

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

Complaint no. : 1927 of 2022

Date of decision : 06.05.2025

1. Mr. Chanderjeet Yadav
 2. Mrs. Urmil Yadav
- Both RR/o: - 1683/7G, Todarmal Colony, Najafgarh,
Delhi- 110043.

Complainants

Versus

1. M/s Chintels India Limited
 2. M/s Umritha Infrastructure Development LLP
- Both having registered office at:** A-11, Kailash
Colony, New Delhi- 110048.
Also At:- 711/92, Deepali, Nehru Place, New Delhi-
110019

Respondents**CORAM:**

Shri Arun Kumar
Shri Vijay Kumar Goyal
Shri Ashok Sangwan

Chairman
Member
Member

APPEARANCE:

Shri Dhruv Lamba
None
Shri M.K Dang

Advocate for the complainants
Advocate for the respondent no. 1
Advocate for the respondent no. 2

ORDER

1. The present complaint has been filed by the complainants/allottees in Form CRA 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 allottees as per the agreement for sale executed inter se them.

A. Project and unit related details

2. The particulars of the project, the details of 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. No.	Heads	Information
1.	Name and location of the project	"ATS Kocoon", Sector 109, Gurugram
2.	Nature of the project	Group housing colony
3.	DTCP License	13 of 2011 dated 04.02.2011
	valid up to	03.02.2017
	Licensee name	M/s Madhyanchal Leasing Limited & Others
	Area of the project	15.881 acres
4.	RERA registered/ not registered	Not Registered
5.	Buyer's agreement	24.01.2012 (As per page no. 25 of complaint) (Executed between the original allottee i.e. Zoom Commotrade Private Limited and Respondent-builder.)
6.	Unit no.	4201 on 20 th floor, tower 4 (Page no. 16 of complaint)
7.	Super area admeasuring	3045 sq. ft. (Page no. 16 of complaint)
8.	Possession clause	11. Time of Handing over Possession:- Barring unforeseen circumstances and force majeure events as stipulated here under, the possession of the said apartment is proposed to be delivered by the company to the allottee within <u>36 months and today with the grace period of 6 months hereinafter referred to as the stipulated date from the date of Actual start of the construction of a particular tower building in which the registration for allotment is made subject</u>

		<i>always to timely payments on all charges including the basic sale price, stamp duty, registration fees and other charges as stipulated herein as may be demanded by the company from time to time in this regard at the date of actual start of construction should be the date on which the foundation of the particular building in which the set apartment is allotted shall be as per certification by the companies architect/engineer in charge of the complex and the said certification shall be final in binding on the allottees.</i>
9.	Date of start of construction	Not provided
10.	Due date of delivery of possession	24.07.2015 (Note: - due date of possession can be calculated from the date of execution of buyer's agreement i.e., 24.01.2012 in the absence of date of start of construction)
11.	Total consideration	Rs.1,18,90,375/- (As per payment plan on page no. 18 of complaint)
12.	Total amount paid by the complainants	Rs.1,24,37,741/- (As per page no. 41 of complaint)
13.	Occupation certificate	09.10.2017 (As per page no. 39 of reply)
14.	Offer of possession	09.10.2017 (As per page no. 40 of complaint) (Offered to original allottee)
15.	Endorsement sheet in favour of complainants herein	01.02.2022 (As per page no. 41 of complaint)

B. Facts of the complaint

3. The complainants made the following submissions in the complaint:

- That on 24.01.2012, an apartment buyer's agreement was executed between M/s Umitha Infrastructure Development LLP (hereinafter referred to as the 'respondent no. 2') and M/s Zoom Commotrade Pvt.



Ltd. (hereinafter referred to as the 'Original allottee') wherein the company has accepted the request of the allottee and has allotted an apartment bearing no. 4201 on 20th floor in Tower/building no. 4 having a super area of approx. 3045 sq. ft. along with two numbers of car parks earmarked in the basement in the project of the respondents namely 'ATS Kocoon' located at the village of Pawala Khusropur, Sector-109, Tehsil & District Gurugram, Haryana-122017. The total price of the subject apartment as agreed between both the parties was Rs.1,18,90,375/- as mentioned on page no. 5 of the said agreement.

- ii. That as per the clause 11 of the apartment buyer's agreement executed inter se parties, the promoters have proposed to deliver the possession of the subject apartment within 36 months with a grace period of 6 months from the date of actual start of the construction of the particular tower/building in which the registration for the allotment is made. Further, the present complainants are unable to ascertain the due date of possession as the date of actual start of the construction of the particular tower/building is not known. Therefore, in such circumstances, the due date of possession is calculated from the date of execution of the apartment buyer's agreement i.e., 24.01.2012 which comes out to be 24.07.2015.
- iii. That the occupation certificate w.r.t the subject project was obtained from the competent authority on 09.10.2017 and on the same day, an offer of possession w.r.t the subject apartment was made.
- iv. That on 01.02.2022, the present complainants had purchased the subject apartment from the original allottee by paying an amount of Rs.1,24,37,741/- towards the consideration of the subject apartment



and endorsement of the same was done by the respondent no. 2 i.e., M/s Umrita Infrastructure Development LLP.

- v. That the present complainants have approached the promoter several times for the actual handing over of the possession of the subject apartment. Also, many e-mails are written in this regard by the complainants to the promoter respondent's and their employees but all in vain. The complainants had purchased the ready to move in subject apartment with the intention that their family will immediately shift to the said apartment and fulfil their dream of having a home of their own. Due to the aforesaid acts and omissions on part of the respondent company, the complainants are suffering from disruption to their living arrangements, mental torture, and agony and also continue to incur severe financial losses. But till date the subject apartment has not been completed as the internal works are still pending. It is therefore prayed before this Authority that an immediate and peaceful possession of the subject apartment complete in all respect be handed over to the complainants as the total sale consideration w.r.t the said apartment has already been paid and OC has been obtained so there is no reason to wait for the possession.
- vi. That due to the acts of the respondents and the deceitful intent as evident from the facts outlined above, the complainants have been unnecessarily harassed mentally as well as financially, and therefore the respondents are liable to compensate the complainants on account of the aforesaid unfair trade practice. Without prejudice to the above, the complainants reserves the right to file a complaint before the Adjudicating Officer for compensation.



- vii. That the respondents were liable to hand over the possession of a subject apartment on or before the due date of possession as per the clause 11 of the apartment buyer's agreement executed between the original allottee and the respondents. But till date the actual possession of the subject apartment has not been handed over to the complainants even after long perusal with respondent's company. Therefore, the complainants are left with no other option but to file a complaint before this Authority.

C. Relief sought by the complainants

4. The complainant is seeking the following relief:

- i. Direct the respondent to immediate handover the possession of the subject unit complete in all respect to the present complainant as all the payments w.r.t. the subject apartment has already been made by the present complainant.
- ii. Direct the respondent to execute a conveyance deed w.r.t. to the subject apartment.
- iii. Direct the respondent to pay delayed possession charges from the due date of possession till actual handing over of possession.
- iv. Direct the respondent not to charge holding charge anything which is not part of the apartment buyer's agreement.

D. Reply filed by the respondent no. 2

5. The respondent no. 2 has contested the complaint on the following grounds:-
- i. That the present complaint is neither maintainable nor tenable before this Authority and is liable to be out rightly dismissed. The agreement in question was executed between the complainant and the respondent prior to the enactment of the Act, 2016 and the provisions laid down in the said Act cannot be enforced retrospectively.



- ii. That the respondent has filed the present reply within the period of limitation as per the provisions of RERA, 2016.
- iii. That the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute this clause 30 of the buyer's agreement.
- iv. That the complainant has not approached this Authority with clean hands and has intentionally suppressed and concealed the material facts in the present complaint. The present complaint has been filed by him malicious with an ulterior motive and it is nothing but a sheer abuse of the process of law. The true and correct facts are as under:-
 - That the respondent is a reputed real estate developer having immense goodwill comprise of law abiding and peace loving persons and has always believed in rendering best services to its customers including the complainant. The respondent along with its associate companies have developed and placed several prestigious projects such as ATS Greens-I, ATS Greens-II, ATS Village, ATS Paradiso, ATS Advantage Phase-I & Phase-II, ATS One Hamlet, ATS Pristine, ATS Prelude & ATS Dolce and in most of these projects large number of allottees have already been taken possession and even Resident Welfare Associations have been formed which are taking care of day to day needs of the allottees of the respective projects.
 - That the complainant, after checking the veracity of the project namely, 'ATS Kocoon', Sector 109, Gurugram had applied for allotment of a residential unit and agreed to be bound by the terms and conditions of the documents executed by the parties to the complaint. It is submitted that based on the application of the complainant, unit no. 4201, Tower no. 4 was allotted to the complainant by the respondent.
 - That the Buyer's Agreement was executed on 24.01.2012. It is pertinent to mention herein that the Act, 2016 was not in force when the agreement was entered into between the complainant and the respondent. The provisions of the Act, 2016 thus cannot be enforced retrospectively. It is respectfully submitted that the complainants have consciously and voluntarily executed buyer's agreement dated



24.01.2012 after reading and understanding the terms and conditions incorporated therein to their full satisfaction. Once a contract is duly executed between the parties, then the entire rights and obligations of the parties thereto are wholly encapsulated in and determined by the said contract which remains binding on the parties thereto.

- That the total sale consideration of the unit was Rs.1,06,48,500/-. The complainant is well educated person who had made booking with the respondent out of his freewill and only after reading, understanding and verifying the terms and conditions stipulated in the documents pertaining to the allotment including the agreement. No objections against the terms of the documents including the agreement were raised by the complainant with the respondent. The complainant had made the booking only after reading, understanding and verifying the terms and conditions stipulated therein. The complainant had satisfied himself about the right, title, location and limitation in the project of the respondent and had accordingly applied vide application dated 17.12.2011. Moreover, the complainant had also inspected and had satisfied himself with the facts, ownership records and documents relating to the title of the land, sanctioned building plans, permits/licenses/consents for constructions of the apartment and was fully satisfied in all respects. Thus, the averment of the complainant that he was induced to make the booking is absolutely incorrect and denied. It is submitted that the sale consideration of Rs.1,06,48,500/- was not the total sale consideration as wrongly alleged and the said amount was exclusive of registration charges, stamp duty, maintenance charges, service tax, proportionate taxes and charges and other charges which were payable by the complainant towards the total sale consideration and the same is known to him from the very inception as is evident from a bare reading of page 5 of the agreement in question.
- **Inability to undertake the construction for approx. 7-8 months due to Central Government's Notification with regard to Demonetization:** - The respondent had awarded the construction of the project to one of the leading construction companies of India. The said contractor/ company could not implement the entire project for approx. 7-8 months w.e.f from 9-10 November 2016 the day when the Central Government issued notification with regard to demonetization. During this period, the contractor could not make payment to the labour in cash and as majority of casual labour force



engaged in construction activities in India do not have bank accounts and are paid in cash on a daily basis. During Demonetization the cash withdrawal limit for companies was capped at Rs.24,000-/ per week initially whereas cash payments to labour on a site of the magnitude of the project in question are Rs. 3-4 lakhs per day and the work at site got almost halted for 7-8 months as bulk of the labour being unpaid went to their hometowns, which resulted into shortage of labour.

- Further there are studies of Reserve Bank of India and independent studies undertaken by scholars of different institutes/universities and also newspaper reports of Reuters of the relevant period of 2016-17 on the said issue of impact of demonetization on real estate industry and construction labour.
- **The Reserve Bank of India has published reports on impact of Demonetization. In the report-** Macroeconomic Impact of Demonetization, it has been observed and mentioned by Reserve Bank of India at page no. 10 and 42 of the said report that the construction industry was in negative during Q3 and Q4 of 2016-17 and started showing improvement only in April 2017. Furthermore, there have been several studies on the said subject matter and all the studies record the conclusion that during the period of demonetization the migrant labour went to their native places due to shortage of cash payments and construction and real estate industry suffered a lot and the pace of construction came to halt/ or became very slow due to non-availability of labour. Some newspaper/print media reports by Reuters etc. also reported the negative impact of demonetization on real estate and construction sector. That in view of the above studies and reports, the said event of demonetization was beyond the control of the respondent, hence the time period for offer of possession should be deemed to be extended for 6 months on account of the above.
- **Orders Passed by National Green Tribunal:** In last four successive years i.e. 2015-2016-2017-2018, Hon'ble National Green Tribunal has been passing orders to protect the environment of the country and especially the NCR region. The Hon'ble NGT had passed orders governing the entry and exit of vehicles in NCR region. Also the Hon'ble NGT has passed orders with regard to phasing out the 10 year old diesel vehicles from NCR. The pollution levels of NCR region have been quite high for couple of years at the time of change in weather in November every year. The Contractor of Respondent



could not undertake construction for 3-4 months in compliance of the orders of Hon'ble National Green Tribunal. Due to following, there was a delay of 3-4 months as labour went back to their hometowns, which resulted in shortage of labour in April -May 2015, November- December 2016 and November- December 2017. The district administration issued the requisite directions in this regard. In view of the above, construction work remained very badly affected for 6-12 months due to the above stated major events and conditions which were beyond the control of the respondent and the said period is also required to be added for calculating the delivery date of possession.

- **Non-Payment of Instalments by Allottees:** Several other allottees were in default of the agreed payment plan, and the payment of construction linked instalments was delayed or not made resulting in badly impacting and delaying the implementation of the entire project.
- **Inclement Weather Conditions viz. Gurugram:** Due to heavy rainfall in Gurugram in the year 2016 and unfavorable weather conditions, all the construction activities were badly affected as the whole town was waterlogged and gridlocked as a result of which the implementation of the project in question was delayed for many weeks. Even various institutions were ordered to be shut down/closed for many days during that year due to adverse/severe weather conditions. The said period is also required to be added to the timeline for offering possession by the respondent.
- That the respondent after completing the construction of the unit in question, was granted Occupation Certificate by the concerned authorities on 09.10.2017. The respondent offered the possession of the unit to the complainant vide letter dated 09.10.2017. The complainant was intimated to remit the outstanding amount on the failure of which the delay penalty amount would accrue. The complainant was bound to take the physical possession of the unit after making payment towards the due amount along with interest and holding charges.
- That the complainant is a real estate investor who has invested his money in the project of the respondent with an intention to make profit in a short span of time. However, his calculations have gone wrong on account of slump in the real estate market and he is now deliberately trying to unnecessarily harass, pressurize and blackmail the respondent to submit to the unreasonable demands.

6. The present complaint was filed on 05.05.2022 in the authority. Despite service of notice dated 16.06.2022 and 20.06.2022, issued by the registry of the Authority to the respondent no. 1. During proceeding dated 02.01.2024, it was observed by the Authority that *"The respondent no. 1 failed to put in appearance before the authority and has also failed to file reply. In view of the same, the matter is proceeded ex-parte against respondent no. 1"*.

E. Jurisdiction of the Authority

7. The Authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana 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

9. Section 11(4)(a) of the Act 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.

10. 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 as per provisions of section 11(4)(a) of the Act 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 reliefs sought by the complainants**
- F.1 **Direct the respondent to immediate handover the possession of the subject unit complete in all respect to the present complainant as all the payments w.r.t. the subject apartment has already been made by the present complainants.**
11. As per documents available on record, the complainants herein are the subsequent allottees who had purchased the apartment from the original allottee on 01.02.2022 i.e., at such a time when the possession of the subject unit was already offered to the original allottee. In the present complaint, the respondent/promoter has obtained the occupation certificate on 09.10.2017 and thereafter, offered the same on 09.10.2017 to the original allottee. The subject unit was endorsed in favour of the complainants on 01.02.2022, by way of endorsement letter.
12. During proceeding dated 04.03.2025, Shri Rahul Thareja Advocate has appeared on behalf of respondent No. 2 and filed power of attorney and an affidavit in support of completion of the unit along with photographs. The counsel for the complainant contested the same and states that photographs do not depict the real picture. In view of the same, Shri Shanshak Sharma - Engineer Executive of the Authority was appointed as a Local Commissioner to visit the site within 3 days after fixing a date and time from both the parties to ascertain the completion of the project in which the unit of the

complainant is situated and submit the status report within 15 days. The report of the Local Commissioner was received on 24.04.2025, and the conclusion portion is reproduced as under:-

"The site of the complainant unit in the project namely "ATS Kocoon" located at sector-109, Gurugram being developed by M/s Urmitha Infrastructure Development LLP has been inspected on 09.04.2025 with regard to the BBA and it is concluded that.

- *The project consists of 10 numbers of towers (Pocket A- 1 to 6, Pocket B- 7-10) as per the sanctioned site plan and the BBA was executed between both the parties dated 01.02.2012.*
- *The OC for the project has been obtained vide memo no ZP-694/SD(BS)/2017/25373 dated 09.10.2017(Annexure - B).*
- *The flooring (tile work) in the whole unit has been completed except 2 bedrooms in which wooden flooring is proposed as per BBA. However, IPS flooring has been completed in the bedrooms. The material of wooden flooring has been stacked inside the unit.*
- *In kitchen tile work, kitchen slab counter (Granite) and modular kitchen has been completed by the respondent except the sink and CP fittings and electric fittings have been completed in the unit.*
- *There are some cracks in the internal walls of the unit and also beneath the balcony railing which need to be repaired and 1 small patch of plaster on the exterior wall also needs to be repaired.*
- *UPVC windows and UPVC doors has been installed, but the same was observed in very tight condition while operating the same.*
- *The balance work in the unit are CP and chinaware fittings, fixtures in the kitchen, final coat of paint inside the unit and on balcony railing.*
- *17 number of photographs captured at the time of inspection of complainant unit are attached herewith for reference please."*

13. In pursuance to the report available on record, the respondent/promoter is directed to complete the pending work as pointed in the LC report dated 24.04.2025, within a period of 30 days from the date of this order and handover the physical possession of the unit to the complainants. The complainants are directed to take physical possession of the unit in terms of section 19(10) of the Act of 2016, after completion of pending work as pointed out by the LC report dated 24.04.2025 as the occupation certificate was obtained by the respondent/promoter way back in the year 2017.

F.II Direct the respondent to execute a conveyance deed w.r.t. to the subject apartment.

14. The complainants are seeking the relief for the registration of conveyance deed in accordance with section 17 of the Act of 2016. The respondent/promoter has obtained the occupation certificate on 09.10.2017. Whereas the possession was offered by the respondent/promoter obtaining the occupancy certificate as per clause 14 of the buyer's agreement, the respondent shall execution of conveyance deed and transfer of title in favour of allottee of the said apartment and the relevant clause of the agreement is reproduced for ready reference:-

Execution of Conveyance Deed and Transfer of Title in favour of Allottee:

That prior to the time of taking possession of the said Apartment in the aforesaid manner, the Sale / Conveyance Deed and /for other instruments, as may be applicable, shall be executed and registered by the Company in favor of the Allottee subject to receipt of full Sale Consideration and/or other dues and charges as per the Payment Plan. The Allottee shall also complete the formalities of execution of Maintenance Agreement; Deed of Apartment under the Apartment Act. Possession Letter, Electricity Agreement, Membership of the Association, and such other formalities as maybe required by the Company in this regard at the time of execution of the Conveyance Deed.

15. It is to be further noted that section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the unit along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of occupation certificate.
16. As far as the relief of transfer of title is concerned the same is a statutory right of the allottee covered within the preview of section 17(1) of the Act which provides for transfer of title and the same is reproduced below:-

"Section 17: Transfer of title.

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment

of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

17. As OC of the unit has been obtained from the competent authority on 09.10.2017, therefore, there is no reason to withheld the execution of conveyance deed which can be executed with respect to the unit. Accordingly, the Authority directs the respondent/promoter to execute the conveyance deed in favour of the complainants after payment of requisite stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.

F.III Direct the respondent to pay delayed possession charges from the due date of possession till actual handing over of possession.

18. The original allottee i.e., M/s Zoom Commotrade Private Limited was allotted a unit bearing no4201, on the 20th floor of Building -04, in project of the respondent named "ATS Kocoon" at Sector-109, Gurugram. An apartment buyer's agreement was also executed between the original allottee and the respondent regarding the said allotment on 24.01.2012. The occupation certificate was received from the competent authority on 09.10.2017 and possession of the unit was offered to the original allottee vide offer of possession letter dated 09.10.2017. Thereafter, upon the request of the original allottee, name of Chanderjeet Yadav and Urmil Yadav were substituted in place original allottee i.e., M/s Zoom Commotrade Private Limited vide letter dated 01.02.2022. Accordingly, the transfer of ownership by way of endorsement letter dated 01.02.2022 issued by the respondent no. 2 and confirmed the substitution name in the subject unit

and the said unit was transferred/endorsed in the name of the complainant herein.

19. Considering the above-mentioned facts, the Authority is of the view that the complainants herein are the subsequent allottees who had purchased the apartment from the original allottee on 01.02.2022 i.e., at such a time when the possession of the subject unit was already offered to the original allottee. It simply means that the ready to move-in property was offered to the complainants and they were well aware about the fact that the construction of the tower where the subject unit is situated has already been completed and the possession of the same has been offered to the original allottee on 09.10.2017 after issuance of the occupation certificate by the concerned authority. Moreover, they have not suffered any delay as the subsequent allottees/complainants herein came into picture only on 01.02.2022 i.e., after offer of possession which was made on 09.10.2017 to the original allottee.
20. Hence, in such an eventuality and in the interest of natural justice, delay possession charges cannot be granted to the complainants as there is no infringement of any of his right (being subsequent allottee) by the respondent-promoter. In the light of the facts mentioned above, the complainants herein who have become a subsequent allottees at such a later stage are not entitled to any delayed possession charges as they have not suffered any delay in the handing over of possession. Hence, the claim of the complainant's w.r.t. delay possession charges is rejected being devoid of merits.
- F.IV Direct the respondent not to charge holding charge anything which is not part of the apartment buyer's agreement.**
21. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted

flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed.

22. Moreover, the respondent is not entitled to claim holding charges from the complainants/allottees 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. 3864-3899/2020 decided on 14.12.2020 (supra).

G. Directions of the authority: -

23. 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 functions entrusted to the authority under sec 34(f) of the Act: -
- i. No case of delay possession charges under section 18 of the Act, 2016 is made out.
 - ii. The respondents are directed to complete the pending work as pointed by the LC report dated 24.04.2025, within a period of 30 days from the date of this order and shall handover the physical possession of the unit to the complainants. The complainants are directed to take physical possession of the unit in terms of section 19(10) of the Act of 2016, after completion of pending work as pointed out by the LC report dated 24.04.2025.
 - iii. The respondent is directed to get the conveyance deed of the allotted unit executed in the favour of the complainants in terms of section 17(1)



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

- iv. The respondent is directed to not to charge anything which is not part of the buyer's agreement. The respondent is not entitled to charge any amount against holding charges from the complainant/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.
- v. A period of 90 days is given to the respondent/promoters to comply with the directions given in this order and failing which legal consequences would follow.

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

25. File be consigned to registry.

(Ashok Sangwan)
Member

v./ (Vijay Kumar Goyal)
Member

(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 06.05.2025