



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2430 of 2023
Date of filing:	06.11.2023
First date of hearing:	13.05.2024
Date of decision:	05.05.2025

Sandeep Garg, S/o Sh. Pawan Kumar,
R/o House no.956, Sector-10, Panchkula, Haryana.

.....COMPLAINANT

Versus

M/s Shree Vardhman Township Pvt. Ltd, through its Director,
Regd. Office 301, 3rd floor,
Indraprakash Building, 21-Barakhamba Road,
New Delhi-110001

.....RESPONDENT

CORAM: Nadim Akhtar
Chander Shekhar

Member
Member

Present: - Mr. Neeraj Goel, Id counsel for the complainant, through VC.
Mr. Utkarsh, proxy for Mr. Dharamveer, learned counsel for the
respondent through VC.

ORDER (NADIM AKHTAR-MEMBER)

1. Present complaint has been filed on 06.11.2023 by the complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short 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	"Shree Vardhman City " at Sector-30, Kurukshetra
2.	Name of the promoter	Shree Vardhman Township Pvt. Ltd.
4.	Plot no.	C-127
5.	Plot area	300 sq. yards
6.	Date of builder buyer agreement	Not executed
7.	Due date of offer of possession	30.05.2015



8.	Possession clause in BBA	Not available
9.	Total sale consideration	₹36,60,000/- (as per the pleadings)
10.	Amount paid by complainant	₹43,19,061/- (as per receipts attached by the complainant)
11.	Offer of possession	21.07.2021

B. FACTS OF THE COMPLAINT

3. Complainant made following submissions as under:

- (i) That complainant vide its application applied for a 300 Sq. Yard Plot in the project namely "Shree Vardhman City" at Sector 30, Kurukshetra, Haryana, being developed by M/s Shree Vardhman Township Pvt. Ltd, and which was accepted by the respondent company vide its letter dated 12.05.2012 subject to payment of ₹1,25,000/-. True copy of the said letter dated 12.05.2012 is annexed as Annexure C-1.
- (ii) Thereupon, booking amount of ₹6,75,000/- was deposited with respondent before 30.05.2012. Respondent issued an allotment letter dated 30.05.2012 and allotted Plot bearing no. C-127 in the project "Shree Vardhman City." True copy of the said allotment letter dated 30.05.2012 is annexed as Annexure C-2.
- (iii) That on 25.10.2012, Builder Buyer Agreement was executed between the parties but the same was not provided to the complainant. At the time of said BBA, complainant had already paid

up ₹9,25,000/- out of the total sale consideration of ₹36,60,000/- which was inclusive of all the charges, to the respondent.

(iv) In accordance with clause 5 (a) of Builder Buyer Agreement, possession was to be given within 36 months from the date of execution of aforesaid agreement, accordingly the due date of possession comes out to be 25.10.2015. Whereas the said project is still not completed and is already delayed by Eight years as per terms of agreement.

(v) That all the demands of respondent were satisfied by the complainant, which are evident from the receipts dated, 02.03.2012, 15.03.2012, 03.05.2012, 23.05.2012, 18.08.2012, 14.06.2014, 13.11.2014, 30.10.2014, issued by respondent and since there was delayed progress the displeasure of the complainant was expressed verbally to the respondent company on which it was intimated that delay will be covered in future installments. True copies of the aforesaid receipts are annexed as Annexure C-3. That it is worth mentioning here that after the aforesaid installment, complainant had already paid an amount of ₹30,01,552/-.

(vi) That after a delay of more than 6 years, respondent issued one offer of possession letter dated 21.07.2021 along with a number of demands, i.e., ₹15,70,397.83/- for the cost of plot, ₹6,02,782/- qua Government taxes, ₹40,621.36/- for maintenance & ₹2,97,843/- for



stamp duty charges. True copy of the said offer of possession dated 21.07.2021 is annexed as Annexure C-4.

(vii) It is worth mentioning here that in accordance with the aforesaid offer of possession the total cost of the said flat was increased to ₹52,56,727.19/- instead of earlier cost of ₹36,60,000/-. That after the aforesaid illegal demands, complainant still deposited ₹12,76,888/- and ₹40,621/- towards the cost of the unit along with maintenance which is evident from the receipts dated 26.09.2023. True copies of the said receipts are annexed as Annexure C-5.

(viii) That against all the aforesaid illegality committed by respondent company, complainant filed one consumer complaint dated 17.09.2019 against the respondent company before Hon'ble State Consumer Dispute Redressal Commission. True copy of the said complaint dated 17.09.2019 is annexed herein as Annexure C-6. Thereupon, respondent company appeared before the Hon'ble Commission & submitted their reply dated 28.08.2022 on the ground that delay on their part was not intentional. True copy of the said reply dated 28.08.2022 is annexed herein as Annexure C-7. That complainant withdrew the aforesaid consumer complaint with a liberty to avail his remedy before this Hon'ble Authority and the Hon'ble Commission was pleased to accept the request of the



complainant vide its order dated 13.09.2023. True copy of the said order dated 13.09.2023 is annexed as Annexure C-8.

- (ix) That in the present case the mental agony and torture caused to the complainant is beyond limit as the entire illegal acts of the respondent is deliberate and with the sole intention to harass the complainant and to gain illegal monetary benefits.

C. RELIEFS SOUGHT

4. Complainant sought following reliefs:

- (i) A direction shall be given to the respondent company for handing over the possession of allotted residential plot to the complainant as per the agreed terms of the agreement to sell, may be issued.
- (ii) An order to pay the delay in possession charges i.e., 18% per annum interest on the amount paid by the complainant i.e., ₹20,83,000/- as agreed in clauses of the agreement to sell, may kindly be issued.
- (iii) A direction to the respondent to refund of all legal cost of ₹1,00,000/- incurred by the complainant including cost related to this Complaint; may kindly be issued.
- (iv) Issue of such other appropriate order as this Hon'ble Authority may deem fit and proper in the facts and circumstances of the case and in the interest of Justice, Equity and Good Conscience
- (v) Interim order : Respondent company should be barred from selling anymore units in the project in question till the pendency of this



complaint so that not anymore people should be cheated by the respondent company.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

5. Notice was served to the respondent on 07.11.2023 which got successfully delivered on 16.11.2023. Despite giving three opportunities and passing of approximately 357 days from first hearing, i.e., 13.05.2024 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**

6. Ld counsel for the complainant reiterated the facts of the complaint and stated that respondent failed to handover possession of plot despite payment of 43,19,061/-. Respondent issued offer of possession on 21.07.2021, however at that time respondent did not receive the completion certificate. Proxy counsel for the respondent stated that project is complete and completion certificate has been received by the respondent.

F. ISSUE FOR ADJUDICATION

7. Whether the complainant is entitled to get possession of booked plot alongwith delay interest in terms of Section 18 of RERA Act of 2016?

G. OBJECTIONS AND OBSERVATIONS BY THE AUTHORITY

8. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments made by both parties, Authority observes that complainant was allotted plot no. C-127 admeasuring 300sq. yards vide allotment letter dated 30.05.2012 in the project of the respondent namely ; "Shree Vardhman City" in Sector-30, NH-1, Kurukshetra, Haryana. As per pleading of the complainant, the builder buyer agreement was executed on 25.10.2012, however, same is not placed on record.



Complainant has paid an amount of ₹43,19,061/- against the basic sale price of ₹36,60,000/- (as per pleading of the complainant).

9. In the absence of the possession clause of builder buyer agreement, it is relevant to refer **Appeal No 273 of 2019 titled as TDI Infrastructure Ltd Vs Manju Arya**, Hon'ble Tribunal has referred to the observation of Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr. in which it has been observed that period of 3 years is reasonable time of completion of construction work and delivery of possession. In present complaint, the unit was allotted vide allotment letter dated 30.05.2012. Accordingly, taking a period of 3 years from the date of allotment, i.e, 30.05..2012 as a reasonable time to complete development works in the project and handover possession to the allottee, the deemed date of possession comes to 30.05.2015. The respondent has failed in its obligation to hand over possession of plot within the time stipulated.
10. That complainant has attached cancellation letter dated 13.02.2014 of the plot C-127, placed at page no.61 of complaint file. Thereafter, complainant vide letter dated 10.06.2014, placed at page no. 62 of complaint file made request to retain the plot in name of the complainant. After that, approval sheet dated 14.06.2014, is attached at page no. 63 of complaint file which implies that respondent again



allotted the plot C-127 in name of complainant. Also, after cancellation letter dated 13.02.2014, payments had been made by the complainant and no submission has been made by the respondent with regard that respondent has not accepted the payments. Therefore, it is proved that plot still exists in name of the complainant. On 21.07.2021, respondent issued the offer of possession to the complainant along with statement of account. The said offer of possession was not accompanied with part completion certificate or completion certificate. Therefore, said offer of possession is not a valid offer as per law. However, complainant made payments of ₹12,76,888/- and ₹40,621/- towards the cost of the unit along with maintenance which is evident from the receipts dated 26.09.2023. True copies of the said receipts are annexed as Annexure C-5.

11. Now, the issue which remains that complainant wants possession of plot alongwith delay possession charges as respondent has not offered the possession of the plot despite payment of ₹43,19,061/-. Proxy counsel for the respondent during the course of arguments stated that project is complete and completion certificate has been received by the respondent. However, he was not able to assist the Authority with regard to specific date of completion certificate. As respondent has himself admitted that project is complete and completion certificate is



received, it is not clear why the legally valid possession of the plot is not offered to the complainant?

12. In present situation, it is apparent that respondent failed to honour its contractual obligations without any reasonable justification. Facts also remains that complainant-allotee has duly paid the demanded amount to the respondent to the tune of ₹43,19,061/- for the booked plot. As per section 18 of the RERA Act, 2016, if the promoter fails to complete or give possession of an apartment, plot or building in accordance with terms of agreement for sale or as the case may be, duly completed by the date specified therein, the allottee may demand the refund of amount paid and in case the allottee do not wish to withdraw from the project, then he shall be entitled to interest for every month of delay till handing over of possession. As of today, complainant-allotee wants to stay with the project and respondent is duty bound to deliver possession of plot supported with completion certificate.

13. Thus, the Authority finds it a fit case to allow delayed possession charges from the deemed date, i.e., 30.05.2015 to the date on which a valid offer is sent to the complainant after obtaining completion certificate as provided under the proviso to Section 18 (1) of the Act, Section 18 (1) proviso reads as under :-



"18.(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building-

.....

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed".

14.The definition of term 'interest' is defined under Section 2(za) 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;*

15.Complainant in its complaint has sought possession of the plot alongwith interest @18%. It is pertinent to mention here that the legislature in its wisdom in the subordinate legislation under the provisions 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. 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".

16. 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. 05.05.2025 is 9.10%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 11.10%.

17. Authority has got calculated the interest on total paid amount from the deemed date of possession i.e., 30.05.2015 till the date of this order, i.e, 05.05.2025 at the rate of 11.10% as per detail given in the tables below:



Sr. No.	Principal Amount	Deemed date of possession or date of payment whichever is later	Interest Accrued till 05.05.2025
1.	₹30,01,552/-	30.05.2015	₹33,12,554/-
2.	₹12,76,888/-	26.09.2023	₹2,28,329/-
3.	₹40621/-	26.09.2023	₹7264/-
	Total=₹43,19,061/-		₹35,48,147/-
3.	Monthly interest		₹39404/-

18. Accordingly, respondent is liable to pay the upfront delay interest of ₹35,48,147/- to the complainant towards delay already caused in handing over the possession. Further, on the entire amount of ₹43,19,061/-, monthly interest of ₹39404/- shall be payable up to the date of actual handing over of the possession after obtaining completion certificate. The Authority orders that the complainant will remain liable to pay balance consideration amount to the respondent when an offer of possession is made to them.

19. Further, complainant is seeking litigation cost. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*" (supra), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation

expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

20. Hence, the Authority hereby passes this order and issues 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:

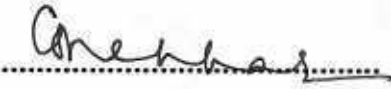
- (i) Respondent is directed to pay upfront delay interest of ₹35,48,147/- to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order. Further, on the entire amount of ₹43,19,061/- monthly interest of ₹39404/- shall be payable by the respondent to the complainant up to the date of actual handing over of the possession alongwith completion certificate.
- (ii) Respondent is directed to give possession of the plot to the complainant. Further, complainant will remain liable to pay



balance consideration amount to the respondent at the time of possession offered to him.

- (iii) 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 to the allottee.
- (iv) Respondent is directed to deposit cost of ₹15,000/- payable to the Authority and ₹7000/- payable to the complainant as imposed vide orders dated 30.09.2024 and 02.12.2024 respectively.

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


CHANDER SHEKHAR
[MEMBER]


NADIM AKHTAR
[MEMBER]