



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	1212 of 2024
Date of filing:	17.09.2024
First date of hearing:	21.10.2024
Date of decision:	26.05.2025

Ritu Raj, S/o Sh. Nand Lal Sharma,
R/o House no. 509, Block A, Siddhart Nagar,
Near Jawahar Circle, Jaipur-302017.

.....COMPLAINANT

Versus

Raheja Developers Limited
W4D-204/5, Keshav Kunj, Cariappa Marg,
Western Avenue, Sainik Farms,
New Delhi-110062

.....RESPONDENT

CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

Present : Mr. Ritu Raj, complainant through VC.
Ms. Sanjana, Proxy counsel for Ms. Arpita, counsel for the
respondent, through VC.

ORDER (NADIM AKHTAR-MEMBER)

1. Present complaint has been filed by the complainant on 17.09.2024 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, the details of 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 table:

S.No.	Particulars	Details
1.	Name of the project	Krishna Housing Scheme, Sector-14, Sohna, Haryana.
2.	Name of the promoter	Raheja Developers Limited.
3.	Unit No. allotted	13010, 13 th floor, Tower D1
4.	Unit area (Carpet	414.37 sq.ft.



	area)	
5.	Date of provisional allotment letter	10.07.2015
6.	Date of Builder Buyer Agreement	Not executed
7.	Due date of offer of possession	27.04.2019
8.	Possession clause in BBA	<i>Not available</i>
9.	Total sale consideration	₹15,24,022/-
10.	Amount paid by complainant	₹13,99,180 /-
11.	Offer of possession	Not given

B. BRIEF FACTS OF THE COMPLAINT ARE AS UNDER:

- (i) Case of the complainant is that complainant booked a unit in the project "Krishna Housing Scheme" situated in Sector 14, Sohna, Nuh (Gurugram), Haryana and respondent issued provisional allotment letter dated 10.07.2015 and allotted unit no.13010, 13th floor, in Tower D1 having carpet area of 414.37 sq.ft , in the project of the respondent governed by Affordable Housing Policy 2013. Copy of allotment letter is annexed as Annexure P/4.
- (ii) That no builder buyer agreement was executed between the parties. Complainant had paid a total amount of ₹15,21,343/- against the basic sale price. That despite making payment of the substantial amount by

the complainant, the possession of the unit in question has not been offered till date to the complainant, therefore, the complainant seeks indulgence of the Hon'ble Authority seeking refund of the paid amount along with interest. Therefore being aggrieved person, complainant is filing the present complaint before this Hon'ble Authority.

C. RELIEFS SOUGHT:

3. Complainant has sought following reliefs :

- i. Direct the respondent to refund a sum of ₹13,99,180/- paid by the complainant in lieu of allotment of above mentioned Flat no. 13010 residential unit.

D. REPLY ON BEHALF OF RESPONDENT

4. Notice was served to the respondent on 18.09.2024 which got successfully delivered on 19.09.2024. Despite giving three opportunities, i.e, approximately 217 days from first hearing, i.e., 21.10.2024 and imposition of cost, the respondent failed to submit the reply till date. The Real Estate (Regulation and Development) Act, 2016, is a beneficial legislation aimed at providing speedy and efficacious redressal to grievances of allottees and other stakeholders. In furtherance of this objective, the proceedings before the Authority have been made summary in nature. Such expeditious adjudication is achievable only if the parties



involved, both the complainant and the respondent, submit their pleadings in a time-bound manner.

In light of the respondent's repeated non-compliance despite availing numerous opportunities and keeping in consideration the summary procedure, the Authority deems it appropriate to strike off the respondent's defence and proceed to decide the present complaint ex-parte, as per record available on the file.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

5. Complainant reiterated the facts of the complaint and requested the Authority to grant the relief of refund of the paid amount along with interest and decide the case ex-parte as respondent has failed to file his reply. Proxy counsel for respondent requested for some more time to file reply, as she has been recently engaged by the respondent.

F. ISSUE FOR ADJUDICATION

6. Whether the complainant is entitled to get refund of the amount deposited by him along with interest in terms of Section 18 of RERA Act of 2016?

G. OBSERVATIONS AND DECISION OF AUTHORITY

7. The Authority has gone through the facts of the complaint as submitted by the complainant. In light of the background of the matter, Authority observes that complainant booked unit in the project "Krishna Housing



Scheme” which is an Affordable Housing Scheme being developed by the respondent/promoter namely; Raheja Developers Ltd. and complainant was allotted unit no.13010, 13th floor, Tower D1, in the said project at Sector-14, Sohna, Haryana vide allotment letter dated 10.07.2015 and complainant had paid a total sum of ₹13,99,180/- against the basic sale consideration price of ₹15,24,022/-. As no builder buyer agreement was executed between the parties, but the fact remains that respondent allotted the unit in favour of complainant and said allotment was governed “Affordable Housing Policy- 2013”. As per clause 5 (iii) (b) of said policy, possession to be offered within 4 years from date of sanction of building plans or receipt of environmental clearance whichever is later. Relevant clause is reproduced for reference:

Affordable Housing Scheme 2013

“Clause 5(iii) (b) : All flats in a specific project shall be allotted in one go within four months of sanction of building plans or receipt of environmental clearance whichever is later and possession of flats shall be offered within the validity period of 4 years of such sanction/ clearance. Any person interested to apply for allotment of flat in response to such advertisement by a coloniser may apply on the



prescribed application form alongwith 5% amount of the total cost of the flat."

8. It came to the knowledge of the Authority while dealing with other cases against the same respondent namely; M/s Raheja Developers Ltd, that the respondent/ developer received approval of building plans on 27.04.2015 and got the environment clearance on 09.03.2015. That means, as per possession clause, a period of 4 years is to be taken from 27.04.2015 and therefore, date of handing over of possession comes to 27.04.2019. Period of 4 years is a reasonable time to complete development works in the project and handover possession to the allottee, however, respondent failed to hand over possession to the complainant. After paying his hard earned money, legitimate expectations of the complainant would be that possession of the unit will be delivered within a reasonable period of time. However, respondent has failed to fulfill its obligations as promised to the complainant. Thus, complainant is at liberty to exercise his right to withdraw from the project on account of default on the part of respondent to offer legally valid possession and seek refund of the paid amount along with interest as per section 18 of RERA Act.
9. Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others*" in



Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of this judgement is reproduced below:

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

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wishes to withdraw from the project of the respondent,



therefore, Authority finds it fit cases for allowing refund in favour of complainant.

10. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

(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;

11. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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".



12. Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date, i.e., 26.05.2025 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.10%.

13. From the above discussions, it is amply proved on record that the respondent no.1 has not fulfilled its obligations cast upon him under RERA Act, 2016 and the complainant is entitled for refund of deposited amount along with interest. Thus, respondent is liable to pay the complainant interest from the dates amounts were paid by the complainant till the actual realization of the amount.

14. Therefore, Authority allows refund of paid amount along with interest to the complainant at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 11.10% (9.10% + 2.00%) from the date amounts were paid till the actual realization of the amount. Authority has got calculated the total amounts along with interest as per detail given in the table below:

Sr.no	Principal amount	Date of payment	Interest accrued till 26.05.2025
1.	₹2355/-	09.01.2015	₹2715

2.	₹76201/-	09.01.2015	₹87851/-
3.	₹315472/-	09.09.2015	₹340388/-
4.	₹197409/-	18.01.2016	₹205136/-
5.	₹190503/-	15.07.2016	₹187590/-
6.	₹190503/-	22.02.2017	₹174728/-
7.	₹213374/-	29.07.2017	₹185518/-
8.	₹213363/-	30.01.2018	₹173504/-
	Total=₹13,99,180/-		₹13,57,430/-
Total amount to be refunded by respondent to complainant= ₹13,99,180/- + ₹13,57,430/- = ₹27,56,610/-			

K. DIRECTIONS OF THE AUTHORITY


15. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to refund the amount to the complainant as specified in the table provided in para- 14 of this order. It is further clarified that respondent will remain liable to pay the interest to the complainant till the actual realization of the amount.
- (ii) Respondent is directed to deposit the cost of ₹5000/- payable to the Authority and ₹2000/- payable to the complainant.



- (iii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which, legal consequences would be initiated against the respondent.

Disposed off. File be consigned to the record room, after uploading of the order on the website of the Authority.


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CHANDER SHEKHAR
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]