

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

Complaint no. : 3803 of 2024
Date of filing : 21.08.2024
Date of decision : 11.07.2025

Purushottam Yadav

Asha Yadav

Both R R/o: H.No. 86 Shabazpur Khalsa,
Majra Gurdas, Rewari, Haryana.

Complainants**Versus**

M/s Signatureglobal Homes Pvt. Ltd.

Address: Ground Floor, Tower A, Signature Tower,
South City I, Gurugram, Haryana-122001.

Respondent**CORAM:**

Shri Arun Kumar

Chairman**APPERANCE:**

Shri Rajesh Kumar

Shri Venket Rao

Counsel for the complainants
Counsel for the respondent

ORDER

1. The present 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 provisions of the Act or the Rules and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, 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.	Particulars	Details
1.	Name and location of the project	"Signum Plaza-II in Signature Global Park II" Sector 36, Sohna, Gurugram
2.	Nature of the project	Affordable Plotted colony along with commercial space
3.	DTCP license no. and validity status	39 of 2019 dated 01.03.2019 valid up to 29.02.2024
4.	Name of the Licensee	Signature Global Homes Pvt. Ltd.
5.	RERA registered/ not registered and validity status	Registered vide no. 45 of 2020, dated 01.08.2019 valid up to 30.06.2021. Registration expired
6.	Unit no.	FF-06B on plot no. 2B [Page 34 of complaint]
7.	Booking Letter	01.04.2020 [Page 12 of Complaint]
8.	Unit admeasuring	263.56 sq. ft. (Super area) 131.78 sq. ft. (Carpet area) [Page 33 of complaint]
9.	Welcome/Provisional Allotment Letter	16.07.2020 [Page 19 of complaint]
10.	Date of agreement for sale	12.10.2020 [Page 22 of complaint]
11.	Total Price	Rs. 24,53,366/- (with tax) Rs. 23,30,622/- (without tax) [As per customer ledger dated 09.09.2024 submitted during proceedings]



12.	Total amount paid by the complainant	Rs. 23,26,146/- [As per customer ledger dated 09.09.2024 submitted during proceedings]
13.	Possession clause	7.1 <i>...The developer assures to hand over the possession of the retail unit within 12 months with a grace period of additional 3 months from the date of allotment as per agreed terms and conditions unless there is delay due to "force majeure".</i> [Page 42 of complaint]
14.	Due date of delivery of possession	16.04.2022 16.10.2021 + 6 months as per HARERA notification no. 9/3 -2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020
15.	Completion certificate	04.05.2021 [As per DTCP Website]
16.	Occupation certificate in respect of the subject unit	14.05.2024 [Page 191 of reply]
17.	Offer of possession	30.05.2024 [Page 65 of complaint]
18.	Reminder dated	01.07.2024 [Page 182 of reply] 16.07.2024 [Page 184 of reply]
19.	Pre cancellation notice	05.08.2024 with a time period of 15 days to clear outstanding dues. [Page 72 of complaint]
20.	Cancellation notice	22.08.2024 [Page 188 of reply]

B. Facts of the complaint

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

- i. That the complainants applied on 01.04.2020 by paying a booking amount of Rs. 21,000/- for Shop/Retail unit no. FF-06B (having a super area 263.56 Sq. Ft., containing carpet area of 131.78 Sq. Ft.) on FF Floor in commercial complex namely Signum Plaza-II at "Signature Global Park II" to be constructed and developed on the land situated at Dhunela, Sector 36, Sohna, Gurugram, Haryana. The unit in question was offered for a Total Sale Consideration to the tune of Rs. 22,04,160/-.
- ii. That the complainants received a Welcome Letter -cum- Provisional Allotment of Shop/Retail unit no. FF-06B on 16.07.2020 from the respondent. The complainants have made payment to the respondent to the tune of Rs. 8,09,431/- as and when demanded by the respondent and which is duly received by the respondent before registration of the agreement to sale.
- iii. That the Agreement for Sale inter-se the parties qua the unit in question was duly executed on 12.10.2020. As per clause 7.1 of the Agreement, the possession of the unit in question was to be handed over to the complainants by 16.10.2021. However, the respondent has failed to deliver possession of the unit on or before the due date of possession. There was delay in the construction as per assurance and plan of the respondent, hence the bank delayed payments to the respondent.
- iv. The complainants had paid a sum of Rs.23,22,146/- which has been duly received and acknowledged by the respondent.

- v. That the construction was not as per plan and assurance by the respondent. The respondent kept demanding payment from the complainants instead of paying delay possession charges to them. Hence, complaint hold partial payment of Rs.1,31,222/- to the respondent. In this way, the respondent was responsible for its default not the complainants.
- vi. That the complainants greatly felt hurt, astonished and harassed when they received Offer of Possession along with statement of accounts of the unit in question on dated 30.05.2024 from the respondent informing the complainants have to make payment to the tune of Rs. 9,31,222/- out of which complainants had paid Rs.8,00,000/-.
- vii. That the complainants were shocked to received pre-cancellation notice SG/8.2.1/F54/RO dated 05.08.2024 from the respondent along with statement of total dues Rs.5,38,124.04/- with late payment summary of Rs. 10,903/- of the unit in question.
- viii. That after receiving the possession letter along with statement of accounts mentioning extra payment charges, the complainants requested a lot not to charge extra payment charges because the respondent has already delayed the possession by 2 Years and 9 months and requested the respondent to get registered conveyance deed in favour of the complainants, but the respondent kept on insisting on payment of extra payment charges.
- ix. That the complainants herein have been repeatedly and continuously expressing discontent and objecting to the malafide attitude of the respondent towards its allottee. The complainants

have been requesting to the respondent and has made numerous requests and efforts seeking redressal of his grievance.

- x. That being highly aggrieved and frustrated by the entire circumstances and faced by the miserable attitude of the respondent, the complainants were left with no other option but to approach the Hon'ble Authority for seeking the following reliefs.

C. Relief sought by the complainants:

4. The complainants have sought the following relief(s):
 - i. Direct the respondent not to charge extra payment charges and pay to the complainants delayed possession charge and compensation.
5. On the date of hearing, the authority explained to the respondent/promoter about the contravention 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 complainants had booked the shop by making the payment of Rs.2,21,000/- in two instalments, first instalment of 21,000/- had been made on 27.04.2020 and second payment of Rs.2,00,000/- had been made on 27.06.2020. The above-mentioned facts are also recorded in the application form dated 29.06.2020, hence the claim of the complainants that they booked the shop by making the payment of sum of Rs. 21,000/- is wrong and false and the correct fact is that the payment of Rs.21,000/- is only a part payment towards the booking amount. It is further submitted that the said shop has been booked by the complainants on 29.06.2020 and same is manifested from the application form as the application form

- itself executed on 29.06.2020. Hence, the claim of the complainants that they booked the shop on 01.04.2020 is false and frivolous.
- ii. That the complainants failed to make the payment on time due to which late payment charges were imposed upon them for the sum of Rs.11,634.41/- which itself reflects that the complainants failed to make the payment as and when demanded by the respondent.
 - iii. That the delivery of the possession of the said shop is subject to the Force Majeure, court orders, Government policy/guidelines, decisions etc. affecting the regular development of the project. It is further submitted that the respondent is entitled for the extension of time in delivering the possession of the retail shop in case the project of the respondent is delayed on the account of the above-mentioned condition and for the same, the complainants had already agreed vide BBA dated 12.10.2020. Further, the complainants cannot be permitted to rely upon selected clauses/covenants of Flat Buyer Agreement. The covenants incorporated in the Agreement are to be cumulatively considered in their entirety to determine the rights and obligations of the parties.
 - iv. That the sum of Rs. 127,221/- is due against the unit cost and Sum of Rs. 34,866.90/- is due against the Skyfull Maintenance charges.
 - v. That the construction was always as per plan and assurance given by the respondent except during the period when it was hit by the force majeure and court order and statutory orders. It is further submitted that the complainants are not entitled for any delay charges as there is no delay on the part of the respondent. It is submitted that the possession of the shop has been offered, however the complainants are not making the payment of the due amounts,

the reason best known to them, due to which delay is causing in handing over the possession hence such delay ought not to be calculated on the part of the respondent.

- vi. That the proposed period of delivery of physical possession was subject to Force Majeure circumstances, intervention of Statutory Authorities, receipt of occupation certificate and Allottee having complied with all obligations of allotment in a timely manner and further subject to completion of formalities/documentation as prescribed by the respondent and not being in default of any clause of the Agreement.
- vii. That as per the complainants, the respondent was supposed to offer the possession of the shop in question up to 30.07.2022. However, the said period would have been applicable provided no disturbance/hindrance had been caused either due to force majeure circumstances or on account of intervention by statutory Authorities etc.
- viii. That prior to the expiry of said period, the deadly and contagious Covid-19 pandemic had struck. The same had resulted in unavoidable delay in delivery of physical possession of the apartment. In fact, Covid-19 pandemic was an admitted force majeure event which was beyond the power and control of the respondent.
- ix. That almost the entire world had struggled in its grapple with the Coronavirus menace. The Novel Coronavirus had been declared as a pandemic by World Health Organization. On 14.03.2020, the Central Government had declared the pandemic as a "notified disaster" under the Disaster Management Act, 2005. The same had been

recognized as a disaster threatening the country, leading to the invocation of The Disaster Management Act, 2005 for the first time on a national level. The 21-day national lockdown imposed by the Central Government to combat the spread of first wave of Covid-19.

- x. That in the first wave of Covid as many as 32 states and Union Territories had enforced lockdowns with some ordering a curfew as well. The lockdown meant that all rail and air services stood completely suspended.
- xi. That in order to prevent the outbreak and spread of the Novel Coronavirus, The Haryana Epidemic Disease, COVID-19 Regulations, 2020, had been brought into operation. The Department of Expenditure, Procurement Policy Division, Ministry of Finance had issued an Office Memorandum on 19th of February, 2020, in relation to the Government's 'Manual for Procurement of Goods, 2017', which serves as a guideline for procurement by the Government. The Office Memorandum effectively stated that the Covid-19 outbreak could be covered by a force majeure clause on the basis that it was a 'natural calamity'.
- xii. That for all Real Estate Projects registered under Real Estate Regulation and Development Act, where completion date, revised completion date or extended completion date was to expire on or after 15.03.2020, the period of validity for registration of such projects had been ordered to be extended by Haryana Real Estate Regulatory Authority vide order dated 27.03.2020. The Haryana Real Estate Regulatory Authority, Gurugram had issued order/direction dated 26.05.2020 whereby the Hon'ble Authority had been pleased to extend the registration and completion date of

Real Estate Projects by 6 months, due to outbreak of Covid-19 (Corona Virus).

- xiii. However, even before the expiry of said extended period, it is very much in public domain and had also been widely reported that second wave of Covid-19 had also hit the country badly 'like a tsunami' and Haryana was no exception thereof. Copy of a news as published saying "Not A Wave, It's A Tsunami: Delhi High Court On Covid-19 Surge" is also annexed.
- xiv. That thereafter, during the second wave of Covid also the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula had issued order/direction dated 02.08.2021 wherein it was specifically observed that taking into reckoning the second wave had decided to grant extension of 3 months from 01.04.2021 to 30.06.2021 considering the same as a force majeure event.
- xv. That it was further specifically observed in the direction/order dated 02.08.2021 that the aforesaid period of 3 months would be treated as zero period and compliance of various provisions of Real Estate Regulation and Development Act and Rules and Regulations framed thereunder would stand extended without even there being a requirement of filing of formal application. It needs to be highlighted that Haryana Government had imposed lockdown for different periods even after January 2021 terming it as "Mahamari Alert/Surkshit Haryana (Epidemic Alert/Safe Haryana) resulting in virtual stoppage of all activity within the state of Haryana.
- xvi. That therefore, it is manifest that both the first wave and second wave of Covid had been recognized by this Hon'ble Authority and the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula to

be Force Majeure events being calamities caused by nature which had adversely affected regular development of real estate projects. All these facts have been mentioned hereinabove to highlight the devastating impact of Covid-19 on businesses all over the globe.

- xvii. That moreover, the Agreement of sale notified under the Haryana Real Estate (Regulation and Development) Rules, 2017 categorically excludes any delay due to "force majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. That in addition to the aforesaid period of 9 months, the following period also deserves to be excluded for the purpose of computation of period available to the Respondent to deliver physical possession of the apartment to the Complainants as permitted under the Rules, 2017.
- xviii. That the period of 68 days was consumed on account of circumstances beyond the power and control of the respondent owing to passing of orders by statutory authorities affecting the regular development of the real estate project. Since, the respondent was prevented for the reasons stated above from undertaking construction activity within the periods of time already indicated hereinbefore, the said period ought to be excluded, while computing the period availed by the Respondent for the purpose of raising construction and delivering possession.
- xix. That it is also in public domain that the third wave of Covid-19 had also badly hit all the activities not only in Haryana but also in India and rest of the world.
- xx. That the complainants failed to make the payment towards the final demand which has been raised vide email dated 30.05.2024.

Further vide email dated 30.05.2024, the respondent has offered the possession vide possession letter dated 30.05.2024. The complainants failed to make the payment despite reminder-1 dated 01.07.2024, reminder -2 dated 16.07.2024, pre-cancellation notice dated 05.08.2024, due to which respondent left with no other option i.e. to issue the cancellation notice dated 22.08.2024 vide email dated 22.08.2024.

7. 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 parties.

E. Jurisdiction of the authority

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

E. I Territorial jurisdiction

9. 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

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) 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 maybe;

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.

11. 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 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 objections raised by the respondent**F.I Objection regarding delay due to force majeure circumstances**

12. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as lockdown due to outbreak of COVID-19 pandemic which further led to the shortage of labour and ban on construction by Commission for Air Quality Management in NCR by orders passed from 07.12.2022 to 18.01.2024, thus claiming a further period of 68 days as circumstances beyond the power and control of the respondent.
13. The Authority notes that the construction ban cited by the respondent, was of a short duration and is a recurring annual event, usually implemented by the Commission in November-January. These are known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Further, the respondent has not

demonstrated whether it extended any equivalent relief to the allottees during the period of the construction ban. If the respondent did not relax the payment schedules for the allottees, its plea for relief due to delays caused by the construction ban appears unjustified. Hence, all the pleas advanced in this regard are devoid of merits.

14. Further, the Authority has gone through the possession clause of the agreement and observes that as per clause 7.1 of BBA dated 12.10.2020, the respondent-developer proposes to handover possession of the subject unit ***within 12 months with a grace period of additional 3 months from the date of allotment.*** In the present case, the date of allotment of the subject unit is 16.07.2020. The authority has decided to grant grace period of 3 months being unqualified and unconditional and accordingly, the due date comes out to be 16.10.2021. Further *as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020.* The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 16.10.2021 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date for handing over possession ***in view of notification no. 9/3-2020 dated 26.05.2020,*** on account of force majeure conditions due to the outbreak of Covid-19 pandemic. So, in such a case the due date for handing over of possession comes out to **16.04.2022**. Granting any other additional relaxation would undermine the objectives of the Act.

G. Findings on the relief sought by the complainants

G.I Direct the respondent to not to charge extra payment charges and pay to the complainants DPC and compensation

15. Briefly stated the facts are that the complainants booked Shop No. FF-06B in "Signum Plaza-II" at Signature Global Park II, Sector 36, Sohna, Gurugram, against a total sale consideration of ₹24,53,366/-. A

provisional allotment was issued on 16.07.2020, followed by an Agreement for Sale executed on 12.10.2020, wherein possession was promised by 16.10.2021. Despite paying ₹23,26,146/-, the respondent delayed possession by over 2 years and failed to construct the unit as per the assured plan. On 30.05.2024, the respondent issued an Offer of Possession demanding ₹9,31,222, of which ₹8,00,000 was paid and ₹1,31,222 was withheld by the Complainants due to delayed in handing over possession. Thereafter, the respondent issued a pre-cancellation notice dated 05.08.2024 citing further dues of ₹5,38,124/-. Despite multiple requests to waive extra charges due to the delay, the respondent insisted on payment and refused to register the conveyance deed, leading the complainants to seek legal remedy.

16. On the other hand, the case of the respondent is that the complainants failed to make the payment towards the final demand which has been raised vide email dated 30.05.2024. Further vide email dated 30.05.2024, the respondent has offered the possession vide possession letter dated 30.05.2024. The complainants failed to make the payment despite reminder-1 dated 01.07.2024, reminder -2 dated 16.07.2024, pre-cancellation notice dated 05.08.2024, due to which respondent left with no other option i.e. to issue the cancellation notice dated 22.08.2024 vide email dated 22.08.2024.

In view of the factual matrix of the present case, the question posed before the authority is whether the cancellation is valid in the eyes of law?

17. The Authority observes that on 30.05.2024, the respondent issued an Offer of Possession raising a further demand of ₹9,31,222/-, of which the complainants paid ₹8,00,000/- on 18.06.2024 and 19.06.2024,

withholding ₹1,31,222/- on account of inordinate delay in delivery of possession. The complainants have consistently sought waiver or adjustment of this amount due to the respondent's failure to adhere to the agreed timelines. Thereafter, the respondent issued a pre-cancellation notice dated 05.08.2024 raising further demands of ₹5,38,124/- without offering a clear or justifiable break-up of the said dues. Significantly, the cancellation notice dated 22.08.2024 was issued after the complainants had already approached this forum by filing the present complaint on 21.08.2024 and has pre-served the complaint to the respondent on 10.08.2024 through speed post. The unilateral act of cancellation, post-submission of a legal complaint, amounts to a retaliatory and arbitrary action taken in bad faith.

18. Furthermore, the respondent's own contractual obligations under Clause 7.6 of the BBA dated 12.10.2020 are critical in determining liability. Clause 7.6 of the BBA dated 12.10.2020, provides obligation of the respondent-promoter to pay interest for delay in handing over possession and the relevant clause is reproduced below for ready reference:

"Provided that if the Allottee does not intend to withdraw from the Project, the Developer shall pay the Allottee interest at the rate prescribed in the Rules for every month of delay, till the offer of the possession of the Retail unit which shall be paid by the Developer to the allottee within prescribed period of it becoming due."

19. This clause clearly recognizes the obligation of the respondent to pay interest to the allottee for the delay in handing over possession. The respondent has evidently failed to adjust the interest on account of delay in handing over possession at the time of offer of possession. Rather than complying with this contractual duty, the respondent has raised additional charges and demands on the complainants thereby turning its own default into a burden upon the complainants-allottees.

20. Moreover, the complainants had already paid a substantial amount exceeding the sale consideration (₹23,26,146/- against the basic cost of ₹22,04,160/- as is evident from statement of account dated 09.09.2024), and only a nominal amount of ₹1,31,222/- was being withheld by them on genuine and justifiable grounds. In such circumstances, the act of cancelling the allotment for such a minor and disputed balance cannot be sustained in law.
21. On consideration of documents available on record and submissions made by both the parties and keeping in view the above facts and legal position, the Authority observes that the cancellation is not valid in the eyes of law and the cancellation dated 22.08.2024 is hereby set aside being illegal and arbitrary. Thus, the respondent is directed to reinstate the unit allotted to the complainants.
22. Herein, the complainants intend to continue with the project and are seeking delay possession charges at prescribed rate of interest on amount already paid by them as provided under the proviso to 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."

23. Clause 7.1 of the buyer's agreement (in short, the agreement) dated 12.10.2020, provides for handing over possession and the same is reproduced below:

***7. POSSESSION OF RETAIL UNIT:
7.1 Schedule for possession:***

... The developer assures to hand over the possession of the retail unit within 12 months with a grace period of additional 3 months (12+3 months) from the date of allotment as per agreed terms and conditions unless there is delay due to "force majeure"..."

24. **Due date of handing over possession and admissibility of grace period:** As per clause 7.1 of buyer's agreement dated 12.10.2020, the respondent-developer proposed to handover possession of the subject unit *within 12 months with a grace period of additional 3 months from the date of allotment*. In the present case, the date of allotment of the subject unit is 16.07.2020. The authority has decided to grant grace period of 3 months being unqualified and unconditional and accordingly, the due date comes out to be 16.10.2021. Further, an extension of 6 months is to be given over and above the due date for handing over possession *in view of notification no. 9/3-2020 dated 26.05.2020*, on account of force majeure conditions due to the outbreak of Covid-19 pandemic. Thus, as delineated hereinabove, the due date for handing over of possession comes out to **16.04.2022**.
25. **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, he 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.

26. The legislature in its wisdom in the subordinate legislation under the provision 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.
27. 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., 11.07.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
28. 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. Therefore, interest on the delay payments from the complainants 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 complainants in case of delayed possession charges.
29. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the authority is satisfied that the respondent is 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 7.1 of the buyer's agreement executed between the parties, the possession of the subject unit was to be delivered by 16.04.2022 as delineated hereinabove. The respondent had obtained Occupation certificate from the concerned competent authority on 14.05.2024 in respect of the subject unit and thereafter,

possession of the subject unit was offered to the complainants on 30.05.2024. The authority is of considered view that there is delay on the part of the respondent to offer the possession of the allotted unit to the complainants as per the terms of the buyer's agreement dated 12.10.2020 executed between the parties. It is failure on the part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 12.10.2020 to handover the possession of the subject unit within the stipulated time period.

30. 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 in respect of the subject unit was granted on 14.05.2024. The respondent has offered the possession of the subject unit to the complainants on 30.05.2024 after obtaining occupation. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. This 2 months' reasonable time is being given to the complainants keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to the fact that the unit being handed over at the time of taking possession is in habitable condition. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
31. 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 respondent is established. As such, the complainants-allottees shall be paid, by the promoter, interest for every month of delay from due date

of possession i.e., 16.04.2022 till offer of possession (30.05.2024) plus 2 months i.e., 30.07.2024 or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

H. Directions of the authority

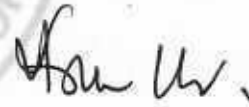
32. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The cancellation is hereby set aside being bad in the eyes of law. The respondent is directed to reinstate the subject unit. Further, the respondent is directed to pay interest on the amount paid by the complainants i.e. Rs. 23,26,146/- at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 16.04.2022 till the offer of possession (30.05.2024) plus 2 months i.e., 30.07.2024 or actual handing over of possession whichever is earlier, as per proviso to section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- ii. The respondent is directed to pay arrears of interest accrued so far within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*.
- iii. The respondent is directed to issue a revised account statement after adjustment of delay possession charges and thereafter the complainants are directed to pay outstanding dues, if any.
- 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(za) of the Act. Further no interest shall be charged from complainants-allottees for delay in making payments, if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

- v. The respondent is directed to handover the possession of the allotted unit to the complainants complete in all aspects as per specifications of buyer's agreement within one month from date of this order, as the occupation certificate in respect of the project has already been obtained by it from the competent authority.
 - vi. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
33. The complaint and application, if any, stands disposed of.
34. File be consigned to registry.

Dated: 11.07.2025



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory
Authority, Gurugram

HARERA
GURUGRAM