

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

Complaint no.: 4736 of 2023
Date of filing of complaint: 10.10.2023
Date of order: 07.08.2025

1. Jyoti Malhan
2. Narinder Malhan

Complainants

R/o: 99A, Co-operative Colony, Bokaro Steel
City, Jharkhand-827001

Versus

1. M/s KNS Infracon Private Limited.
 2. M/s Tashee Land Developers Pvt. Ltd.
- Both having Regd. office at:** 517A, Narain
Manzil, 23, Barakhamba Road, Connaught
Place, New Delhi-110001

Respondents

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Sh. Rit Arora and Sh. Sachin Saini (Advocates)
Sh. Rishabh Jain (Advocate)

Complainants
Respondents

ORDER

1. This complaint has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Project and unit related details:

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), 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 and location of the project	"Capital Gateway Phase 1", Sector 111, Gurugram
2.	Nature of the project	Group residential
3.	Project area	10.462 acres
4.	DTCP license no.	34 of 2011 dated 16.04.2011 valid up to 15.04.2024
5.	Name of licensee	KNS Infracon Private Limited and 4 others
6.	RERA Registered/ not registered	Registered vide no. 12 of 2018 dated 10.01.2018 valid up to 30.06.2021
	Extension of registration	RC/REP/HARERA/GGM/12 of 2018/7(3)/2022/3 dated 09.08.2022 valid up to 30.06.2025
7.	Unit no.	Flat No.-101, 1 st floor & Tower-B (As per page no. 29 of the complaint)
8.	Unit area admeasuring	1990 sq. ft. (super area) (As per page no. 29 of the complaint)
9.	Date of execution of flat buyer's agreement	11.02.2013 (As per page no. 27 of the complaint)
10.	Date of approval of building plans	07.06.2012 (As per page no. 62 of the complaint)
11.	Possession clause	2. Possession <i>2.1 Subject to clause 9 herein or any other circumstances not anticipated and beyond control of the first party/confirming party and any restraints/restrictions from any courts/authorities and subject to the purchaser having complied with all the terms and conditions of this agreement including but not limited timely payment of total sale consideration and stamp duty and other charges and having complied with all provisions, formalities, documentation etc., as prescribed by the first party/confirming party, whether under this agreement or otherwise, from time to time, the first party/confirming party proposes to handover the possession of the flat to the</i>

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		<p><i>purchaser within approximate period of 36 months from the date of sanction of the building plans of the said colony. The purchase agrees and understands that the first party/confirming party shall be entitled to a grace period of 180 (one hundred and eighty) days, after the expiry of 36 months, for applying and obtaining the occupation certificate in respect of the colony from the concerned authority.</i></p> <p><i>(As per page no. 35 of the complaint)</i></p>
12.	Due date of possession	<p>07.06.2015 without grace period 07.12.2015 including grace period (Note: 36 months from the date of sanction of building plans i.e., 07.06.2012 plus grace period of 180 days) (Grace period is allowed in view of the order dated 08.05.2023 by Hon'ble Appellate Tribunal in Appeal No. 433 of 2022)</p>
13.	Total sale consideration	<p>Rs.56,41,650/- <i>(As per page no. 31 of the complaint)</i></p>
14.	Amount paid by the complainants	<p>Rs.69,68,307/- (As confirmed by the counsel for the complainants during proceedings of the day dated 07.08.2025)</p>
15.	Occupation Certificate/ completion certificate	Not received
16.	Offer of possession	Not offered

B. Facts of the complaint:

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

- I. That the respondent no.1, i.e., Tashee Land Developers Private Limited and respondent no. 2 company i.e., KNS Infracon Private Limited are duly incorporated under the provisions of the Companies Act, 2013. That both the companies in collaboration have launched the subject project, Capital Gateway and are responsible for the completion, development, and delivery of the

subject apartment. Both the companies are signatories to the flat buyer's agreement. It is pertinent to mention that both the companies are sister concerns and have same management.

- II. That in 2010-2011, the respondents had launched the group housing project by the name of "Capital Gateway", situated at Sector 111, Gurugram. The respondents had promoted the said project with extensive and aggressive print and electronic media advertisements. The project was mostly booked by retired and serving defence personnel.
- III. That the complainants were looking for a residential apartment in the Delhi NCR and during such time, the representatives of respondents approached them and informed about the project and made various false and incorrect representations about the construction as well as delivery of possession. The representatives assured the complainants that respondent had obtained all the requisite sanctions and approvals from all competent authorities for starting constructions at the project site and the construction at the project site shall start soon and the possession will be delivered in promised time. The complainants were impressed by the highlights of the project and the representations made by the agents of the respondents and decided to book an apartment bearing no. B-101 admeasuring 1990 sq. ft. for a total sale consideration of Rs.56,41,650/- in the aforesaid project for residential and personal needs.
- IV. That the complainants made the payment of booking amount, and several other instalments to the respondents as and when demanded. Despite being in receipt of the substantial consideration, the respondents did not come forward to execute

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the buyer's agreement with the complainants, and continued to raise illegal demands. The complainants were aggrieved, as they were left with no leverage over the respondents having already made substantial payments.

- V. That the respondents finally shared the draft of the flat buyer's agreement with the complainants in 2013 after continuous requests from the complainants. The draft shared by the respondents were completely unilateral, and provided nothing to safeguard the rights of the complainants in case of failure of the respondents in completing the construction and development of the project.
- VI. That the agreement drawn by the respondent was unfair, arbitrary and one-sided agreement with all the provisions favouring the developer and provided nothing for the complainants in the eventuality of delay in the delivery of the unit. In the agreement, the complainants were denied fair scope of compensation, in case of delay in possession, and were supposed to pay heavy penalty in case of delay in payment of instalments. The arbitrary and unfairness of the apartment buyer's agreement can be derived from the clauses 1.12 & 2.3. As per the clause 1.12, the respondent had the right to levy the delay payment with an interest @ 18% p.a. whereas as per the Clause 2.3, in the case of delay in completion of the project, the complainants were entitled to get a compensation @ Rs. 5/- per sq. ft. every month of delay beyond 45 months.
- VII. That as per clause 2.1 of the flat buyer's agreement dated 11.02.2013, the possession of the apartment was to be delivered within a period of 36 months from the date of sanction of the building plans by the concerned authorities. The approval of the

building plans was received by the respondents on 07.06.2012 and accordingly the possession of the present flat/apartment has been due since 07.06.2015. However, the respondents have miserably failed in completing the construction and development off the apartments/project till date.

- VIII. That the complainants have paid a total sum of Rs.69,68,307/- for the subject unit which is more than the agreed sale consideration. Despite having complied with all the demands on their part, the complainants have been deprived of the possession of their unit/apartment.
- IX. That the respondents were contractually obligated to deliver possession by 07.06.2015 but they have miserably failed and there is a delay of more than 8 years now. Further, the complainants had opted for a construction linked payment plan for payment of total consideration of the apartment and the respondents were supposed to demand instalments from the complainants upon completion of particular milestone as provided in the plan. The complainants kept their end of the bargain and paid the instalments as and when fallen due or demanded by the respondents. But the respondents have illegally demanded instalments from the complainants without actually reaching the relevant milestones at the project site.
- X. That the actual date for offering possession was 07.06.2015, however, there is a delay of more than 8 years and 2 months in delivering the possession. For these years, the respondents have not paid any delayed compensation to the complainants. Thus, in the present the circumstances, the complainants are left with no other option than to file the present complaint for directing the



respondent to deliver immediate peaceful possession of the unit/flat, complete in all aspects to the complainants and with all the amenities and facilities as promised and charged for and also pay compensation for delay in the form of prescribed rate of interest. The complainants further seek execution of conveyance deed/sale deed in their favour.

- XI. That the respondents have left the project in lurch and do not care for the well-being of the complainants. The SWAMIH Fund was announced by the Government of India for completion of the stalled projects as a measure of social welfare. But the respondents could not satisfy the conditions laid out for the utilisation and release of the funds till date. The respondents through letter dated 24.11.2021 once announced that they have received investment of SWAMIH Fund but then retracted through letter dated 18.01.2022. It is clear that the respondents do not act bonafidely for the interests of the homebuyers, and in haste issued the letter to shed any last bit of their responsibility towards the complainants.
- XII. That several homes buyers have approached different forums such as Consumer Commissions, RERA Tribunals, and other courts/forums. The respondents do not seek to abide by the consistent directions issued by these forums to them for the completion of the project and are deliberate defaulters acting malafidely.
- XIII. That the complainants reserve their right to seek appropriate compensation from the learned Adjudicating Officer/ Appropriate Forum and nothing in this complaint shall be deemed as the relinquishment of such legal right of the complainants.

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XIV. That in view of the above-mentioned facts and circumstances it is only appropriate that this Hon'ble Authority may be pleased to hold that the respondents were obligated to deliver possession by 07.06.2015 but they have failed to deliver the possession of the unit to the complainants by stipulated time and even till date they stand in default of their contractual obligations.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
 - i. Direct the respondents to deliver immediate physical possession of the subject unit complete in all respects and upon receipt of the completion/occupation certificate along with all the promised amenities and facilities as per the specifications mentioned in the flat buyer's agreement dated 11.02.2013 and to the satisfaction of the complainants.
 - ii. Direct the respondents to pay compensation on account of delay in delivery of possession of the subject unit, in the form of interest at prescribed rates on the amount already paid by the complainants from the promised date of delivery i.e., 07.06.2015 till the actual/physical delivery of the possession of the unit to the complainants.
 - iii. Direct the respondents to execute conveyance deed/sale deed with respect to the subject unit in favour of the complainants forthwith upon completion of the subject unit and upon receipt of the occupancy/completion certificate.
 - iv. Restrain the respondents from demanding/raising from the complainants any other charges which do not part of the flat buyer's agreement dated 11.02.2013.

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5. The authority issued a notice dated 10.10.2023 of the complaint to the respondents by speed post and also on the given email address at malhannns1970@gmail.com, info@tashee.in and ritarora91@gmail.com for filing reply within 4 weeks. The delivery reports have been placed in the file. The counsel for the respondents neither put in appearance on 18.01.2024, 20.02.2024, 14.03.2024, 28.03.2024 and 25.07.2024 nor filed reply to the complaint within the stipulated period despite given ample opportunities. It shows that the respondent was intentionally delaying the proceedings by avoiding filing of written reply despite a lapse of almost 9 months from the date of filing of complaint and hence no further wait is justified. Therefore, in view of above, the defence of the respondent was struck off on 25.07.2024.
6. The complainants have filed the complaint against R1 and R2 in which R1 is the land owner of the project land and R2 is the developer/promoter. The flat buyer's agreement has been executed with both the respondents and the payments have been made to R2 only. The registered office address of both the respondents as mentioned in the flat buyer's agreement is same. The respondent no. 1 i.e., KNS Infracon Pvt. Ltd. was granted licence by the Director, Town and Country Planning, Haryana vide licence no. 34 of 2011 to develop and construct the residential group housing project in Sector-111, Gurugram. Though the apartment buyer's agreement have been executed with both the respondents and payments have been made to the respondent no. 2 but the respondent no.1 cannot escape its responsibility and obligations to the allottees of the project being licensee of the project and is covered under the definition of promoter within the meaning of 2(zk)(i),(v).

7. The promoter has been defined in section 2(zk) of the Act of 2016. The relevant portion of this section reads as under:

"2. Definitions. — In this Act, unless the context otherwise requires —

(zk) "promoter" means, —

(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) xxx

(iii) xxx

(iv) xxx

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale;"

8. As per aforesaid provisions of law, respondent no.1 & 2 will be jointly and severally liable for the competition of the project. Whereas the primary responsibility to discharge the responsibilities of promoter lies with respective promoter in whose allocated share the apartments have been bought by the buyers.
9. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainants.

D. Jurisdiction of the authority:

10. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D.I Territorial jurisdiction

11. 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.

D.II Subject-matter jurisdiction

12. 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 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.

13. 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 complainants at a later stage.

E. Findings on the relief sought by the complainant(s):

- E.I Direct the respondents to deliver immediate physical possession of the subject unit complete in all respects and upon receipt of the completion/occupation certificate along with all the promised amenities and facilities as per the specifications mentioned in the flat buyer's agreement dated 11.02.2013 and to the satisfaction of the complainants.**
- E.II Direct the respondents to pay compensation on account of delay in delivery of possession of the subject unit, in the form of interest at prescribed rates on the amount already paid by the complainants from the promised date of delivery i.e., 07.06.2015 till the actual/physical delivery of the possession of the unit to the complainants.**

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14. The above sought relief(s) by the complainants are taken together being inter-connected.
15. In the present complaint, the complainants intend to continue with the project and are seeking possession of the subject unit and delay possession charges as provided under the provisions of section 18(1) of the Act which reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of 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."

16. The flat buyer's agreement was executed between the parties. As per clause 2.1 of the agreement, the possession was to be handed over within 36 months from the date of sanction of building plans. The clause 2.1 of the buyer's agreement is reproduced below:

2. Possession

2.1 subject to clause 9 herein or any other circumstances not anticipated and beyond control of the first party/confirming party and any restraints/restrictions from any courts/authorities and subject to the purchaser having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement including but not limited timely payment of total sale consideration and stamp duty and other charges and having complied with all provisions, formalities, documentation etc., as prescribed by the first party/confirming party, whether under this agreement or otherwise, from time to time, the first party/confirming party **proposes to handover the possession of the flat to the purchaser within approximate period of 36 months from the date of sanction of the building plans** of the said colony. The purchaser agrees and understands that the first party/confirming party **shall be entitled to a grace period of 180 (One hundred and Eighty) days, after the expiry of 36 months, for applying and obtaining the occupation certificate** in respect of the colony from the concerned authority.

(Emphasis supplied)

17. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds

of terms and conditions of the agreement, and the complainants not being in default under any provisions of the agreement and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by him in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment time period for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottees of their right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottees is left with no option but to sign on the dotted lines.

18. **Admissibility of grace period:** As per clause 2.1 of buyer's agreement, the respondents/promoters have proposed to handover the possession the said unit within a period of 36 months from date of sanction of building plans. Therefore, the due date of possession comes out to be 07.06.2015. It is further provided in agreement that promoters shall be entitled to a grace period of 180 days for applying and obtaining the occupancy certificate in respect of the colony from the concerned authority. The said grace period is allowed in terms of order dated 08.05.2023 passed by the Hon'ble Appellate Tribunal in ***Appeal No. 433 of 2022 tilted as Emaar MGF Land Limited Vs Babia Tiwari and Yogesh Tiwari*** wherein it has been held that if the allottee wishes to continue with the project, he accepts the term of the agreement

regarding grace period of three months for applying and obtaining the occupation certificate. The relevant portion of the order dated 08.05.2023, is reproduced as under:

"In our opinion if the allottee wishes to continue with the project, he accepts the term of the agreement regarding grace period of three months for applying and obtaining the occupation certificate. So, in view of the above said circumstances, the appellant-promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the Occupation Certificate. Thus, with inclusion of grace period of 3 months as per the provisions in clause 11 (a) of the agreement, the total completion period becomes 27 months. Thus, the due date of delivery of possession comes out to 07.06.2014."

19. Therefore, in view of the above judgement and considering the provisions of the Act, the authority is of the view that, the promoter is entitled to avail the grace period so provided in the agreement for applying and obtaining the occupation certificate. Therefore, the due date of handing over of possession comes out to be 07.12.2015 including grace period of 180 days.
20. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges. However, proviso to section 18 provides that where an allottee(s) does not intend to withdraw from the project, they shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

- (1) For the purpose of proviso to section 12; section 18; and 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.

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21. The legislature in its wisdom in the subordinate legislation under the rule 15 of the rules has determined the prescribed rate of interest. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 07.08.2025 is of 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%.
22. The definition of term 'interest' as defined under section 2(z) of the Act provides that 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. The relevant section is reproduced below:
- "(z) "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;"*
23. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the authority is satisfied that the respondents are in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 2.1 of the flat buyer's agreement executed between the parties, the possession of the subject unit was to be delivered within a period of 36 months from date of sanction of building plans. Date of sanction of building plan is taken from written submissions submitted by complainant i.e., 07.06.2012. As such the due date of handing over of possession comes out to be 07.12.2015. The

respondents have failed to handover possession of the subject unit till date. Accordingly, it is the failure of the respondents/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The authority is of the considered view that there is delay on the part of the respondents to offer possession of the allotted unit to the complainants as per the terms and conditions of the flat buyer's agreement dated 11.02.2013 executed between the parties. It is pertinent to mention over here that even after a passage of more than 10 years neither the construction is complete nor an offer of possession of the allotted unit has been made to the allottee by the builder. Further, the authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottee.

24. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate has not been obtained. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 07.12.2015 till the expiry of 2 months from the date of offer of possession plus two months after obtaining OC or handing over of possession whichever is earlier.
25. Accordingly, it is the failure of the promoter to fulfil its obligations and responsibilities as per the flat buyer's agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondents is

established. As such, the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 07.12.2015 till actual handing over of possession or offer of possession plus two months, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

E.III Direct the respondents to execute conveyance deed/sale deed with respect to the subject unit in favour of the complainants forthwith upon completion of the subject unit and upon receipt of the occupancy/completion certificate.

26. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainants. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
27. The occupation certificate is yet to be obtained by the respondent. Thus, the respondents are directed to handover the possession of the unit after obtaining occupation certificate and get the conveyance deed executed in terms of section 17 of the Act of 2016.

E.IV Restrain the respondents from demanding/raising from the complainants any other charges which do not part of the flat buyer's agreement dated 11.02.2013.

28. The Authority has gone through the apartment buyer's agreement dated 11.02.2013 and observed that as per payment plan (Annexure-D) on page no. 61 of the complaint, along with basic sale consideration of Rs.56,41,650/-, Preferential Location Charges(PLC) @ Rs.125/- per sq. ft., External Development charges(EDC) @ Rs.328/- per sq. ft., Internal Development charges(IDC) @ Rs.36/- per sq. ft., IFMS @ Rs.75/- per sq. ft., Club Membership fee of Rs.1,50,000/- and mandatory covered (Basement/stilt) of Rs.2,75,000/- is forming part of the total sale consideration. However, the complainants have failed to place on record

any demand letter by which the demands were raised by the respondent.

29. First of all the buyer's agreement is a pre-RERA agreement and after going through the pleadings of the complainant and relevant clauses of apartment buyer's agreement dated 11.02.2013, the Authority has observed that the afore-mentioned charges are specifically agreed between the parties, thus the respondent can charge as per the agreed terms of the buyer's agreement dated 11.02.2013.


F. Directions of the authority:

30. 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 respondents are directed to pay interest to the complainants against the paid-up amount at the prescribed rate of 10.90% p.a. (Inadvertently mentioned as 11.10% p.a. in proceedings of the day dated 07.08.2025) for every month of delay from the due date of possession i.e., 07.12.2015 till actual handing over of possession or offer of possession after obtaining occupation certificate plus two months, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
 - ii. The respondents are directed to execute the conveyance deed after payment of requisite stamp duty and registration charges by the complainants in terms of section 17(1) of Act of 2016.
 - iii. The respondents shall not charge anything from the complainants which is not the part of the flat buyer's agreement.
 - iv. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period and the respondents

shall handover the possession within a period of two month after receipt of occupation certificate from the competent authority.

- v. The arrears of such interest accrued from due date of possession i.e., 07.12.2015 till the date of order by the authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
 - vi. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% 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(za) of the Act.
31. Complaint stands disposed of.
32. File be consigned to registry.

Dated: 07.08.2025


(Vijay Kumar Goyal)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram