

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

Date of decision : 04.07.2025

Name of the Builder		M/s Signature Global (India) Pvt. Ltd.	
Project Name		The Millennia	
S.no.	Complaint No.	Complaint title	Appearance
1.	CR/2228/2024	Pankaj Kumar Vs. M/s Signature Global (India) Pvt. Ltd.	Sagar Yadav, Adv. (Complainant) Venket Rao, Adv. (Respondent)
2.	CR/2230/2024	Shivesh Kumar Vs. M/s Signature Global (India) Pvt. Ltd.	Sagar Yadav, Adv. (Complainant) Venket Rao, Adv. (Respondent)

CORAM:

Shri Arun Kumar

Chairman**ORDER**

1. This order shall dispose of both the complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the

project, namely, "The Millennia", Sectors 37D, Gurugram being developed by the respondent/promoter i.e., **M/s Signature Global (India) Pvt. Ltd.** The terms and conditions of the builder buyer's agreements, fulcrum of the issue involved in all these cases pertain to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of delayed possession charges and others.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project Name and Location	"The Millennia", Sectors 37D, Gurugram, Haryana
Project area	9.7015625 acres
Nature of the project	Affordable Group Housing Colony
DTCP license no. and other details	4 of 2017 dated 02.02.2017 Valid up to 01.02.2022
RERA Registered/ not registered	Registered vide no. 3 of 2017 dated 20.06.2017 Validity- The registration shall be valid for a period of 4 years commencing from 20 June, 2017 and ending on 4 years from the date of environment clearance.
Building plans approved on	08.06.2017
Environmental clearance granted on	21.08.2017
Occupation certificate	21.05.2023
Possession clause as per clause 5 of BBA	5. POSSESSION 5.1 Within 60 (sixty) days from the date of issuance of Occupation Certificate, the Developer shall offer the possession of the Said Flat to the Allottee(s). Subject to force majeure circumstances, receipt of Occupation Certificate and Allottee(s) having timely complied with all

	its obligations, formalities or documentation, as prescribed by the Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.
Due date of possession	21.02.2022 [Note: 4 years are calculated from the date of approval of environmental clearance i.e., 21.08.2017 being later + 6 months of grace period of Covid-19]

S.No.	Particulars	Details w.r.t CR/2228/2024	Details w.r.t CR/2230/2024
1.	Complaint filed on	15.05.2024	15.05.2024
2.	Reply filed on	30.08.2024	30.08.2024
3.	Application for allotment	14.07.2017 [Page 15 of complaint]	25.06.2017 [Page 16 of complaint]
4.	Allotment letter	21.03.2018 [Page 47 of the complaint]	01.11.2017 [Page 55 of complaint]
5.	Unit no.	1101, 11 th floor, tower 6 [Page 21 of complaint]	1102, 11 th Floor, tower 7 [Page 24 of complaint]
6.	Unit area	519.229 sq. ft. of carpet area with balcony area of 79.653 sq. ft. [Page 15 of complaint]	596.126 sq. ft. of carpet area with balcony area of 79.653 sq. ft. [Page 16 of complaint]
7.	Builder buyer agreement executed on	13.04.2018 [Page 14 of complaint]	16.11.2017 [Page 13 of complaint]

8.	Due date of possession	21.02.2022 [Note: 4 years are calculated from the date of approval of environmental clearance i.e., 21.08.2017 being later + 6 months of grace period of Covid-19]	21.02.2022 [Note: 4 years are calculated from the date of approval of environmental clearance i.e., 21.08.2017 being later + 6 months of grace period of Covid-19]
9.	Total sale price of the flat	Rs. 22,86,085/- [SOA dated 22.04.2025]	Rs. 24,24,331/- [Page 195 of reply]
10.	Amount paid by the complainant	Rs. 22,86,085/- [As alleged by the complainant on page 52 of complaint]	Rs. 24,24,331/- [Page 195 of reply]
11.	Occupation certificate	25.01.2023 [DTCP Website]	25.01.2023 [DTCP Website]
12.	Offer of possession	28.03.2023 [Page 49 of complaint]	28.03.2023 [Page 185 of reply]
13.	Possession certificate	19.10.2023 [Page 48 of complaint]	23.11.2023 [Page 56 of complaint]
14.	Conveyance deed	21.06.2023 [Page 190 of reply]	05.06.2023 [Page 189 of reply]
15.	Relief sought	1. DPC 2. Compensation 3. Litigation cost	1. DPC 2. Compensation 3. Litigation cost

4. The aforesaid complaints were filed by the complainant against the promoter on account of violation of the builder buyer's agreement

executed between the parties *inter se* in respect of said unit for seeking award of delayed possession charges and compensation.

5. The facts of both the complaints filed by the complainant-allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/2228/2024 titled as Pankaj Kumar Vs. M/s Signature Global (India) Pvt. Ltd.*** are being taken into consideration for determining the rights of the allottee(s) qua delayed possession charges.

A. Unit and project related details

6. The particulars of unit details, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/2228/2024 titled as Pankaj Kumar Vs. M/s Signature Global (India) Pvt. Ltd.

S.no.	Heads	Information
1.	Name of the project	"The Millennia", Sectors 37D, Gurugram Haryana
2.	Project area	9.7015625 acres
3.	Nature of the project	Affordable Group Housing Colony
4.	DTCP license no. and validity status	4 of 2017 dated 02.02.2017. Valid up to 01.02.2022
5.	RERA Registered/ not registered	Registered vide no. 3 of 2017 dated 20.06.2017 Validity- The registration shall be valid for a period of 4 years commencing from 20 June, 2017 and ending on 4 years from the date of environment clearance



6.	Building plan approved on	08.06.2017 [Page 15 of complaint]
7.	Environmental clearance granted on	21.08.2017 [Page 15 of complaint]
8.	Application for allotment	14.07.2017 [Page 15 of complaint]
9.	Allotment letter dated	21.03.2018 [Page 47 of complaint]
10.	Date of execution of buyer agreement	13.04.2018 [Page 14 of complaint]
11.	Unit no.	1101, 11 th floor, tower 6 [Page 21 of complaint]
12.	Unit admeasuring	519.229 sq. ft. (Carpet area) with balcony area of 79.653 sq. ft. [Page 15 of the complaint]
13.	Possession clause	5. POSSESSION <i>5.1 Within 60 (sixty) days from the date of issuance of Occupation Certificate, the Developer shall offer the possession of the Said Flat to the Allottee(s). Subject to force majeure circumstances, receipt of Occupation Certificate and Allottee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by the Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and</i>



		<p><i>registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.</i></p> <p>[Page 24 of complaint]</p>
14.	Due date of possession	<p>21.02.2022</p> <p>[Note: 4 years are calculated from the date of approval of environmental clearance i.e., 21.08.2017 being later + 6 months of grace period of Covid-19]</p>
15.	Total sale price of the unit	<p>Rs. 22,86,085/- (with tax)</p> <p>[SOA dated 22.04.2025 annexed with written submissions filed by the respondent on 30.04.2025]</p>
16.	Amount paid by the complainant till 30.04.2023	<p>Rs.22,86,085/-</p> <p>[As alleged by the complainant on page 52 of complaint]</p>
17.	Occupation certificate /Completion certificate	<p>25.01.2023</p> <p>[As per DTCP web site]</p>
18.	Offer of possession	<p>28.03.2023</p> <p>[Page 49 of complaint]</p>
19.	Possession certificate	<p>19.10.2023</p> <p>[Page 48 of complaint]</p>
20.	Conveyance deed executed on	<p>21.06.2023</p> <p>[Page 190 of reply]</p>

B. Facts of the complaint

7. The complainant has made the following submissions in the complaint:
- i. That the complainant, relying on the advertisement issued by the respondent company, booked a unit in the project namely "*The Millennia 37D*" at Sector 37D, Gurugram, Haryana (hereinafter referred to as the project) which is being developed by the respondent in terms of the provisions of Affordable Group Housing Policy, 2013 and paid a booking amount of Rs. 1,05,838/-. The complainant received an allotment letter for the unit bearing no. 6-1101. Thereafter, on 13.04.2018, BBA was executed between the parties. The complainant against the demand notices raised by the respondent have paid a total sum of Rs.22,86,085/- in favor of the respondent.
 - ii. That the complainant is entitled for interest for delay in handing over possession as per plethora of judgments issued by the Haryana Real Estate Regulatory Authority, Gurugram. The respondent has not given the complainant the interest that he is eligible for the delayed compensation based on the clause 6.2(ii) of the BBA.
 - iii. That the respondent is guilty of deficiency in service within the purview of provisions of the Act and the Rules. The complainant has suffered on account of deficiency in service by the respondent and as such the respondent is fully liable to cure the deficiency as per the provisions of the Act and Rules. The respondent not only failed to adhere to the terms and conditions of buyer's agreement dated 13.04.2018 and Affordable Housing Policy, 2013 but has also

illegally extracted money from the complainant by stating false promises and statements.

- iv. That as per clause 6.1(i) of the builder buyer's agreements, which was signed on 13.04.2018, the possession of the said unit was supposed to be delivered by 20.08.2021. However, the offer of possession of the unit has been made after a delay of more than 18 months approx. Thus, the respondent is liable to pay interest at the rate prescribed in clause 6.2(ii) i.e., at 15% per annum for every month of delay till the handing over of the possession of the said flat within 45 days of it becoming due. Hence, this complaint.

C. Relief sought by the complainant:

8. The complainant has sought following relief(s):
- i. Direct the respondent to pay interest for every month of delay at the rate of 15% per annum as per BBA w.e.f. the committed date of possession till the actual possession.
 - ii. Direct the respondent to provide compensation to the complainant for causing mental agony and harassment to the tune of Rs. 1,00,000/-.
 - iii. Award litigation costs and expenses to the tune of Rs.20,000/- incurred by the complainant.
 - iv. Any further order this Hon'ble Court and Forum deems fit in favor of the complainant.
9. 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

10. The respondent has contested the complaint on the following grounds:

- i. That the complainant had made detailed and elaborated enquiries with regard to the location of the project, sanctions accorded by the concerned statutory authorities, specifications of the project as well as capacity, competence and capability of the respondent to successfully undertake the conceptualization, promotion, construction, development and implementation of the project. Only after being fully satisfied in all respects, the complainant and other allottees proceed to submit their applications for obtaining allotment of apartments in the Affordable Group Housing Project. This has also been recorded in BBA at recital "L".
- ii. That in case performance of any of the obligation or undertaking mentioned in BBA is prevented due to force majeure conditions in that case respondent is neither responsible nor liable for not performing any of the obligations or undertakings mentioned in BBA at clause 19.2.
- iii. That it is specifically mentioned in clause 19.3 of the BBA that if possession of the unit is delayed due to force majeure in that case the time period for offering possession shall stand extended automatically to the extent of the delay caused under the force majeure circumstances. The complainant cannot be made to rely on selected clauses of the buyer's agreement. The covenants incorporated in the agreement are to be cumulatively considered in their entirety to determine the rights and obligations of the parties. Moreover, the delay, if any, caused was neither intentional nor deliberate, therefore in the light of the above-mentioned facts &

circumstance, the respondent is not liable for any payment for the delay.

- iv. 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.
- v. That as per the complainant, the respondent was supposed to offer the possession, of the apartment in question up to 20.08.2021. 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.
- vi. 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.
- vii. 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 was imposed by the Central Government to combat the spread of Covid-19.
- viii. 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.
- ix. 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 19.02.2020, 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'.
- x. 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).

- xi. 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".
- xii. 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.
- xiii. 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.
- xiv. 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.

- xv. 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 Complainant as permitted under the Rules, 2017.
- xvi. That the period of 293 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.
- xvii. 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.
- xviii. That as per office order dated 31.01.2024 bearing no. PF-27A/2024/3676, issued by the Directorate of Town and Country

Planning, Haryana, a detailed table of clarification of maintenance charges/utility charges chargeable from the allottees as per consumption levied on Affordable Group Housing Projects, has been provided:

"Category- II

"Maintenance/ Use/utility charges which can be charged from the allottees as per consumptions:

- i. Electricity bill (as per consumption)
- ii. Water bill (proportionate to the net consumption)
- iii. Property tax (in case the colony is within MC limits)
- iv. Door to door waste collection charges, garbage collection and upkeep of each floor (other than common areas) .
- v. Any repair inside the individual flat for which services i.e. repair/ replacement of tap, sanitary works, plumbing any damage of flooring, electrical installation etc. can either be got done through the builder or from any other person/ public agency chosen by allottees after taking possession of the flat.
- vi. Diesel cost for power back-up facilities.
- vii. Electricity bill of lifts (as part of common area facilities)
- viii. Running / fuel cost on DG sets/ generator sets for power back-up.
- ix. Any defect liability on part of allottee, but excluding any damage caused on account of lapse on part of developer.
- x. Any other State or Central taxes, any other utility charges. which can be governed through individual bills, telephone, internet etc."

In view of the said office order, the complainant is liable to pay the maintenance charges.

- xix. That the respondent is not indulged in unfair trade practices rather the respondent remained committed to uploading the highest standards of professionalism and integrity in its business dealings as the respondent has provided the waiver to complainant for the sum of Rs.5,473/-, however the complainant did not whisper about the same which itself shows the conduct and malafide of the complainant. It is further submitted that the respondent always adheres to the provisions of the Act, 2016 and the Rules, 2017 and

further the respondent never failed to adhere the terms and conditions of BBA and Affordable Housing Policy, 2013.

11. Written submissions filed by the respondent and complainant are also taken on record and considered by the authority while adjudicating upon the relief sought by the complainant. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written submissions made by the parties.

E. Jurisdiction of the authority

12. 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

13. 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

14. 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.

15. 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 complainant at a later stage.

F. Findings on the objections raised by the respondent

F.I Objection regarding delay due to force majeure circumstances

16. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by the Haryana State Pollution Control Board from 01.11.2018 to 10.11.2018, lockdown due to outbreak of Covid-19 pandemic which further led to shortage of labour, orders passed by National Green Tribunal and other statutory Authorities.
17. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

"All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is

later. This date shall be referred to as the 'date of commencement of project' for the purpose of this policy. The licenses shall not be renewed beyond the said 4-year period from the date of commencement of project."

18. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. 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 National Green Tribunal (NGT) in November. 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.
19. In accordance with the said policy the respondent was obligated to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of the building plan is 08.06.2017 and environment clearance is 21.08.2017 as taken from the project details. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 21.08.2021. 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 complainant is 21.08.2021



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 21.02.2022. Granting any other additional relaxation would undermine the objectives of the said policy.

F.II Whether the execution of the conveyance deed extinguishes the right of the allottee to claim delay possession charges

20. The respondent contended that Conveyance Deed dated 21.06.2023 has already been registered in favour of the complainant and the complainant has no right to claim any amount for delayed possession as agreed between the parties as per clauses of the Conveyance Deed.
21. The authority has already decided the said issue in the complaint titled as ***Varun Gupta. Versus Emaar MGF Land Ltd. (CR/4031/2019)*** wherein it was held that taking over the possession and thereafter execution of the conveyance deed can best be termed as respondent having discharged its liabilities as per the buyer's agreement and upon taking possession, and/or executing conveyance deed, the complainant never gave up his statutory right to seek delayed possession charges as per the provisions of the said Act. Also, the same view has been upheld by the Hon'ble Supreme Court in case titled as ***Wg. Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt. Ltd. (now Known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no. 6239 of 2019) dated 24.08.2020.***
22. Further, Hon'ble Haryana Real Estate Appellate Tribunal vide order dated **14.01.2025** in appeal bearing no. **12 of 2021** titled as ***"Renu Garg Vs. Pioneer Urban Land Infrastructure Ltd."*** wherein the matter

was remitted to the Authority to be decided afresh keeping in view the law laid down in Arifur Rahman Khan's case (supra) and any other precedent on which learned counsel seek to place reliance.

23. The authority is of the view that complainant-allottee has invested his hard-earned money which there is no doubt that the promoter has been enjoying benefits of and the next step is to get the title perfected by executing a conveyance deed which is the statutory right of the allottee. Therefore, in furtherance to the Hon'ble Apex Court judgement and the law laid down in the **Wg. Cdr. Arifur Rahman (supra)**, the authority holds that even after execution of the conveyance deed, the complainant cannot be precluded from his right to seek delay possession charges from the respondent-promoter.

G. Findings on the relief sought by the complainant

G.1 Delay possession charges

24. In the present complaint, the complainant intends to continue with the project and is 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."

25. Clause 5.1 of the buyer's agreement (in short, the agreement) dated 13.04.2018, provides for handing over possession and the same is reproduced below:

*"Within 60 (sixty) days from the date of issuance of Occupation Certificate, the Developer shall offer the possession of the Said Flat to the Allottee(s). Subject to force majeure circumstances, receipt of Occupation Certificate and Allottee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by the Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) **within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.**"*

26. **Due date of handing over possession and admissibility of grace period:** As per clause 5.1 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. As detailed hereinabove, the authority in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic has allowed the grace period of 6 months to the promoter. Therefore, the due date of handing over possession comes out to be 21.02.2022.
27. **Admissibility of delay possession charges at prescribed rate of interest:** The 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.

28. 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.
29. 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., 04.07.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.
30. 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 complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent /promoter which is the same as is being granted to the complainant in case of delayed possession charges.
31. 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 5.1 of the buyer's agreement executed between the parties, the possession of the subject apartment was to be delivered by 21.02.2022 including grace period of 6 months on account of COVID-19. However, no interest shall be charged from the

complainant in case of delayed payment during this 6 months COVID-19 period from 25.03.2020 to 25.09.2020.

32. 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 was granted by the competent authority on 25.01.2023. The respondent has offered the possession of the subject unit to the complainant on 28.03.2023 after obtaining occupation certificate from competent authority. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 months' reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically he has 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. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 21.02.2022 till the expiry of 2 months from the date of offer of possession plus two months or actual handing over of possession, whichever is earlier.
33. 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 complainant-allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 21.02.2022 till offer of possession plus 2 months after obtaining occupation certificate from the competent authority 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.

34. The following table concludes the time period for which the complainant-allottee is entitled to delayed possession charges in terms of proviso to section 18(1) of the Act:

S.no.	Complaint no.	Due date of possession	Offer of possession	Period for which the complainant are entitled to DPC
1.	CR/2228/2024	21.02.2022	28.03.2023	W.e.f. 21.02.2022 till offer of possession plus 2 months i.e., 28.05.2023 being earlier
2.	CR/2230/2024	21.02.2022	28.03.2023	W.e.f. 21.02.2022 till offer of possession plus 2 months i.e., 28.05.2023 being earlier.

G.II Compensation and litigation cost.

35. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & 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 adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the 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 complainant is advised to approach the adjudicating officer for seeking the relief of compensation under the provisions of the Act.

H. Directions of the authority


36. 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 respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 21.02.2022 till offer of possession plus 2 months (28.05.2023) after obtaining occupation certificate from the competent authority 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. The due date of possession and the date of entitlement of delay possession charges are detailed in table given in para 35 of this order.
- 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 complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iv. 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 the allottee, 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

complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

- v. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement and the provisions of Affordable Group Housing Policy of 2013.
37. The complaint and application, if any, stands disposed of.
38. File be consigned to registry.

Dated: 04.07.2025



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory
Authority, Gurugram

HARERA
GURUGRAM