



BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no. : 972 of 2024

Date of complaint : 15.03.2024

Date of order : 09.05.2025

Mr. Vijay Singh

Address: - R/O Village Rampura, Shikohpur

Gurgaon, Haryana - 122004.

Complainant

Versus

1. M/s Ramprastha Developers Pvt. Ltd.

2. M/s Ramprastha Promoters & Developers Pvt. Ltd.

Regd. Office At: - Plot no. 114, Sector 44, Gurugram-122002.

Also at: Shop no.10, C Block Market, Vasant Vihar, New Delhi-110057.

Respondents

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Sushil Yadav (Advocate) Shri Navneet Kumar (Advocate) **Complainant Respondents**

ORDER

1. The present complaint has been filed by the complainant/allottee 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 allottee 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. no	Particulars	Details
1.	Project name and location	Ramprastha City, Sector 92, 93 and 95, Gurugram, Haryana
2.	Nature of project	Residential plotted colony
3.	DTCP License no. and validity status	44 of 2010 dated 09.06.2010 valid upto 08.06.2016
4.	Name of licensee	Ramprastha Housing Pvt. Ltd and others
5.	RERA Registered/Not registered	Registered vide no. 13 of 2020 dated 05.06.2020 valid upto 31.12.2024
6.	Date of booking/ payment	29.07.2010
7.	BBA	Not executed
8.	Plot No.	Not allotted
6.	Plot Area admeasuring	2 plots admeasuring 250 sq. yds . each (For both the plots) (pg. 12 of complaint)
7.	Due date of possession	29.07.2013 [Calculated as per Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC)
8.	Total consideration	Rs. 75,00,000/-
9.	Total amount paid by the complainant	₹ 57,00,000/-



		(As per receipt no. 1818 dated 29.07.2010 at page 12 of complaint)
10.	Occupation Certificate	Not Obtained
11.	Offer of possession	Not Offered

B. Facts of the complaint

- 3. The complainant has made the following submissions: -
 - I. That the Respondents issued advertisements in various leading newspapers promoting their forthcoming project titled "Ramprastha City, Sector 92 & 95, Gurugram", promising several advantages, including world-class amenities and timely execution of the project. Relying on the representations and undertakings made by the Respondents in the said advertisements, the Complainant booked two plots measuring 250 sq. yds. each, in the aforesaid project, for a total sale consideration of Rs. 75,00,000/-.
 - II. That the Complainant made a total payment of Rs. 75,00,000/- to the Respondents towards the said plots. Out of this amount, Rs. 57,00,000/- was paid through various cheques, for which the Respondents issued Receipt No. 1818 dated 29.07.2010. The balance amount of Rs. 18,00,000/- was paid in cash. Although the Respondents accepted the cash payment, they failed to issue any receipt for the same despite repeated requests and follow-ups by the Complainant—reasons for which are best known to the Respondents.
 - III. That the Respondents agreed to allot the Complainant two plots admeasuring 250 sq. yds. each in Sector 37D, Gurugram. At the time of booking and payment, the Respondents undertook to deliver possession within 30 months from the date of booking, i.e.,



by 29.01.2013, with an additional grace period of 180 days, i.e., up to 29.07.2013. Despite repeated follow-ups by the Complainant for execution of the Builder-Buyer Agreement, the Respondents kept evading the issue under one pretext or another. They repeatedly assured the Complainant that possession would be handed over soon, given the full payment. However, neither possession was delivered nor was the Builder-Buyer Agreement executed.

- IV. That the Complainant regularly contacted the Respondents telephonically to inquire about the project's progress. The Respondents continuously misrepresented that construction was progressing well and demanded further payments accordingly. Upon visiting the site, the Complainant was shocked to find that no construction activity was ongoing, and no staff was present to address the Complainant's queries. It appears that the Respondents committed fraud by accepting money with no genuine intent to deliver possession, thus cheating and defrauding the Complainant.
 - V. That despite receiving over 100% of the demanded payments on time for the said plots, and despite repeated reminders and visits by the Complainant, the Respondents have failed to deliver possession within the stipulated time.
 - VI. That it is evident the construction of the block, in which the Complainant's plots were promised, was not completed within the committed timeline. This clearly reflects the ulterior motives of the Respondents to extract funds from innocent buyers without fulfilling their obligations.



- VII. That due to the Respondents' failure to deliver the possession of the plots, the Complainant has suffered severe mental agony, harassment, disruption to personal plans, and continues to incur financial losses. The Respondents had orally agreed to pay compensation at the rate of Rs. 90/- per sq. yd. per month in case of any delay in possession. However, such a meager compensation is unjust and arbitrary, and the Respondents cannot be allowed to evade their liability merely by citing such a nominal clause, particularly when the delay is substantial and unexplained.
- VIII. That on the grounds of equity and parity, the Respondents must be held liable to pay interest on the amount paid by the Complainant, calculated from the promised date of possession till the actual handover of the plots.
 - IX. That the Complainant made several telephonic and in-person requests at the Respondents' office, demanding possession along with interest for the delay. However, the Respondents have flatly refused to deliver possession. Their conduct reveals a premeditated and fraudulent scheme to wrongfully enrich themselves at the expense of the Complainant's hard-earned money.

C. Relief sought by the complainant:

- 4. The complainant has sought following relief(s):
 - I. Direct the respondent to execute the builder buyer's agreement.
 - II. Direct the respondent to handover possession of the plot at Ramprastha City and to pay delay possession charges.
- 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 respondents have contested the complaint on the following grounds:
 - That at the threshold of the reply, it is submitted that the Complaint is timed barred and therefore deserves to be set aside on this count alone, amongst other grounds that the Respondent has raised through the present Reply. Pertinently, the receipts on which the Respondent is placing reliance upon dates back to the year 2010, whereas the Complaint has been filed in 2024, evidently after a delay of 14 years. Neither any plausible explanation has been furnished by the Respondent in respect of such delay but even no substantive ground has been raised in the Complaint that would give way to condone such a phenomenal delay. Further, the delay itself is evidence of the fact that the Complainant did not wish to pursue his alleged rights against the Respondent for several years and chose to wake up from slumber much later in a frivolous attempt to have his alleged rights indicated. In such circumstances, the Authority ought to dismiss the Complaint with exemplary costs.
 - That it is submitted that the present Complaint is not maintainable,
 and the Complaint is liable to be dismissed in limine.
 - iii. That it is submitted that in one of the future projects that had been conceived by the Respondent, the Respondent being aggrieved of the incorrect sectoral plan of Sector 37-C and D, Gurugram for which License No.128 of 2012 dated 28.12.2012 was granted to the



Respondent, had approached the Department of Town and Country Planning, Haryana. Pertinently, vide order dated 01.04.2021 in *Appeal No.1 of 2021; Ramprastha Estates Pvt. Ltd. versus Director, Town and Country Planning, Haryana, Chandigarh,* the period between the date when the license was issued by the department i.e. 28.12.2012 and the date of approval of the revised/correct Sectoral Plan i.e. 01.09.2017 was ordered to be treated as 'Zero Period' as far as the obligations of the Respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license are concerned.

- iv. That the present case is nothing more than a sheer abuse of process of law on the face of it by the present Complainants with the sole motive of extracting huge amounts of interest from the Respondents.
- v. That the Respondent herein has not agreed to provide any service whatsoever to the Complainant since the plans were not approved by the competent authority and the Complainant have not provided any documents to prove that any such promise was ever made by the Respondent. The Complainant has voluntarily entrusted a sum of money so that they will get the first priority in case the development plans eventually get approved by the competent authority. That the Respondents have never entered into any agreement with the complainant and neither promised any particular plot or location nor promised any particular price or completion date to the Complainants. Hence, there is no question of any breach by the Respondent and no cause of action has accrued in favour of the Complainants under the provisions of



RERA, 2016. That the present Complaint has been filed with *mala* fide intention and is an abuse of the process of this Ld. Authority which is evident from the prayers wherein the Complainant had demanded hefty interest when there was no agreement between the Complainant and the Respondent whatsoever for either any allotment or any development and there exists no agreed terms for possession date or price or location/project etc., hence there are no terms which can be said to be legally enforceable under the provisions of the Real Estate (Regulation and Development) Act, 2016.

- vi. The Complainant is very well aware of the fact that the money entrusted by the Complainant was not towards any booking or agreement but merely on the request of complainant towards the tentative registration in the future projects. That the Complainant has filed the Complaint claiming wrongful gains in the form of interest at the cost of the Respondent when in reality there was no such understanding between the parties and there is no condition to attract the provisions of the Act. That the Complainant had approached the Respondent in the year 2010 showing an interest to participate in one of the future potential projects of the Respondent. It is pertinent to mention that the above-named future potential project was indeterminate at the point of time when the money was paid by the Complainant.
- vii. It is submitted that the Complainant had the option at all times to either claim refund of their money or let their money remain with the Respondent in anticipation of future approvals which is subject to government action. Further, the Complainant had the option at



all times to recall his money even if any future approval would have come through, in the event, they were not willing to participate in such projects. Since the Complainant, always had such option but voluntarily opted to let his money remain with the Respondent, hence they cannot be allowed to claim interest which has no legal or contractual basis. It is submitted that the 2016 Act can come to the rescue of only genuine allottees and not speculative individuals like the Complainant.

- viii. The Complainant fully being aware of the dynamic prospects of futuristic project which was indeterminate at the point of time when the Complainant paid the money and the fact that it is subject to various government approvals for which there is no time line assured by the government authorities, either promised or otherwise, have still decided to keep their money with the Respondent which was clearly with a speculative purpose and such speculative acts are not protected by any law. Hence, no right of the Complainant could be said to have been breached by the Respondent, giving rise to any claim for interest as alleged by the Complainant. Hence, the Complaint is liable to be dismissed with costs.
 - ix. That it is herein submitted that from the date of payment till the date of filing of the present complaint, the Complainant has never raised any refund demand or refund claim whatsoever even though the Complainant had the option at all times which show that the Complainant voluntarily let his money remain with the Respondent for his own selfish and speculative intents. It is shocking that the Complainant is even today not claiming any



refund (the same being in any way time barred) but are trying to abuse the process of this Hon'ble Tribunal to claim hefty interest which is not tenable in law in the facts and circumstances of the present case. The conduct of the Complainant clearly indicates that the Complainant's objects and intents are speculative not only behind making the payment but also behind filing the present Complaint.

- x. It is submitted that the Complainant is indirectly claiming specific performance for delivery of an indeterminate property on the basis of indeterminate terms which is not permissible in the eyes of law. The Complainant has no vested right to claim possession of any plot in the absence of an enforceable agreement and hence there is no question of any delay as alleged by the Complainant. It is submitted that the delay is absolutely non-existent and imaginary under the present facts and hence, there is no entitlement of any interest whatsoever.
- xi. That further no date of possession has ever been mutually agreed between the parties since the project itself was a future potential project and hence not determined. That in absence of any document in the nature of a Plot Buyer Agreement, which contains several terms and conditions including the date of possession and the consequences of default, no date of possession can be said to have been mutually agreed between the parties. It is trite in law that a party claiming default must first prove the default beyond reasonable doubt by means of substantial evidence.
- xii. That the Complainant herein has not adduced any reasonable proofs in the nature of documentary evidence which establishes



the date of possession, terms and conditions of possession, default and the consequential effect of such default. It is submitted there is no possibility of execution of a Plot Buyer Agreement especially in light of the fact that there are no specific terms that have been mutually agreed between the parties.

- xiii. That as per the averments made by the Complainant, the Complainant has claimed interest from the year 2013 till the date of actual handover of possession. However, the Complainant has failed to establish as to how such a date of default has been calculated by the Complainant. It may not be out of place to mention that the Respondents, at no point in time, had specified the date on which the possession of the units/plots were to be handed over. Further, it cannot even be said that such a position was unknown to the Complainant. Thus, for the Complainant to now approach this Ld. Authority and seek delayed possession charges alongwith interest, that too from a date which does not have any edifice and is at best a self-appointed date, is not only an act that is grossly illegal but even a ruse to arm-twist the Respondents to give in to the illegal and erroneous demands of the Complainant. In the absence of any assurance by the Respondent even as to the date of commencement of the futuristic project, the Complainant cannot be said to have any cause of action.
- xiv. That it is submitted herein that in absence of any written contract or agreement between the parties establishing terms and conditions, obligations and rights, consideration, location, project etc., the specific prayer for allotment, handover of possession, for



execution of conveyance deed and Delay Possession Charges is not maintainable before this Authority.

 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 submission made by the parties.

E. Jurisdiction of the authority

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

9. 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

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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 noncompliance of obligations by the promoter.
- F. Findings on the relief sought by the complainant.
 - F. I Direct the respondent to execute buyer's agreement.

F.II Direct the respondent to handover possession and to pay delay possession charges.

- 12. The Complainant had booked two plots admeasuring 250 sq. yards each in a futuristic project of the Respondents by paying an amount of Rs. 57,00,000/-. On 29.07.2010, Respondent No. 1 issued a payment receipt bearing No. 1818 acknowledging the amount paid towards the said booking. However, till date, neither a Plot Buyer Agreement has been executed between the parties, nor has any specific plot number been allotted to the Complainant.
- 13. In view of the foregoing facts, it is evident that the Respondent, despite having received Rs. 57,00,000/- from the Complainant since 2010, has continued to retain and enjoy the benefits of the said amount without fulfilling its obligations, such as executing the agreement or allotting a plot. This continued inaction on the part of the Respondent is highly unjust and prejudicial to the rights and interests of the Complainant.
- 14. Now the question before the Authority is whether the receipt issued by the respondent/promoter falls within the definition of agreement, as per section 2(e) of The Contract Act, 1872 and which provides that:

"Every promise and every set of promise forming the consideration for each other is an agreement."



15. Further, section 10 of the Act of 1872 defines the conditions under which the agreement made fall with the definition of contract and the same provides as under:

"All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not herby expressly declared to be void."

- 16. There are a large number of cases coming to the notice of the authority wherein the promoter had taken the whole or partial amount of money and only issued receipt against the allotment of a plot either in the exiting or in its upcoming project at Gurugram. Neither has the promoter issued any allotment letter nor executed any buyer's agreement in this regard. The document/receipt so issued in favour of a person can be termed as an agreement for sale to put the developer before RERA Authority, compelling it to fulfil its obligations against the holder of that document. The promoter is duty bound to explain the reasons for which it has admittedly retained the consideration amount for so long, considering the fact that the promoter company is not a bank or non- banking financial company (NBFC).
- 17. 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 delay, till the handing over of the possession, at such rate as 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 may be prescribed."" (Emphasis supplied)

18. The Authority observes that, despite receiving the amount against the booked plots as far back as 2010, the Respondent-Promoter has failed to execute a written agreement for sale in respect of the said plots and



has also failed to register the plots in the name of the Complainant till date. Even after lapse of more than 14 years from the date of payment till the filling of complaint, the respondents-promoter has neither allotted a specific plot number nor specified the project details to the complainant. The authority is of the considered view that the Act, 2016 ensures the allottee's right to information about the project, unit and knowledge about the timelines of the delivery of possession. However, the respondents are not communicating the same to the complainant. Hence, it is violation of the provisions of the Act, and shows its unlawful conduct. Thus, the respondents-promoter is directed allot a specific plot number to the complainant and to enter into a registered buyer's agreement with the complainant as per the 'agreement for sale' annexed with the Haryana Real Estate (Regulation and Development) Rules, 2017 within a period of 60 days from the date of this order.

 Due date of possession: The Hon'ble Supreme Court in the case of Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018 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.

20. In view of the above-mentioned reasoning, the date of payment made vide receipt dated 29.07.2010, ought to be taken as the date for calculating due date of possession. Therefore, the due date of handing over of the possession of the plot comes out to be 29.07.2013, manifesting that there has been a delay of around 12 years in handing



over possession, making the respondent liable to pay delay possession charges as per section 18 of the Act, 2016 along with possession.

21. 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 subsections (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.

- 22. 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.
- 23. 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%.
- 24. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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-

 the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

- 25. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondents /promoter which is the same as is being granted to the complainant in case of delay possession charges.
- 26. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondents are in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date. The authority has observed that the due date of possession was 29.07.2013. However, the respondents/promoter have not allotted a specific plot number to the complainant and also has failed to handover possession of the plot to the complainant till date of this order. Accordingly, it is the failure of the respondents/promoter to fulfil its obligations and responsibilities to allot a specific unit number and hand over the physical possession. The authority is of the considered view that there is delay on the part of the respondents to offer of possession of the booked plot to the complainant. Further no CC/part CC has been granted to the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the promoter as well as allottees.



27. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondents is established. As such the complainant is entitled to delay possession charges at the prescribed rate i.e., @11.10% p.a. w.e.f. 29.07.2013 till offer of possession plus 2 months after obtaining completion certificate from the competent authority 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.

G. Directions of the authority

- 28. 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 respondents/promoter is directed to allot a specific plot number to the complainant in view of the agreed terms of the letter dated 29.07.2010 and to enter into a registered buyer's agreement with the complainant as per the 'agreement for sale' annexed with the Haryana Real Estate (Regulation and Development) Rules, 2017 within a period of 60 days.
 - ii. The respondents/promoter are directed to pay interest to the complainant against 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., 29.07.2013 till actual handing over of possession or offer of possession plus two months after obtaining completion certificate/part completion certificate from the competent authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.



- iii. The arrears of such interest accrued from 29.07.2013 till the date of order by the authority shall be paid by the respondents/promoters to the complainant within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per rule 16(2) of the rules.
- iv. The respondents/promoters are directed to handover possession of the allotted plot and execute conveyance deed in favour of the complainant on payment of stamp duty and registration charges within three months after obtaining completion/part completion certificate from the competent authority.
- v. 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 delay possession charges as per section 2(za) of the Act.
- 29. Complaint stands disposed of.
- 30. File be consigned to registry.

Dated: 09.05.2025

(Arun Kumar)

Chairman Haryana Real Estate Regulatory Authority, Gurugram