

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

**Complaint no.:** 1998 of 2022  
**Date of decision:** 06.05.2025

Mr. Maheesh Malik

**R/o:** - House No. 1-2-8/3/1, Gagan Mahal Road, Near  
Sadhuram Hospital, Hyderabad.

**Complainant**

**Versus**

M/s DLF Homes Developers Limited

**Regd. office:** 1<sup>st</sup> Floor, DLF Gateway Tower, "R" Block,  
DLF City, Phase-III, Gurugram- 122002, Haryana

**Respondent**

**CORAM:**

Shri Arun Kumar

Shri Vijay Kumar Goyal

Shri Ashok Sangwan

**Chairman**

**Member**

**Member**

**APPEARANCE:**

Shri Harshit Batra (Advocate)

Shri J.K. Dang (Advocate)

**Complainant**

**Respondent**

**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 to the allottee as per the agreement for sale executed inter-se 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 tabular form:

S. No.	Particulars	Details		
1.	Name of the project	"Alameda", Sector-73, Gurugram, Haryana		
2.	Project area	10.025 acres		
3.	Nature of the project	Residential Plot		
4.	DTCP License no. & validity status	88 of 2010 dated 28.10.2010 up to 27.10.2018	21 of 2012 dated 20.03.2012 up to 19.03.2025	109 of 2012 dated 26.10.2012 up to 25.10.2023
5.	Name of Licensee	Sh. Ramlal and 25 others	Benedict estates developers and 1 other	Sh. Ram Kumar
6.	RERA Registered / not registered	Registered bearing no. 59 of 2021 dated 21.09.2021 Valid till 24.11.2024		
7.	Plot no.	WA 36 Block W (Annexure C-8 -page no. 41 of the agreement)		
8.	Unit admeasuring	538.20 sq. yards (Page no. 49 of the agreement)		
9.	Date of allotment	07.01.2011 (Annexure 3 page 41 of complaint)		
10.	Date of execution of plot buyer's agreement	19.07.2011 (Annexure 4 -page no. 47 of the complaint)		
11.	Possession clause	<b>10.</b> <i>The company shall endeavour to offer possession of the said plot, <b>within 18 months from the date of execution of this</b></i>		

		<i>agreement subject to timely payment by the intending allottees.</i> <b>(Emphasis supplied)</b>	
12.	Due date of delivery of possession as per clause 12 of serviced Apartment buyer's agreement	19.01.2013 (Calculated from the date of execution of this agreement)	
13.	Total Sale consideration	Rs.3,55,75,020/- (Annexure R-12 page 76 of reply)	
14.	Total amount paid by the complainant	Rs.3,60,41,889/- (As alleged by the complainant at page no. 18 of complaint)	
15.	Part completion certificate	01.05.2013 for the above plot (Page 28 of reply)	28.06.2017 (Annexure R-4 page 33 of reply)
16.	Offer of possession	18.06.2013 (Annexure R-22 page 150 of reply)	

## B. Facts of the complaint

3. The complainant has made the following submissions: -

1. That somewhere around in 2010, the respondent advertised about its residential plotted colony project namely "ALAMEDA" located at Sector 73, Gurgaon, and Haryana. The respondent painted a rosy picture of the project in their advertisement making tall claims and representing that the project aims at providing world class amenities. The complainant on 02.12.2010, based on the features as disclosed in the brochure published by respondent, booked a plot no. WA-36, in the township by the name of 'ALAMEDA' at Sector 73, Gurgaon, and Haryana. The complainant vide cheque no. 409553 dated 02.12.2010 paid Rs.59,00,000/- in favor of DLF New Gurgaon Homes Developers Private Limited.

- II. That the respondent in the its brochure promised to develop World Class Gated Community at Alameda in Sector 73-Gurgaon, with unique features like 24x7 security and maintenance services, easy accessibility, 24x7 internal security having access-controlled entry and exits with proper boundary wall around the periphery, in-premise maintenance services, 24x7 power backup, landscaped greens, exclusive recreational facility, community shopping, healthcare center, early learning center, etc.
- III. That the respondent vide allotment letter dated 07.01.2011, allotted a residential plot no. WA-36, in the project namely, "Alameda", situated in Sector 73, Gurgaon, area 450 sq. mtrs., vide customer code no. R09949, (UNQ/273/000196) under the installment plan. Thereafter, the complainant vide cheque no. 409573 dated 19.02.2011, paid Rs.9,34,085/- in favor of respondent. The respondent acknowledged the payment vides receipt DLF/273/WA36 ALD/CRB/00068/0211 dated 19.02.2011. Further, the complainant vide cheque no. 502462 dated 12.04.2011, paid Rs.50,16,404/- in favor of respondent. The respondent acknowledged the payment vides receipt DLF/273/WA36/ALD/CRB/00026/0411 dated 13.04.2011.
- IV. The respondent after receiving substantial amount of Rs.1,18,50,489/- executed the builder buyer agreement on 19.7.2011. As per clause 11(a) of the said agreement, the respondent was supposed to offer possession of the said plot in developed gated colony within 18 months of its execution subject to a grace period of 90 days as per clause 11(d) of the agreement. It is pertinent to mention here that the complainant has paid an amount of Rs.3,60,41,889/- against the total sale consideration.

- V. That the respondent vide its letter dated 17.12.2012, informed the complainant that the respondent has completed all development work and laid all services at 'Alameda'. The respondent further through the letter made offer to the complainant to take possession of the plot. The respondent further via the said letter, made suggestion to the complainant to visit the site for self-inspection before registration of plot.
- VI. That the respondent vide its letter dated 12.02.2013, giving reference to its earlier letter dated 17.12.2012 informing to the complainant about the completion of Development work at 'ALAMEDA', sent final statement of Account. The complainant on 08.03.2013, went to the site of 'Alameda Township' as suggested by the respondent vide its letter dated 17.12.2012 & 12.02.2013. The respondent had made absolute false and misleading statement in the letter about completion of all development work in township 'Alameda'. There was no club house and no internal & external development as promised in the brochure and in the builder buyer agreement dated 19.07.2011. The letter dated 17.12.2012 by the respondent to complainant was patently a fraud being played upon the complainant. The complainant discussed the issue with the representative of the promoter in DLF Office. The respondent then gave assurance to the complainant to complete within one-year entire internal and external development work/entire infrastructure as mentioned in the brochure and builder-buyer agreement. The complainant then refused to take possession of the unit and further refused to make payment towards registration of under-developed plot in 'Alameda' till entire infrastructure in the township

and specifically for such infrastructure for which the developer had charged premium from the customer, is laid out and completed as per written promises of the respondent. That the completion certificate of the project is a condition precedent for offering possession to the allottees in the plotted colony and further the possession offered without obtaining completion certificate from the concerned authorities is an illegal offer of possession.

- VII. That the complainant thereafter received letter dated 18.06.2013 from respondent. In the said letter, the respondent informed the complainant to pay dues of Rs.64,42,076/-. The dues as per letter includes dues on BSP Rs.14,53,140/-, PLC of Rs.2,17,971/-, EDC of Rs.11,71,213/-, cost of registration Rs.23,65,380/-, recreational facility/club charges of Rs.5,00,000/-, and service tax on recreational facility/club charges of Rs.61,800/-, and some other charges and stated that the letter is a final notice to pay such dues, else the allotment will be cancelled.
- VIII. That the complainant thereafter received letter dated 26.06.2013 signed by the General Manager Marketing of the respondent. The respondent again made false disclosure in the letter that the township 'Alameda' is a well-planned world class community township at strategic location with the multiple points of connectivity. The respondent further made false disclosure that the community is self-contained super luxury residential community remarkable for its unsurpassed grandeur and robust infrastructure like great family shopping experience at a commercial complex spread over 1,40,000 sq. ft. with conveniences such as ATMs, beauty parlors, multipurpose booths, super marts etc. The respondent also mentioned that the



community has exclusive leisure and recreational facilities, which include lawn tennis, swimming pool, and gymnasium, squash etc., at the recreational center and other essential amenities.

- IX. That the complainant immediately on receiving the letter dated 26.06.2013, called upon the then General Manager Marketing of the respondent and lodged his protest about the false disclosures being made in the latter dated 26.06.2013. The respondent explained the complainant that the letter was routine official communication to every customer. The complainant thereafter went to site for inspection on 16.07.2013, but was disappointed as there was no progress in the development work at site.
- X. That the complainant thereafter vide cheque no 090129 dated 06.09.2013, paid Rs.20,00,000/- to the respondent. The payment was acknowledged by the respondent vide receipt no. DLF/273/WA36 # ALD/CRB/00038/0913 vides dated 09.09.2013. On 04.11.2013, the complainant went to the site for inspection of the work in progress. The complainant received letter dated 04.01.2014, informing with the sanction of scheme of amalgamation/merger, 'DLF New Gurgaon Homes Developers Pvt. Ltd.' stands amalgamated with 'DLF Home Developers Ltd. The respondent vides the same letter advised the complainant to make all communications /payments in favor of 'DLF Home Developers Ltd'.
- XI. That the complainant again received letter dated 03.02.2016 from respondent to complete formalities for registration of plot. The complainant on 03.03.2016 went to the site for inspection of the work

in progress. However, there was no progress in the development of interior as well as of exterior infrastructure in the township 'Alameda'.

- XII. That the complainant served notice dated 06.08.2016 upon the respondent. The complainant in registered notice dated 06.08.2016, complained that despite payment of almost entire cost of the plot as early as Sept 2012 to the tune of Rs.3.61,00,000/-, yet the respondent had not developed even the basic infrastructure in the township- 'Alameda', thereby breaking all its written promises. That till 2018, no arrangements were made by the respondent to ensure electricity in the said project. That until 2018 the power supply was ensured by the respondent through DG Set despite claiming that the project was completed in 2012-2013 and the same act of the respondent is a clear violation of the Act of 2016 as well as the Apartment Ownership Act and Building Code. Subsequently, without having proper electricity supply, the construction of the plot would not be possible. The complainant in the said notice has also specifically complained regarding the non-development of the 60 meter wide road facing the plot for which the respondent has charged a hefty sum of Rs.48,43,800/-, as PLC (Preferential Location Charges), as shown on page 5 of the buyer's agreement.
- XIII. That the complainant on 02.09.2016 received evasive reply via email from the respondent in reply to the registered post notice dated 06.08.2016, issued by the complainant. In the said reply the respondent has replied to the complainant, for the first time, that the development of the said 60 meter wide road for which the respondent has charged preferential location charges (PLC) of Rs48,43,800/- (as detailed on



page 5 of the buyer's agreement), is to be developed by the government and not by the respondent. In this regard the complainant submits that this fact ought to have been mentioned in the buyer's agreement and that if the respondent was aware of the non-development of this road, the respondent ought not to have charged hefty amount of PLC (Rs.48,43,800/-) and also towards external development charges (Rs.19,81,204/-). Thus the respondent has played fraud upon the complainant. The respondent vide email dated 09.09.2016 to the complainant informed that in case the complainant still have any issue then the same could be discussed to resolve the issue.

- XIV. That the cunning and fraudulent nature of the respondent is evident from the fact that without any kind of infrastructure, with NIL recreational facilities and without any sort of Club House, the Respondent has demanded final payments towards external development charges and club charges. Final payments were demanded in 2013 itself without completing the project in question and further till date the complaint was filed, none of the promised world class infrastructure like recreational facilities, club house, supply of electricity, roads, were completed. It must be noted that as on the date of filing the complaint, even the groundwork for the club has not yet started. Further, such was the state of affairs at the time of filing the complaint that the electricity supply from HUDA had not started and the respondent used to provide electricity to a few residents living in Alameda via the generator. The fraud is further apparent from the fact that even though the respondent had till the filing of this complaint not developed even basic infrastructure like recreational facilities, club

house, electric supply as detailed supra, yet the respondent vide letter dated 17.08.2016, intimated the complainant that they have formed alameda resident welfare association and all assets including common areas and facilities have been duly transferred/handed over to the association, with retrospective effect from 01.04.2016, without mentioning any further details as to what common areas and services were transferred when the respondent had till that present not received completion certificate and not yet developed all the services and amenities in the subject project. Due to the misdeeds and fraudulent conduct of the respondent as stated above in the preceding paragraphs, the complainant has suffered substantial financial loss as well as mental agony as despite paying a huge amount against the purchase of the said unit, the respondent clearly failed to give possession of the unit after completing the project. The respondent despite giving assurance on 08.03.2013, and 16.07.2013, to develop within one year all infrastructure and essential services as was promised, failed to develop till the date of filing this complaint. Further, the respondent failed to act upon after service of notice dated 06.08.2016.

- XV. That the complainant further submits that as per builder buyer agreement, the respondent was under obligation to complete the development of the project within a period of 21 months from the date of execution of the builder buyer agreement but to its contrary, the respondent clearly failed to adhere to the terms and conditions of the builder buyer agreement. He further submits without prejudice to the rights and contentions of the complainant, had the possession being taken by the complainant of the unit in undeveloped project, it would

have been difficult for the complainant to complete the construction of the unit without having basic amenities like electricity, water etc. The complainant after being aggrieved by the illegal and immoral acts of the respondent constrained to initiate legal proceedings against the respondent filed a complaint bearing no. 2242 of 2016 before the NCDRC, Delhi. However the said complaint has been withdrawn by the complainant on 15.03.2022.

- XVI. That the respondent retained the hard earned money of the complainants for so many years beyond the due date of possession thereby highlighting unfair trade practice on their part and also breach of terms and conditions of the agreement and deficiency in the services on part of the respondent as against the complainant which makes them liable to answer to this Authority.

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

4. The complainant has sought following relief:
- I. Direct the respondent to obtain completion certificate and offer possession of the unit in question;
  - II. Direct the respondent to pay delay possession interest at the prescribed rate for every month of delay from the due date of possession till handing over of possession;
  - III. Direct the respondent to charge delay payments, if any, at the prescribed rate in accordance.
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 present complaint is not maintainable in law or on facts. The provisions of the Act, 2016 are not applicable to the project in question. The application for issuance of completion certificate in respect of the 107.512 acres of the project in question had been submitted on 09.01.2013. In furtherance of aforesaid application, part completion certificate had been granted on 01.05.2013. An application for issuance of completion certificate in respect of the 3.90 acres of the project in question was submitted on 03.12.2014. In furtherance of the aforesaid application part completion certificate had been granted on 28.06.2017. Therefore, considering the fact that the application for grant of completion certificate had been submitted by the respondent years ago after completion of all works well before the notification of the Rules 2017, the project in question cannot by any stretch of imagination be construed to be an 'Ongoing Project' as defined under Rule 2(1)(o) of the Rules. The project has not been registered under the provisions of the Act. Therefore, this Authority does not have the jurisdiction to entertain and decide the present complaint. The present complaint is liable to be dismissed on this ground alone.
- II. That the complainant does not have any locus standi or cause of action to file the present complaint. Even otherwise the present complaint cannot be decided in summary proceedings and requires leading of extensive evidence. The present complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of the buyer's agreement.

- III. That the complainant had filed a complaint before the Hon'ble NCDRC, New Delhi, claiming, inter alia, refund of the amounts paid by him to the respondent. The complainant has unconditionally withdrawn the said complaint without seeking liberty from the Hon'ble NCDRC under the provision to Section 71(1) of RERA to institute the present complaint before this Authority. Even otherwise, such complaints can only filed before the Adjudicating Office under the said provision.
- IV. That after undertaking the conceptualisation of the aforesaid plotted colony, development work was undertaken at the spot. It needs to mention that application for release of water connection had been submitted by the respondent in the office of Executive Engineer, Haryana Urban Development Authority, Division Number III, and Gurgaon. Water connection for the plotted colony namely "Alameda" measuring, 111.412 acres was released, vide memo dated 22.05.2015.
- V. That the application for sanction of electricity load and also been submitted by the respondent with Dakshin Haryana Bijli Vitran Nigam. The electricity load to the extent of 6365.400 KW (7073 kVA) was sanctioned by the aforesaid statutory authority vide memo dated 21.10.2016. Thus, all services for the project had been provided by the respondent.
- VI. That the complainant had approached the respondent after making detailed and elaborate enquiries with regard to all aspects of the residential plotted colony known as "Alameda", Sector 73, Gurugram" conceptualised and promoted by the respondent. After completely satisfying himself with regard to the project, competence and capability of the respondent to successfully undertake the construction,



development and implementation of the said project , the complainant proceeded to book a residential apartment in the said project.

- VII. That the complainant was provisionally allotted plot no. WA-36 admeasuring 450 sq. mtrs. vide allotment letter dated 07.01.2011 and along therewith was enclosed the schedule of payments to be followed by the complainant.
- VIII. That the complainant had agreed and undertaken to make payment as per the schedule of payments. However, right from the very beginning, the complainant defaulted in making timely payment of sale consideration. Consequently, the respondent was compelled to issue notices and reminders for payment.
- IX. That the plot buyer's agreement pertaining to the said plot had been sent for execution to the complainant on 06.04.20211. The apartment buyer's agreement was not executed and sent by the complainant to the respondent. Reminder dated 01.07.2011, had been sent by the respondent to the complainant. The plot buyer's agreement dated 19.07.2011 had been executed by the complainant in respect of the said plot. Needless to say that the said contract had been executed by the complainant voluntarily and consciously after deliberating over its contents and fully realising the implications thereof. The complainant copy of the buyer's agreement was returned to him under cover of letter dated 31.08.2011. As per clause 11 (a) of the plot buyers agreement dated 19.07.2011, provides that subject to the other terms and conditions of the buyer's agreement and subject to just exceptions, including timely payment by the complainant of the sale price, stamp duty, Govt. charges and other charges due and payable according to the





payment plan, the respondent shall endeavour to coffer possession of the plot within a period of 18 months from the date of execution of the plot buyer's agreement. Clause 17 of the plot buyer's agreement provides that it shall be incumbent upon the complainant to make timely payment of the sale price and other charges as per the payment plan and that delay in payment shall attract interest on delayed payment and might even lead to cancellation and forfeiture of earnest money and other amounts as set out in the said clause. In terms of clause 11(b) of the plot buyer's agreement, the complainant is bound to take possession of the plot within 90 days from the date of offer of possession failing which the complainant shall be liable to pay holding charges. The respondent craves leave of this Authority to refer to any rely upon various clauses of the plot buyer's agreement at the time of addressing arguments so as to bring out the respective rights and obligations of both parties thereto.

- X. That the complainant continued to default in timely payment of sale consideration as per the payment plan. Demand notices and reminders for payment issued by the respondent, statements reflecting the interest on delayed payments accrued as well as periodic construction updates sent by the respondent. Vide letter dated 17.12.2012, the complainant was informed that the development of the project was complete and possession of the plot was offered. The complainant was informed that a separate communication would be sent with the final statement of account.
- XI. That the respondent received a communication from the complainant that he had changed his name from Rakesh Malik to Maheesh Malik and

that the necessary changes should be made in the records of the respondent company.

- XII. That the respondent made the necessary changes in its records after due verification and issued the offer of possession letter dated 12.02.2013, along with statement of account reflecting the balance payment to be made by the complainant. It is pertinent to mention herein that the final plot area works out to 452.02 sq. mtrs. instead of 450.0 sq. mtrs. and hence the complainant is liable to pay for the increased area in accordance with clause 9(a) of the plot buyer's agreement. Since there was no response from the complainant, the respondent sent a reminder dated 18.06.2013.
- XIII. That vide letter dated 04.01.2014, the complainant was informed about the amalgamation of DLF New Gurgaon Home Developers Pvt. Ltd. with DLF Home Developers Ltd.. Further reminders for possession were issued by the respondent.
- XIV. That the complainant, instead of making payment of balance sale consideration, addressed a frivolous notice dated 06.08.2016, making false and baseless allegations, inter alia, to the effect that the plot in question has not been developed. The respondent replied to the said notice vide email dated 06.09.2016, but the complainant still refrained from taking possession of the unit. The statement of account reflecting the accrued interest on delayed payments as on 18.08.2017.
- XV. That the complainant proceeded to file a false and baseless complaint before the Hon'ble NCDRC, claiming refund of the amounts paid by the complainant to the respondent against the unit in question.

- XVI. That the complainant contacted the respondent expressing his interest in selling the plot in question. The complainant replied vide letter dated 15.03.2022 conveying to the complainant that the respondent did not have any objection to the nomination subject to completion of all the payments, nomination formalities and receipt of original documents pertaining to the plot. However, instead of clearing his outstanding dues, the complainant has proceeded to file the present false and baseless complaint. Instead of seeking refund as was done before the Hon'ble NCDRC, the Complainant is now seeking delivery of possession as well as interest for alleged delay in delivering possession. In fact there is no delay in so far as the respondent is concerned and the delay, if any, has been caused by the complainant himself. The complainant cannot be permitted to take advantage of his own wrongdoing. The respondent has duly completed its obligations under the plot buyer's agreement. The development of the plot/colony stands completed. A number of plot buyers have already built/are in the process of constructing their residences. The complaint preferred by the Complainant is false, frivolous and vexatious and the same deserves to be dismissed.
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.
8. The complainant and respondent have filed the written submissions on 27.09.2022 and 04.10.2022 respectively which are taken on record and has been considered by the authority while adjudicating upon the relief sought by the complainants.

**E. Jurisdiction of the Authority**

9. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

**E.I Territorial jurisdiction**

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

*Section 11(4)(a)*

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

*34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee 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 of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

**F. Findings regarding relief sought by the complainant.****F.I Direct the respondent to obtain completion certificate and offer possession of the unit in question.**

12. As per documents available on record, the respondent has offered the possession of the allotted unit on 18.06.2013 after obtaining part completion certificate from competent authority on 01.05.2013. The Authority observes that the respondent/promoter has obtained the part completion certificate on 01.05.2013 from the concerned department and thereafter the offer of possession was made on 18.06.2013. In view of the above, the complainant is directed to take physical possession of the plot in terms of section 19(10) of the Act of 2016 as the part completion certificate was obtained by the respondent /promoter way back in the year 2013.

**F.II Direct the respondent to pay delay possession interest at the prescribed rate for every month of delay from the due date of possession till handing over of possession;**

13. On consideration of the documents available on record and submissions made by both the parties, the complainant was allotted a plot bearing no. WA 36, in block-W, for an area admeasuring 538.20 sq. yards vide allotment letter dated 07.01.2011 for the total sale consideration of Rs.3,55,75,020/-. He has paid an amount of Rs.3,60,41,889/- against the total sale consideration. A plot buyer's agreement was executed between the parties on 19.07.2011. As per clause 10 of the plot buyer's agreement, the respondent was required to hand over possession of the unit within 18 months from the date of execution of this agreement. Therefore, the due date of possession comes out to be 19.01.2013. That the respondent has obtained the part completion certificate in respect of the allotted unit of the complainant on 01.05.2013 and thereafter, has offered the possession on 18.06.2013.



14. The complainant is seeking the relief of delayed possession charges, from the respondent while the respondent on the other hand pleaded that the present complaint is not maintainable as the respondent/promoter has obtained the part completion certificate was granted by the concerned department on 01.05.2013. So, now the question for consideration arises as to whether the complainant is entitled to delay possession charges from the due date of possession i.e., 19.01.2013 till actual handing over of possession.
15. Though, the complainant is claiming delay possession charges till handing over of possession, but it is admittedly, the respondent company has obtained the part completion certificate in respect of the subject unit since 01.05.2013, thereafter the respondent has offer the possession on 18.06.2013. The complainant has refuse to take physical possession of the allotted plot as the completion certificate has not been obtained by the respondent. The present complaint has been filed by complainant on 04.05.2022, which is beyond the limitation of 3 years
16. There has been complete inaction on the part of the complainant for a period of more than nine years till the present complaint was filed in May, 2022. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise the principle of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to



put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.

17. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint wherein the complainant is seeking delay interest on total amount paid by him, is not maintainable after such a long period of time as the law is not meant for those who are dormant over their rights. It is a well established principle that nobody's right should be prejudiced for the sake of other's right, when a person remained dormant for such an unreasonable period of time without any just cause. In light of the above, the relief sought with regard to delayed possession charges is hereby declined.

**F.III Direct the respondent to charge delay payments, if any, at the prescribed rate in accordance with the Haryana Real Estate (Regulation and Development) Rules, 2017.**

18. The 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—*

*(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;"*

19. Therefore, interest on the delay payments/maintenance dues 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 the complainant in case of delayed possession charges. Thus, the respondent can charge interest on the outstanding amount at the prescribed rate i.e., 11.10% from the complainant as prescribed under 2(z) of the Act of 2016

**G. Directions of the Authority**

20. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- I. The respondent is directed to issue a fresh statement of account after revising the rate of interest to be levied on the outstanding dues as per the provisions of sections 19(6) and (7) of the Act and handover the physical possession of the subject unit within two months from the date of this order as the part completion certificate in respect of the said project has already been obtained by the respondent from the competent authority.
- II. The complainant is directed to pay the outstanding amount if any, as per section 19(6) and 19(7) of the Act every allottee shall be responsible to make necessary payments as per buyer's agreement along with prescribed interest on outstanding payments from the allottee and to take physical possession of the apartment as per section 19(10) of the Act, 2016.
- III. The respondent is directed to execute the conveyance deed of the allotted plot executed in his favour in terms of section 17(1) of the Act



of 2016 on payment of stamp duty and registration charges as applicable.

- IV. 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(z) of the Act.

21. Complaint as well as applications, if any, stand disposed off accordingly.

22. File be consigned to registry.

(Ashok Sangwan)  
Member

(Vijay Kumar Goyal)  
Member

(Arun Kumar)  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 06.05.2025