

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

Complaint no. : 936 of 2024
Date of filing : 20.03.2024
Date of decision : 11.07.2025

Rekha Agarwal
R/o: Flat No. 801, Tower B-4, Aloha,
Sector 57, Gurugram, Haryana-122003

Complainant

Versus

M/s SS Group Pvt. Ltd.
Address: Plot No.77, Sector 44,
Gurugram, Haryana-122003.

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Pushkar Raj Garg along with
Ms. Neeru Bala
Shri Venket Rao along with Gunjan
Kumar

Counsel for the complainant

Counsel for the respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 complainant, 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 of the project	"The Leaf", Sector - 85 Gurugram.
2.	Project area	11.093 Acres
3.	Nature of the project	Group Housing complex
4.	DTCP license no. and validity status	81 of 2011 dated 16.09.2011 Valid up to 15.09.2024
5.	RERA Registered/ not registered	RERA registered 23 of 2019 dated 01.05.2019 Valid up to 31.12.2019 Extended vide RC/REP/ HARERA/GGM /2019 /23 dated 20.01.2020 Permission to remain in force under section 7(3) of the Act vide no. 23 of 2019/7(3)/2021/6 dated 30.09.2021
6.	Welcome letter	06.09.2012 [Page 29 of complaint]
7.	Allotment letter dated	08.09.2012 [Page 28 of complaint]
8.	Unit no.	2C, 2 nd Floor, Tower - 1 [Page 32 of complaint]
9.	Unit admeasuring	1575 sq. ft. (Super Area) [Page 32 of complaint]
10.	Area increased vide letter of offer of possession	1640 sq. ft.

11.	Flat Buyer's Agreement	21.08.2013 [Page 30 of complaint]
12.	Possession clause	<p>8. Possession</p> <p>"8.1: Time of handing over the possession</p> <p>8.1 (a) Subject to terms of this clause and subject to the flat buyer(s) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and complied with all provisions, formalities, documentation etc. as prescribed by the developer, the developer proposes to handover the possession of the flat within a period of thirty six months from the date of signing of this agreement. However, this period will automatically stand extended for the time taken in getting the building plans sanctioned. The flat buyer(s) agrees and understands that the developer shall be entitled to a grace period of 90 days, after the expiry of thirty-six months or such extended period, for applying and obtaining occupation certificate in respect of the Group Housing Complex."</p> <p>(Emphasis supplied)</p> <p>[Page 37-38 of complaint]</p>
13.	Due date of possession	<p>21.11.2016</p> <p>(Calculated to be 36 months from the date of execution of BBA + 90 days of grace period)</p> <p>Grace period is included</p>
14.	Total sale price (As per BBA)	<p>Rs. 1,01,20,500 /-</p> <p>[Page 57 of complaint]</p>
15.	Amount paid by the complainant	<p>Rs. 1,14,68,299/-</p> <p>[Page 27 of reply]</p>
16.	Occupation certificate	<p>09.05.2022</p> <p>[Page 73 of reply]</p>
17.	Offer of possession	<p>12.05.2022</p> <p>[Page 76 of reply]</p>

18.	Flat key handover letter	01.09.2022 [Page 83 of reply]
19.	Indemnity-cum-undertaking signed by the complainant for taking over physical vacant possession of the unit on	28.09.2022 [Page 77-80 of reply]

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

- i. That the respondent had been developing a residential apartment project in the name of "The Leaf" at sector-85 Gurugram, which was a group housing colony of 11.093 acres. The complainant learnt about the said project of the respondent company in the year 2012. The complainant had applied for the allotment of an apartment in the said project by paying a booking amount of Rs.7,50,000/- on 22.08.2012 along with Advance Registration Form for booking in pre-launch vide Receipt No. SSG/85/R00371 dated 30.08.2012. The request of the complainant was accepted by the respondent vide allotment letter dated 06.09.2012 and unit bearing no. 2C, 2nd floor Tower 1 having a super area of approx. 1575 sq. ft. for basic sale price Rs. 86,62,500/-. Thereafter, a builder buyer agreement was executed inter se parties on 21.08.2013.
- ii. That the complainant had been a sincere buyer and had paid all the sums as per the demand letter sent by the respondent company from time to time. There had been no delay on the part of the complainant in paying any installment towards the respondent company. The complainant has paid an amount of Rs.

- 1,13,34,306/- towards consideration of the apartment in question and no amount of payment was due from the complainant towards the respondent company. At the time of delivery of possession, the respondent without the consent of the complainant has increased the super area from 1575 sq. ft. to 1640 sq. ft.
- iii. That as per the clause 8.1(a) of BBA dated 23.08.2013, the respondent company was obliged to handover the possession of the said apartment within 36 months from the date of execution of this agreement and a maximum grace period of 90 Days. Therefore, the respondent company was supposed to handover the possession of the apartment to the complainant latest by 23.11.2016. The respondent company had intimated for taking over the possession to the complainant in the year 2022. The actual possession and keys of the apartment was given to the complainant on 01.10.2022 along with the inspection and signing of the letter by the petitioner on 28.09.2022. The respondent company very cleverly had avoided paying penalty for a whole period of delayed possession of the apartment and avoided their lawful liability under the abovementioned agreement. In this regard the complainant had approached the respondents many times but all efforts of the petitioner were in vain.
- iv. That after receipt of the possession, when complainant had inspected the property in question, she came to know that the flat was not ready for habitation, as there were so many defects in the flat and the complainant had approached the respondent regarding those defects.

- v. That the complainant trusted the respondent and deposited the above said amount but the respondent had been working illegally with malafide intention. The respondent was under contractual obligation to perform his part in time and by not handing over the possession to the complainant in time, the respondent committed grave deficiency of services. The respondent is also liable under section 18 of the Act, being responsible for making the allottee pay the installments of the flat without actually delivering the possession of the apartment in time and the complainant not intending to withdraw from the project, the respondent company is liable to pay interest for the delayed period to the complainant as per section 18 of the Act.

C. Relief sought by the complainant:

4. The complainant has sought the following relief(s):
- Direct the respondent to pay delay possession charges to the complainant from the date of booking of the apartment till the date of realization of actual payments.
 - Direct the respondent to pay compensation for the poor workmanship, water seepages and fungus etc. in flat.
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:
- That adhering to the request of the Complainant, the Respondent *vide* Allotment Letter dated 08.09.2012 allotted a Unit bearing No.

2C-T-1. Thereafter, a Flat Buyer's Agreement dated 21.08.2013 (Hereinafter "**FBA**") containing mutually agreed terms and conditions of the allotment was executed between the Complainant and the Respondent. Due to certain force majeure situations beyond the control of the Respondent, the construction/development of the project was hampered. However, despite facing the force majeure situations, the Respondent completed the construction of the project and obtained an Occupation Certificate dated 09.05.2022 from the Competent Authority. Post-receiving the Occupation Certificate dated 09.05.2022, the Respondent offered the possession of the subject unit *vide* Notice for Offer of Possession Letter dated 12.05.2022. In the meanwhile, the complainant chose to settle all her disputes/issues with respect to the delay in handing over of possession and her rights under the Act and the said Settlement was specifically recorded in form of an Undertaking dated 28.09.2022. Thereafter, the possession/keys of the subject unit were taken by the complainant on 01.10.2022.

- ii. That *vide* emails dated 30.04.2018, 13.02.2021, 22.02.2021 and 23.02.2021, the Complainant again requested the Respondent to defer all the payments of the instalments till the offer of possession and not to levy interest on outstanding dues. At the time of the offer of possession, the complainant had to pay an amount of Rs. 33,28,195/- after adjustment of Delay Possession Charges in terms of the FBA. Upon receipt of the offer of possession, it was the duty of the complainant to make the necessary payments and take over the possession of the unit, especially because the complainant had requested to defer all payments towards instalments till offer of

possession. However, even at the time of offer of possession, the Complainant once again requested the Respondent for waiver of the late payment interest component. Since the Parties had already previously mutually agreed to certain terms and conditions, the Complainant after duly taking legal advice expressed her desire to settle with the Respondent all the present or future issues/litigation with respect to delay in possession and other issues pertaining to the allotment of the subject Unit. In view of the same, the complainant has settled all her dispute/issues with respect to the delay in handing over of possession and her rights under the RERA Act, 2016, and the said Settlement was specifically recorded in form of an Undertaking dated 28.09.2022.

- iii. That the complainant despite having knowledge of her rights under the Act, 2016 and post taking legal advice chose to amicably settle the matter with the Respondent and agreed to take the possession in full and final satisfaction of her claims and further undertook to not institute any litigation against the Respondent for claiming delayed possession charges or any other claims. Therefore, in view of the Undertaking/Settlement dated 28.09.2022, the present Complaint is liable to be dismissed solely because the Complainant has settled all her claims *vide* Undertaking/Settlement dated 28.09.2022.
- iv. That the Respondent had already adjusted/deducted an amount of Rs.98,400/- as delay possession charges, from the total outstanding sale consideration amount payable by the Complainant.
- v. That the original super area of the said unit, as per the FBA was 1575 sq. ft. However, on completion of the development of the Project and

final calculation of the area of the Unit, the super area was increased to 1640 sq. ft. (increase of 65 sq. ft. i.e 4.12% increase) and the same is within the permissible variation allowed as per the provisions of the Act. That the Respondent, adhering to the terms and conditions recorded in the FBA and as agreed between the parties, informed the Complainant about the change in sale area and raised a demand of Rs. 4,19,048/-. It is pertinent to mention herein that the Complainant without showing any protest has made the payment demanded on account of the increase in area.

- vi. That section 19(6) of the Act lays down the duty on the Allottee to make necessary payments pertaining to the allotment of the Unit as per the payment schedule and in a timely manner as per the demands raised. The Complainant despite being aware of her obligations under the FBA and the RERA Act, 2016, failed to make timely payments towards the Total Sale Consideration of the Subject Unit. It is pertinent to mention herein that the Complainant on multiple occasions has requested the Respondent for deferment payments. That the Respondent being a customer-centric company, on multiple occasions has waived off the delayed interest on the instalments paid by the Complainant.
- vii. That Clause 8.2 of the Agreement provides that in case of force majeure situations, the date of possession shall extend. The construction/ completion of the project got hampered due to Force Majeure situations beyond the control of the Respondent. Some of the Force Majeure situations faced by the Respondent are being reiterated herein for the sake of clarity:
- NGT orders/ construction bans order by Hon'ble Supreme Court and various courts w.e.f 2015 till 2019;

- Covid-19;
- Demonetization of Rs. 500 and Rs. 1000 currency notes;
- GST Implications;
- Jat Reservation Agitation.

That all the circumstances stated herein above come within the meaning of *force majeure*, as stated above. Thus, the respondent has been prevented by circumstances beyond its power and control from undertaking the implementation of the Project during the time period indicated above and therefore the same is not to be taken into reckoning while computing the period of 36 months plus 90 days grace period as has been provided in the Agreement.

- viii. That the present complaint has been preferred by the complainant on frivolous and unsustainable grounds and the complainant has not approached this Ld. Authority with clean hands and is trying to suppress material facts relevant to the matter. The complainant is making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and sole purpose of extracting unlawful gains from the respondent. The instant Complaint is not maintainable in the eyes of the law and is devoid of merit, therefore is fit to be dismissed *in limine*.
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 complainant 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 NGT/Supreme Court orders by orders passed from the year 2015 till the year 2019.
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 NGT/Apex Court in the months of 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 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 shortage of labour.
15. Further, the authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit within a period of 36 months from the date of execution of the buyer's agreement along with grace period of 90 days. In the present case, the date of execution of the buyer's agreement is 21.08.2013. Grace period of 90 days is allowed to the respondent being unconditional and unqualified. Thus, the due date of handing over possession comes out to be 21.11.2016.

16. As far as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as ***M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/2020 and I.As 3696-3697/2020*** dated 29.05.2020 has observed that:

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

17. The respondent was liable to handover the possession of the said unit by 21.11.2016 and is claiming benefit of lockdown which came into effect on 24.03.2020 whereas the due date of handing over of possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, the authority is of the view that outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself and for the said reason, the said time period is not excluded while calculating the delay in handing over possession. In view of the above, the objection raised by the respondent to extend the due date of handing over possession due to force majeure circumstances due to COVID-19 is declined.

F.II Whether signing of unit hand over letter or indemnity-cum-undertaking at the time of possession extinguishes the right of the allottee to claim delay possession charges.

18. The respondent contended that at the time of taking possession of the subject apartment, vide indemnity cum undertaking dated 28.09.2022, the Complainant after duly taking legal advice expressed her desire to settle with the Respondent all the present or future issues/litigation with respect to delay in possession and other issues pertaining to the allotment of the subject Unit. In view of the same, the Complainant has settled all her dispute/issues with respect to the delay in handing over

of possession and her rights under the RERA Act, 2016, and the said Settlement was specifically recorded in form of an Undertaking dated 28.09.2022. The relevant clause of the said undertaking is reproduced below:

"9. That I/we are fully aware of the fact that the Real Estate (Regulation and Development) Act has come into operation. However, I/we after seeking legal advice are convinced that amicable resolution of the matter is a prudent decision. I/we do not wish to be engaged in protracted and multifarious litigation. I/we are fully conscious of the quantum of compensation which can be claimed by in terms of aforesaid statute. However, after deliberating on all aspects of the matter I/we have intentionally agreed to accept the possession & compensation if any in full and final satisfaction of all my/our claims. This undertaking shall be binding on me/us with full force and effect. I/we undertake not to stake any claim of any nature in respect of any amount directly/impliedly directed to or connected with allotment of the aforesaid apartment in my/our favour. I/we further undertake not to institute any litigation of any nature at any subsequent point of time against the Company for claiming compensation towards delay in delivery of physical possession or any other account.

10. That I/We do hereby agree and undertake that I/We shall not raise any claim or dispute whatsoever, monitory or otherwise, against the various Charges already deposited with the Company at the time of possession of the Unit."

19. In the complaint bearing no. **4031 of 2019** titled as **Varun Gupta V/s Emaar MGF Land Ltd.**, the authority has comprehensively dealt with this issue and has held that the aforesaid indemnity cum undertaking does not preclude the allottees from exercising their right to claim delay possession charges as per the provisions of the Act.
20. In light of the aforesaid order, the complainant is entitled to delay possession charges as per provisions of the Act despite signing of indemnity at the time of possession or unit handover letter.

G. Findings on the relief sought by the complainant

G.I Delay possession charges

21. 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 her 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."

22. Clause 8 of the buyer's agreement (in short, the agreement) dated 21.08.2013 provides for handing over possession and the same is reproduced below:

"8. POSSESSION

8.1 Time of handing over the possession

... 8.1 (a) Subject to terms of this clause and subject to the flat buyer(s) having complied with all the terms and conditions of this agreement and not being in default under any of the provisions of this agreement and complied with all provisions, formalities, documentation etc. as prescribed by the developer, the developer proposes to handover the possession of the flat within a period of thirty six months from the date of signing of this agreement. However, this period will automatically stand extended for the time taken in getting the building plans sanctioned. The flat buyer(s) agrees and understands that the developer shall be entitled to a grace period of 90 days, after the expiry of thirty-six months or such extended period, for applying and obtaining occupation certificate in respect of the Group Housing Complex."

23. **Due date of handing over possession and admissibility of grace period:** As per clause 8.1 of buyer's agreement dated 21.08.2013, the respondent-developer proposed to handover possession of the subject unit *period of thirty six months from the date of signing of this agreement with a grace period of 90 days 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 21.11.2016.

24. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is 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.

25. 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.
26. 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%.
27. 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.

28. 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 8.1 of the buyer's agreement executed between the parties, the possession of the subject unit was to be delivered by 21.11.2016 as delineated hereinabove. The respondent had obtained occupation certificate from the concerned competent authority on 09.05.2022 in respect of the subject unit and thereafter, possession of the subject unit was offered to the complainant on 12.05.2022. 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 complainant as per the terms of the buyer's agreement dated 21.08.2013 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 21.08.2013 to handover the possession of the subject unit within the stipulated time period.
29. 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 09.05.2022. The respondent has offered the possession of the subject unit to the complainant on 12.05.2022 after obtaining occupation certificate. 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 she 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. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

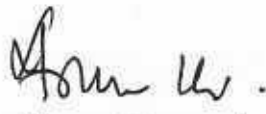
30. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the complainant-allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 21.11.2016 till offer of possession (12.05.2022) plus 2 months i.e., 12.07.2022 or actual handing over of possession i.e., 01.09.2022, whichever is earlier as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

G.II Compensation

31. The complainant is also seeking relief w.r.t compensation for the poor workmanship, water seepages and fungus etc. in flat. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as ***M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.*** (Civil Appeal no. 6745-6749 of 2021), has held that the adjudicating officer has exclusive jurisdiction to deal with the complaints for compensation under sections 12,14,18 and section 19 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72 of the Act. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of compensation and litigation expenses.

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 respondent is directed to pay interest on the amount paid by the complainant i.e. Rs. 1,14,68,299/- at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 21.11.2016 till offer of possession (12.05.2022) plus 2 months i.e., 12.07.2022 or actual handing over of possession i.e., 01.09.2022, whichever is earlier as per section 18(1) of the Act of 2016 read with rule 15 of the Rules, *ibid*. 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*.
 - ii. Also, the amount of compensation i.e., Rs.98,400/- so paid by the respondent towards compensation for delay in handing over possession shall be adjusted towards the delay possession charges to be paid by the respondent in terms of proviso to section 18(1) of the Act.
 - iii. The respondent shall not charge anything from the complainant 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