super area of the unit vis a vis the project before raising such demand.
26. Considering the above-mentioned facts, the authority observes that the respondent has increased the super area of the flat from 1850 sq. ft. to 2035 sq. ft. vide offer of possession for fit outs dated 15.03.2024 with increase in area of 185 sq. ft. i.e. 10% without any justification or prior intimation to the complainants.
27. That in ***NCDRC consumer case no. 285 of 2018 titled as Pawan Gupta Vs Experion Developers Private Limited***, it was held that the respondent is not entitled to change any amount on account of increase in area. The relevant part of the order has been reproduced hereunder: -

The complaints have been filed mainly for two reasons. The first is that the opposite party has demanded extra money for excess area and second is the delay in handing over the possession. In respect of excess area, the complainants have made a point that without



any basis the opposite party sent the demand for excess area and the certificate of the architect was sent to the complainant, which of a later date. The justification given by the party that on the basis of the internal report of the architect the demand was made for excess area is not acceptable because no such report or any other document has been filed by the opposite party to prove the excess area. Once the original plan is approved by the competent authority, the areas of residential unit as well as of the common spaces and common buildings are specified and super area cannot change until there is change in either the area of the flat or in the area of any of the common buildings or the total area of the project (plot area) is changed. The real test for excess area would be that the opposite party should provide a comparison of the areas of the original approved common spaces and the flats with finally approved common spaces/buildings and the flats. This has not been done. In fact, this is a common practice adopted by majority of builders/developers which is basically an unfair trade practice. This has become a means to extract extra money from the allottees at the time when allottee cannot leave the project as his substantial amount is locked in the project and he is about to take possession. There is no prevailing system when the competent authority which approves the plan issues some kind of certificate in respect of the extra super area at the final stage. There is no harm in communicating and charging for the extra area at the final stage but for the sake of transparency the must share the actual reason for increase in the super area based on the comparison of the originally approved buildings and finally approved buildings. Basically, the idea is that the opposite party allottee must know the change in the finally approved lay-out and areas of common spaces and the originally approved lay-out and areas. In my view, until this is done, the opposite party is not entitled to payment of any excess area. Though the Real Estate Regulation Act (RERA) 2016 has made it compulsory for the builders/developers to indicate the carpet area of the flat, however the, problem of super area is not yet fully solved and further reforms are required.

28. In view of the above, the Authority notes that there was an increase in a super area which was intimated to the complainants at the time of offer of possession for fit outs and not before. Further, no justification and intimation were made to the complainants in respect of increase in area. So, the respondent can charge from the complainant only on account of increase in the super area up to 10% as per clause 9.2 of



the buyer's agreement after providing proper justification and specific details regarding the increase in the super area/carpet area.

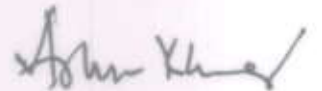
F. Directions of the authority

29. 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/promoter is directed to pay interest at the prescribed rate i.e., 11.10% per annum for every month of delay on the amount paid by the complainant(s) from the due date of possession i.e., 29.07.2018 till the date of valid offer of possession plus two months or the date of handing over 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.
- II. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- III. The respondent is directed to handover possession of the unit in question within three months after obtaining occupation certificate from the competent authority.
- IV. **Increase in area:** -The respondent can charge from the complainant only on account of increase in the super area up to 10% as per clause 9.2 of the buyer's agreement after providing

proper justification and specific details regarding the increase in the super area/carpet area.

- V. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- VI. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainants/allottee at any point of time even after being part of the buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
30. Complaint as well as applications, if any, stands disposed off accordingly.
31. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.05.2025