

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

**Complaint no.** : 4254 of 2023  
**Date of filing :** 03.10.2023  
**Date of decision :** 22.07.2025

Gaurav Saran  
R/o: - D-152, Sector-40, Noida U.P.-201301

**Complainant**

Versus

M/s Ramprastha Promoters and Developers Private  
Limited.

**Respondent**

M/s Ramprastha Estates Private Limited.

**Regd. Office at:** Plot no. 114, Sector- 44, Gurugram-  
122002

**CORAM:**

Shri Arun Kumar  
Shri Ashok Sangwan

**Chairman  
Member**

**APPEARANCE:**

Shri Rahul Bhardwaj  
Ms. R. Gayatri Mansa, Shri  
Navneet Kumar and Shri Rajat  
Gupta

Advocate for the complainant  
Advocate for the respondents

**ORDER**

1. The present complaint dated 03.10.2023 has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the

promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made there under or to the allottee 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. N.	Particulars	Details
1.	Name and location of the project	"Ramprastha City", Sector-92, 93 & 95, Gurugram.
2.	Nature of the project	Residential plotted colony
3.	Rera registered	Registered vide no. 13 of 2020 dated 05.06.2020 Valid upto 31.12.2024
4.	Date of receipt	27.06.2011 (page 35 of complaint)
5.	Intimation regarding Provisional allotment letter	13.08.2013 ( Page 34 of complaint)
6.	Plot No.	D 95 (page no. 34 of complaint)
7.	Plot area admeasuring	500 sq.yds (page 35 of complaint)
8.	Date of builder buyer agreement	NA

9.	Possession Clause	NA
10.	Due date of possession	13.08.2016 (Calculated as per <i>Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018</i> from the date of allotment letter i.e. 13.08.2013)
11.	Payment Receipt	Rs. 5,00,000/- (page 35 of complaint)
12.	Basic sale price	NA
13.	Amount paid by the complainant	Rs. 5,00,000/- (page 35 of complaint)
14.	Occupation certificate	Not obtained
15.	Offer of possession	Not offered

### B. Facts of the complaint

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

- i. That sometime in the year 2012, the respondent(s) started the development works of its real estate project of residential plotted colony under the name and style of Ramprastha City, Sector - 92, 93 & 95, Gurgaon (now Gurugram), Haryana. The respondent(s) advertised the aforesaid real estate project as a one-of-a-kind development with impeccable facilities and further promised to complete the project within a reasonable amount of time.

- ii. That induced by the attractive advertisements, assurances, representations, and promises made by the respondent(s) and, thus, believing the same to be correct and true, the complainant sought allotment of a plot in the said project of the respondent(s). *Vide* the provisional allotment letter, the respondent(s) acknowledged the booking request made by the complainant and allotted a plot bearing number D-95, situated in sector 92, 93, & 95 in the upcoming project known as "Ramprastha City "admeasuring 500 sq. yds. to the complainant.
- iii. That the complainant at the time of provisional allotment letter paid an advance amount of Rs. 5,00,000/- towards the booking of the plot in the upcoming residential plotted society of the respondent. The said amount paid by the complainant was duly accepted by the respondent and accordingly, provided a receiving receipt to the complainant plots will be done immediately when the approval of the project comes through.
- iv. That the respondent further promised to the complainant that the said agreement executed between the parties is towards the provisional allotment of the plot, however, the complainant would be entering into the allotment letter as well as the plot buyer agreement on arrival of the RERA registration number from the competent authority and further agreed to execute the final allotment letter of the said plot and accordingly, the complainant would be required to pay the external development charges/ infrastructural development charges, development charges or any other charges that may be levied by the government or by the respondent for which the complainant shall have no objection.
- v. That believing all the above false promises and misrepresentations, the complainant paid an initial amount of Rs. 5,00,000/- as requested by the respondent. However, what is pertinent to mention that the respondent

since then raised no demand letters towards the future installments of the plot and neither apprised the complainant with the fact the respondent's project (where the said plot is situated) has already received the RERA Registration Number. The complainant with bona-fide intention waited for long 10 years in the anticipation that the respondent would be acting upon the promise and would be allotting the plot to the complainant.

- vi. That between 2013 and 2020, the complainant kept pursuing the case with the respondent, demanding execution of necessary agreements for the suit property in their favour since the respondent obtained the necessary approvals by the competent authority and accordingly was required to execute the allotment letter as well as the plot buyer agreement. In that regard numerous communications were made through personal meeting with Mr. Arvind Walia, director of the respondent, at the office of the Respondent at Plot no. 114, Sector - 44 and through oral communication.
- vii. That taking assurances given by Mr. Arvind Walia, on the face value, as stated above, the complainant met various employees of the respondent from CRM head to other top executives on the assurances of Mr. Walia. However, during the meeting, Mr. Arvind Walia concocted another story and stated the suit property cannot be conveyed due to government restrictions and asked the complainant to wait for some more time. The complainant was shocked to hear the same as the complainant was never informed of the alleged government restrictions being cited and for the first time. Further the complainant confronted Mr. Walia as to why despite having received the amount complainant were never made aware of the alleged government restrictions and demanded supporting documents for the claim being made that the suit property cannot be conveyed due to said government restrictions. However, Mr. Walia had no answer to the queries posed by the

complainant, nor was he able to provide and supporting documents kept regarding the alleged government restrictions, to which complainant, without prejudice stated that in case the complainant should be given some other alternative plot in another project. This meeting ended with Mr. Walia asking the complainant to come again in some time, however when complainant insisted on that he cannot wait for so long as there has been considerable delay and process needs to be expedited.

- viii. That after receiving no cogent answers from the respondent, the complainant sent letters dated 20.05.2023 and 29.05.2023 apprising the same to the Respondent to perform their obligation as promised via provisional allotment letter. However, since making those correspondences, the complainant has received not even a single reply from the respondent to the same, thereby clearly indicating that the respondent has not only defrauded the complainant but rather played unfair trade practice by usurping the hard-earned money of the complainant.
- ix. That the respondent executed the provisional allotment letter by misrepresenting and with mala-fide intentions to the complainant in order to usurp the hard-earned money as well as with an intention to de-fraud the complainant. Moreover, by doing so, the respondent further violated the provisions of section 12 of the RERA Act, 2016 by falsely advertising the same and selling the plot under the contingency of receiving the RERA registration number. The illegal acts of the respondent clearly depict its *mala-fide* intentions where neither the respondent has executed the allotment letter nor executed the plot buyer agreement with the complaint even after the arrival of the RERA Registration Number. The acts of the respondent further clearly shows its ulterior motive to extract money from the innocent buyers fraudulently and also demonstrates the unfair trade

practices and restrictive trade practices under the provisions of the RERA Act, 2016.

- x. That it is pertinent to mention that the provisional allotment letter entered between the parties was only the preliminary draft containing the basic but final understanding between both the parties enunciating the rights and liabilities of each party thereby making the agreement legally enforceable under the eyes of law as well as under the RERA Act, 2017.

**C Relief sought by the complainants: -**

4. The complainants have sought following relief(s)
- I. To get possession to the complainant from the respondent, within 6 months of the filing of this complaint, of the allotted plot developed by.
  - II. If the respondent fail on (a) above, then, within 6 months of the filing of this complaint, to get the possession of alternative plot to the complainant from the respondent of any other equivalent plot of the same area owned and/ or developed by the Respondent in Gurugram.
  - III. To get the delayed possession interest @ prescribed rate from the due date of possession i.e 23.08.2013 till the actual date of possession of the plot as per the provisions of the RERA Act, 2016.
  - IV. To get an order in favour of the complainants by restraining the respondent(s) from charging more than the agreed price.
  - V. To direct the respondent(s) to pay a sum of Rs. 1,50,000/- to the complainants towards litigation costs.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions 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 at the very outset, it is pertinent to bring it to the notice of this Hon'ble Authority that the complainant has merely filed a **money receipt** which is not acceptable as a valid document and does not create any right in favour of the Complainant to invoke the provision of the Real Estate (Regulation and Development) Act, 2016. It is submitted that the Complainant has not filed any documents to prove that the complainant is an allottee within the definition of the Real Estate (Regulation and Development) Act, 2016. The present complaint is not maintainable in its present form and the complaint is liable to be dismissed in limine on the above ground. That the Haryana Real Estate Regulatory Authority (hereinafter referred to as "Ld. Regulatory Authority") has no jurisdiction to entertain the present complaint.
- ii. That it is submitted that in one of the future projects that had been conceived by the respondent, the respondent being aggrieved of the incorrect sectoral plan of Sector 37-C and D, Gurugram for which License No.128 of 2012 dated 28.12.2012 was granted to the Respondent, had approached the Department of Town and Country Planning, Haryana. Pertinently, vide order dated 01.04.2021 in *Appeal No.1 of 2021; Ramprastha Estates Pvt. Ltd. versus Director, Town and Country Planning, Haryana, Chandigarh*, the period between the date when the license was issued by the department i.e. 28.12.2012 and the date of approval of the revised/correct Sectoral Plan i.e. 01.09.2017 was ordered to be treated as 'Zero Period' as far as the obligations



of the Respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license are concerned.

- iii. That the complainant had approached the respondent and made inquiries regarding future projects of the respondent. That the complainant was categorically informed there is no plot available since the zoning plans have not been approved. That the complainant had voluntarily sought to advance money to the respondent in anticipation of future approval and in the hope of making speculative gains. But since the zoning plans have not been approved by the government till date, the complainants have sought to file this vexatious complaint which is completely unsubstantiated and is bereft of any material documentary evidence. The respondent has not agreed to provide any service whatsoever to the complainant since the plans were not approved by the competent authority and the complainant has not provided any documents to prove that any such promise was ever made by the respondent. The complainant has voluntarily entrusted a sum of money to the respondent so that they will get the first priority in case the development plans eventually get approved by the competent authority. That the respondent has neither promised any particular plot or location nor promised any particular price or completion date to the complainant. Hence there is no question of any breach by the respondent and no cause of action has accrued in favour of the complainant.
- iv. That the present Complaint has been filed with malafide intention and is an abuse of the process of the Authority which is evident from the prayers wherein the complainant had demanded hefty interest when there was no

agreement between the complainant and the respondent whatsoever for either any allotment or any development and hence there exists no agreed terms for possession date or price or location/project etc., hence there are no terms which can be said to be legally enforceable under the provisions of the Real Estate (Regulation and Development) Act, 2016. The complainant is well aware of the fact that the money entrusted by the complainant was not towards any booking or agreement but merely to ensure that in case any development approval is granted by the concerned authorities in future the complainant will get an opportunity to participate in priority of other interest customers. The complainant has filed the complaint claiming wrongful gains in the form of interest at the cost of the respondents when in reality there was no such understanding between the parties and there is no condition to attract the provisions of the Act.

- v. That the complainant had approached the respondent in the year 2012 showing an interest to participate in one of the future potential projects of the respondent. It is pertinent to mention that the above-named future potential project was indeterminate at the point of time when the money was paid by the complainant merely to ensure that he is given priority to participate in any project that gets the approval of the Competent Authority. It is submitted that the complainant had the option at all times to either claim refund of his money or let his money remain with the respondent in anticipation of future approvals which is subject to government action. Further, the complainant had the option at all times to recall his money even if the approval had come through, in the event, he was not willing to participate in such projects. Since

the complainant, always had such option but voluntarily opted to let his money remain with the respondent, hence he cannot be allowed to claim interest which has no legal or contractual basis. It is submitted that the Real Estate (Regulation and Development) Act, 2016 can come to the rescue of only genuine allottees and not speculative individuals like the complainant.

- vi. That the complainant fully being aware of the dynamic prospects of the said futuristic project which was indeterminate at the point of time when the complainant paid the money and the fact that it is subject to various government approvals for which there is no time line assured by the government authorities, either promised or otherwise, have still decided to keep their money with the respondent which was clearly with a speculative purpose and such speculative acts are not protected by any law. Hence, no right of the complainant could be said to have been breached by the respondent, giving rise to any claim for interest as alleged by the complainant. Hence, the complainant is liable to be dismissed with costs.
- vii. That it is herein submitted that from the date of payment till the date of filing of the present complaint, the complainant has never raised any demand or claim whatsoever even though the complainant had the option at all times which show that the complainant voluntarily let his money remain with the respondent for his own selfish and speculative intents. The complainant has now approached the Authority with concocted and fabricated story to conceal the true matrix of the situation accordingly to which the complainant has no vested right in any determinate project but has merely paid money to be allowed to participate in case the approvals had come through. The conduct of

the complainant clearly indicates that the complainant's objects and intents are speculative not only behind making the payment but also behind filing the present complaint. It is shocking that the complainant is even today not claiming any refund but is trying to abuse the process of the Tribunal to claim hefty interest which is not tenable in law in the facts and circumstances of the present case. It is submitted that the complainant is indirectly claiming specific performance for delivery of an indeterminate property on the basis of indeterminate terms which is not permissible in the eyes of law. The complainant has no vested right to claim possession of any property as it is not yet determined and hence there is no question of any delay as alleged by the complainant. It is submitted that the delay is absolutely non-existent and imaginary under the present facts and hence, there is no entitlement of any interest whatsoever.

- viii. That further no date of possession has ever been mutually agreed between the parties. That in absence of any document in the nature of a builder buyer agreement, which contains several terms and conditions including the date of possession and the consequences of default, no date of possession can be said to have been mutually agreed between the parties. It is trite in law that a party claiming default must first prove the default beyond reasonable doubt by means of substantial evidence. The complainant herein has not adduced any reasonable proofs in the nature of documentary evidence which establishes the date of possession, terms and conditions of possession, default and the consequential effect of such default. It is submitted there is no possibility of

execution of a builder buyer agreement because the property is indeterminate and also there are no specific terms that have been mutually agreed.

ix. That as per the averments made by the complainant, the complainant has claimed interest from the year 2007. However, the complainant has failed to establish as to how such a date of default has been calculated by the complainant.

7. All other averments made in the complaint were denied in toto.

8. 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 submissions made by the parties.

#### **E. Jurisdiction of the authority**

9. 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.**

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by The 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**

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

**Section 11(4)(a)**

**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 may be;

**Section 34-Functions of the Authority:**

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

12. 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 maintainability of complaint**

13. The counsel for the respondent has raised an objection that the complaint is barred by limitation as the complainant has made the payment back in 2011. The objections to the same were to be raised in a time bound manner. Hence, the complaint is not maintainable on the above-mentioned ground.

14. On consideration of the documents available on record and submissions made by the party, the authority observes that the as per proviso to section 3(1) of

Act of 2016, ongoing projects on the date of commencement of this Act for which completion certificate has not been issued, the promoter shall make an application to the authority for registration of the said project within a period of three months from the date of commencement of this Act. The relevant part of the Act is reproduced hereunder: -

*Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:*

The project in question, namely, "Ramprastha City, Sector-92, 93 & 95, Gurugram" is a duly registered project, which was granted registration vide No. 13 of 2020 dated 05.06.2020. Further, no completion certificate has yet been obtained by the promoter-builder with regard to the concerned project.

15. The legislation is very clear in this aspect that a project shall be regarded as an "ongoing project" until receipt of completion certificate. Since no completion certificate has yet been obtained by the promoter-builder with regards to the concerned project.
16. It is important to note that despite receipt of consideration of Rs. 5.00,000/- against the booked plots back in 2011, the respondent-promoter has failed to execute an agreement for sale with respect to the same. As the respondent has failed to handover the possession of the allotted plot to the complainants and thus, the cause of action is continuing till date and recurring in nature.
17. Keeping in view the aforesaid facts and legal position, the objection with regard to the complaint barred by limitation is hereby rejected.

**F.II Date of approval of the revised/correct sectoral plan i.e. 28.12.2012 to 01.09.2017 to be treated as Zero Period**

18. The respondent has contended that being aggrieved in respect of the incorrect sectoral plan of Sector 37-C and D, Gurugram for which license No.128 of 2012 dated 28.12.2012 was granted to the respondent, had approached the Department of Town and Country Planning, Haryana. Pertinently, vide order dated 01.04.2021 in *Appeal No.1 of 2021; Ramprastha Estates Pvt. Ltd. versus Director, Town and Country Planning, Haryana, Chandigarh*. Therefore, the period between the date when the license was issued by the department i.e. 28.12.2012 and the date of approval of the revised/correct sectoral plan i.e. 01.09.2017 was ordered to be treated as 'Zero Period' as far as the obligations of the respondent are concerned insofar as the dues and other concomitant approvals and charges as appurtenant to the license are concerned.
19. The Authority observes that the present complaints have been filed with reference to developments and issues arising in Sector 92, 93 and 95. However, the respondent, in their submissions, has sought to raise objections based on an alleged discrepancy in the sectoral plan pertaining to Sector 37. It is pertinent to note that the grievances cited by the respondent do not directly relate to Sector 92, 93 and 95 which is the subject matter of the present complaints. Therefore, the objection raised by the respondent, with respect to treating the date of the revised or corrected sectoral plan as the zero period, is not tenable and is accordingly declined.

**G Findings on the relief sought by the complainants.**



- G.I. To get possession to the complainant from the respondent, within 6 months of the filing of this complaint, of the allotted plot developed by.**
- G.II. If the respondent fail on (a) above, then, within 6 months of the filing of this complaint, to get the possession of alternative plot to the complainant from the respondent of any other equivalent plot of the same area owned and/ or developed by the Respondent in Gurugram.**
- G.III. Direct the respondent to pay delayed possession charges @ 18% per annum (compoundable) from the date of payment made by the complainant.**
- G.IV. To get the delayed possession interest @ prescribed rate from the due date of possession i.e 23.08.2013 till the actual date of possession of the plot as per the provisions of the RERA Act, 2016.**

20. The above mentioned reliefs no. G.I ,G.II, G.III & G.IV as sought by the complainant is being taken together and these reliefs are interconnected.

21. The complainant have booked a plot admeasuring 500 sq. yards in the future potential project by making a payment of Rs.5,00,000/- vide receipt dated 27.06.2011. It was also specifically clarified that a specific plot shall only be earmarked once the zoning plans are approved. Further, the respondent promoter sent letter dated 13.08.2013 intimation regarding provisional allotment of plot bearing no. D-95, situated in sector 92, 93 and 95, Gurugram. It further states that the company will allot above stated plot only after the receipt of RERA registration number by the company. It is important to note that the project in question, namely, "Ramprastha City, Sector-92, 93 & 95, Gurugram" is a duly registered project, which was granted registration vide No. 13 of 2020 dated 05.06.2020. Therefore, the respondent is liable to allot the specific plot i.e. D-95, Sector 92, 93 and 95, Gurugram.

22. It is important to note that the Hon'ble Punjab and Haryana High Court, Chandigarh in CWP No. 24591-2024 titled as M/s Ramprastha Developers Private Limited and Ors. and State of Haryana and Ors., the Hon'ble Court observed that the statutory meaning of "allottee" covers both actual and

prospective allottees, in respect of ongoing or future projects. It specifically held that:

*" 27 Though the learned counsel for the petitioners have vehemently argued before this Court, that the present respondent is not an allottee, since it becomes displayed by Annexure P-33, contents whereof also become extracted hereinabove, that he has only tendered money in respect of prospective projects, project and when evidently no prospective project have ever been floated at the instance of the present petitioners, thereby at this stage, stage there was no activated cause of action vesting in the present petitioners. However, the said argument is also rudderless nor has any telling effect vis- à-vis vis the locus standi of the present respondent to institute the subject complaints. The reason being that, when within the ambit of the statutory meaning assigned to an 'allottee', whereby becomes covered also potential as well as prospective allottees, vis-a-vis the prospective projects, thereby not only in respect of ongoing projects, but also in respect of projects to be launched in future... the present respondent but became a person/allottee in terms of Annexure P-3 he became promised to be made, the 18 of 19 Neutral Citation No:=2025:PHHC:019155-DB CWP-24591 24591-2024 allotments vis-a-vis vis projects to be undertaken in future, whereby also the present respondent was a person/allottee person/allottee who would subsequently acquire the subject project through sale or transfer thereof being made in his favour "*

23. The Hon'ble High Court concluded that the respondents, having paid consideration for a plot in a future potential project, fell within the statutory definition of allottee, despite the absence of a registered project

24. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso 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. **Due date of possession:** As per the documents available on record, no BBA has been executed between the parties and the due date of possession cannot be ascertained. A considerate view has already been taken by the Hon'ble Supreme Court in the cases where due date of possession cannot be ascertained then a reasonable time period of 3 years has to be taken into consideration. It was held in matter *Fortune Infrastructure v. Trevor d' lima (2018) 5 SCC 442: (2018) 3 SCC (civ) 1* and then was reiterated in *Pioneer Urban land & Infrastructure Ltd. V. Govindan Raghavan (2019) SC 725 -:*

*"Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014. Further there is no dispute as to the fact that until now there is no redevelopment of the property. Hence, in view of the above discussion, which draw us to an irresistible conclusion that there is deficiency of service on the part of the appellants and accordingly the issue is answered."*

26. In the instant case, the promoter has allotted a plot in its project vide provisional allotment dated 13.08.2013. In view of the above-mentioned reasoning, the date of allotment ought to be taken as the date for calculating the due date of possession. Therefore, the due date of handing over of the possession of the plot comes out to be 13.08.2016.

27. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the prescribed rate. Proviso to section 18 provides 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 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., 22.07.2025 is 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90% (**vide proceeding dated 22.07.2025, the rate of interest inadvertently recorded as 11.10%**).
30. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

*"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*

*Explanation. —For the purpose of this clause—*

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

31. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.90% by the respondent /promoter which is the same as is being granted to the complainant in case of delayed possession charges.

32. On consideration of the documents available on record and submissions made by both the parties 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. The possession of the subject plots was to be delivered by 13.08.2016. However, despite receipt of Rs. 5,00,000/- against the booked plot back in 2013, the respondent-promoter has failed to enter into a written agreement for sale with respect to the same and has failed to handover possession of the subject plot to the complainants till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities to hand over the possession within the stipulated period. The authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted plot to the complainants. Further no CC/part CC has been granted

to the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

33. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainants are entitled to delay possession charges at the prescribed rate of interest @10.90% p.a. w.e.f. 13.08.2016 till offer of possession plus 2 months after obtaining completion certificate/part completion 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. Further, the respondent is directed to execute the builder buyer agreement within period of 30 days.

**G.V To direct the respondent(s) to pay a sum of Rs. 1,50,000/- to the complainants towards litigation costs.**

34. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation 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 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

**H. Directions of the authority**

35. 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):

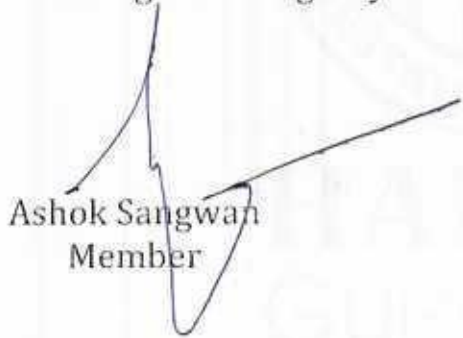
- i. The respondents are directed to execute the builder buyer agreement with regard to the subject unit within 30 days from the date of this order.
- ii. The respondents/promoters are directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.90% p.a. for every month of delay from the due date of possession i.e., 13.08.2016 till offer of possession plus two months after obtaining completion certificate/part completion 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.
- iii. The arrears of such interest accrued from 13.08.2016 till the date of order by the authority shall be paid by the respondent/promoter to the complainant within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10<sup>th</sup> of the subsequent month as per rule 16(2) of the rules
- iv. The respondents are directed handover possession of the plot in question within three months after obtaining completion/part completion certificate from the competent authority.
- v. The respondent/promoters are directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.90% p.a. for every month of delay from the due date of possession i.e., 13.08.2016 till actual handing over of possession or offer of

possession plus two months after obtaining completion certificate/part completion certificate from the competent authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

- vi. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- vii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% by the respondent/promoters 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.
- viii. The respondents are directed not to charge anything which is not part of buyer agreement.

36. Complaint stands disposed of.

37. File be consigned to registry.



Ashok Sangwan  
Member



Arun Kumar  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 22.07.2024**