

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

Complaint no. : 4350 of 2024
Date of complaint : 06.09.2024
Date of
Pronouncement : 22.07.2025

Purshottam Das Gupta,
R/o: - C-66, Ramprastha, Colony, Ghaziabad-201011.

Complainant**Versus**

1. M/s Ramprastha Developers Pvt. Ltd.
2. M/s Ramprastha Promoters & Developers Pvt. Ltd.
3. M/s Ramprastha Estates Pvt. Ltd.
Regd. Office At: - Plot no. 114, Sector 44, Gurugram-122002.

Respondents**CORAM:**

Shri Arun Kumar
Shri Ashok Sangwan

Chairman
Member

APPEARANCE:

Garvit Gupta (Advocate)
R. Gayathri Manasa (Advocate)
Kush Kakra (Advocate)

Complainant
Respondents

ORDER

1. The present complaint 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

provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name of the project	"Ramprastha City", Sectors 92,93 and 95, Gurugram, Haryana
2	Nature of the project	Residential plotted colony
4.	RERA Registered/ not registered	Registered
5.	Plot no.	Not allotted
6.	Unit area admeasuring	250 X 2 (500) sq. yds. (as per page 30 of complaint)
7.	Date of receipt	19.09.2006 (page 30 of complaint)
8.	Date of preliminary allotment	NA
9.	Date of agreement	20.01.2013 (page 33 of complaint)
10	Possession Clause	NA
11	Due date of possession	20.01.2016 [Calculated as per <i>Fortune Infrastructure and Ors. Vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018</i>]
12.	Amount paid by the complainant	Rs. 1,50,000/-
13	Sale Consideration	NA
14.	Completion certificate	Not received
15.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant vide complaint as well as written submissions dated 06.09.2024 have made the following submissions: -
 - I. That respondent no.1 offered for sale plots in its upcoming project, Ramprastha City, a residential plotted colony within a gated community at Sectors- 92, 93 and 95 Gurugram comprising plots with world class layout, infrastructure, facilities, amenities and services , including club houses, shopping complexes, swimming pools, green and open areas, spas, health and sports facilities with gated secure living conditions on a piece and parcel of land in Sectors- 92, 93 and 95 in Gurugram, Haryana (the "**Project**"). The complainant received a marketing call from the office of respondent no.1 in the month of July, 2006 for booking in this upcoming project of the respondent no.1. The complainant visited the sales gallery and consulted with the marketing staff and executives of respondent no.1. The marketing staff of respondent no.1 painted a very rosy picture of its upcoming residential plotted colony and made several representations with respect to the innumerable world class facilities to be provided by the Respondent no.1 in their project. The marketing staff of the respondent no.1 also assured timely delivery of the plot. The respondent no.1 boasted of its reputation as a customer friendly builder who in the past have throughout acted strictly as per the terms of the regulations, laws and directions issued by the concerned authorities and delivered projects on a timely basis. It was represented by the respondent no.1 that it would be completely fair in their dealings with the complainant and would throughout adhere to their obligations. It was assured by the representatives of the respondent no.1 that the physical possession of the plot against the booking made by the complainant would be handed over within a span of 3 years from the date of the booking.
 - II. That the complainant, induced by the assurances and representations made by respondent no.1, decided to book a plot in the project of respondent no.1

as the complainant required the same in a time bound manner for his own use. This fact was also specifically brought to the knowledge of the officials of respondent no.1 who confirmed that the possession of the plot to be allotted to the complainant would be positively handed over within the agreed time frame. The complainant thus based on the assurances made by the officials of respondent no.1 made a payment of Rs 1,50,000/- vide cheque no. 618010 to respondent no.1 vide its receipt no. 910 dated 19.09.2006 acknowledged the said payment. Vide the said receipt dated 19.09.2006, the respondent no.1 had acknowledged the booking of 2 plots each admeasuring 250 sq yards. The present complaint pertains to the booking of one of such plot.

- III. That the respondent no.1 eventually issued a letter dated 17.06.2009 to the complainant confirming the fact that respondent no.1 has received letter of intent for the plotted colony. On the basis of the booking made by the complainant and only after the payment made by the Complainant, issued a letter dated 26.09.2012 confirming the allotment of a plot admeasuring 250 sq yards in the said project of the respondent no.1 in favour of the complainant. It is pertinent to mention here that the respondent failed to allot a specific plot to the complainant vide the said letter and had stated that an allotment process for residential plots have been initiated. It is submitted that the respondent no. 1 had failed to allot a specific plot despite lapse of almost 18 years from the date of booking.
- IV. That in 2013, respondent no.1 informed to the complainant, that all the rights, obligations and liabilities of respondent no.1 pertaining to the plot would be taken over by respondent no.2. In lieu of the same, the complainant entered into an agreement dated 20.01.2013 with respondents no.1 and 2 wherein it was confirmed by the said respondents that the amount paid by the complainant to them would be

adjusted towards the amount payable by him for the plots in the projection of the plot, as per the assurances of respondent no.1 was 13.04.2015.

- V. That vide separate letter dated 20.01.2013, respondent no.2 confirmed to the complainant that out of Rs. 1,50,000/- paid by him towards booking of the two plots, Rs. 75,000/- would be equally adjusted in two plots admeasuring 250 sq.yards in the project located at Sectors 92,93 and 95, Gurugram. It is pertinent to mention herein that the complainant had made the booking towards two plots and vide the said letter, the respondent no.2 allotted particular unit only against one plot and it was mentioned by it in the said letter that the unadjusted amount remains with the respondent no.2 against the booking of the complainant of the remaining one plot.
- VI. That despite specific assurances of respondent no.1 that it would soon execute an agreement, it miserably failed to do so. The respondent no.1 failed to perform the most fundamental obligation of the allotment which was to actually allot the plot to the complainant, which in the present case has been delayed for an extremely long period of time. The failure of the respondent no.1 and the fraud played by them is writ large.
- VII. That the complainant requested respondent no.1 telephonically and by visiting the office of the respondent no.1 to update them about the date of allotment of the plot, execution of the plot buyer's agreement as well as the status of development of the residential colony in the project. It is pertinent to mention here that the respondents were approached by multiple allottees regarding the booking in the said project of the respondents. Moreover, the said group of allottees were aggrieved by the defaults of the respondents in allotting a specific plot despite the payment of the total sale consideration amount and thus have requested the respondents to abide by their obligations to allot a specific plot and execute a builder buyer agreement

with the allottees.

- VIII. The complainant were taken aback to note that it was not Respondent no.1 but Respondent no.2 who was now publicizing the Project in question by inviting general public to make a booking and the same is evident from their 2-page (front page and its back) newspaper publication in the reputed national daily The Time of India, New Delhi on 06.10.2013.
- IX. That the complainant met the respondents to check this discrepancy, but they assuaged their doubts by saying that the respondent entities were related parties /affiliates of ramprastha group and it was normal for big ticket projects to be channelized through multiple affiliates and group companies. Such a high pitch public broadcast of the Project in a reputed national daily and assurances of the Ramprastha personnel further beguiled and misled the original allottee into believing the Respondents representations and assurances.
- X. That on account of substantial delay on the part of respondents no. 1 and 2, the complainant vide several telephonic follow ups, conversations and in person meetings reminded respondents no. 1 and 2 of the obligations of execution of the buyer's agreement and handover the physical possession of the plot to the complainant after allotment. However, no heed was paid to the legitimate request made by the complainant. The fact that the respondents no. 1 and 2 were in a completely dominant position, as they had demanded and already received upfront from the complainant a substantial amount for the plot, and wanted to deliberately exploit the same at the cost of the innocent purchasers including the complainant is evident from the conduct adopted by them in their dealings with the complainant.
- XI. That the complainant were in constant touch with the representatives of the respondents no. 1 and 2 and was constantly assured by them that the procedure of allotment and handing over of possession was going on in full

swing and the same would be done shortly. The respondents no. 1 and 2 after the enactment of RERA Act, 2016 started saying and continued to maintain over the period from 2016 uptil now that the registration of the Project under RERA was going on, this was time consuming, they had made the filings and were awaiting registration, which is a mandatory procedure and over which the respondents have no control as this is a regulatory process and under the purview of the government authorities, including the Authority. Thus, over these years the respondents have been misleading and keeping at bay unsuspecting buyers such as the complainant under the guise of the pending RERA registration of the project with the Authority.

- XII. That the complainant vide several telephonic calls and multiple visits and meetings with the respondents no. 1 and 2 had enquired about the allotment of a specific plot and execution of the builder buyer agreement but to no avail. The respondent's no. 1 and 2 at every visit and meeting kept on assuring and promising the complainant that the needful would be done at the earliest as the same is in process of being done. It is pertinent to mention here that during the course of enquiry about the allotment and execution of the builder buyer agreement, the respondents no. 1 and 2 have failed to send any written communication or information or any sort of update whatsoever to the complainant.
- XIII. That the complainant visited the office of the respondent in August 2023 and enquired about the status of completion of sale modalities. The representatives of the respondents informed the complainant that the registration of the project the Authority was pending and upon its receipt, respondent no.1 or its relevant affiliate would complete all necessary formalities and paperwork for completion of the sale and hand over the possession of the plot. However, till date, such assurances of the respondents have not been complied with and the complainant is left with no concrete

answers. The conduct of the respondents clearly shows that they have no intention of dealing with the innocent allottees such as the complainant despite demanding and receiving upfront a substantial sum of money from them.

- XIV. That the complainant have time and again requested the respondents to allot the specific plot in the project, execute the agreement and handover the possession of the plot allotted to the complainant. However, the respondents failed to respond to any of the genuine concerns raised by the complainant and the multiple requests made by them vide telephonic calls and by visiting the office of the respondent to get the possession of the plot were in vain, for which the respondents had demanded payment of the substantial amount and been paid upfront by the complainant. The respondents despite the numerous reminders have failed to respond to the queries as raised by the complainant.

C. Relief sought by the complainants:

4. The complainant has sought following relief(s):
- I. Direct the respondents to demarcate and allot the plot in the project (250X2 square yards in Ramprastha City, Sector 92, 93, 95, Gurugram, Haryana) to the Complainant.
 - II. Direct the respondents to issue execute a plot buyer's agreement with the complainant
 - III. Direct the respondents to complete the development of the project in question and to handover the possession of the plot in question to the complainant after obtaining the completion certificate.
 - IV. Direct the respondents to execute a conveyance deed after completing the development and offering the possession to the complainant.
 - V. Direct the respondents not to charge from / have the Complainant pay stamp duty, development charges/other outgoes in excess to the rate prevailing/circle rate as on 19.06.2006. The respondents need to bear any additional cost towards the same or similar such outgoes or expenses.

- VI. Direct the respondents not to charge any escalation cost and / or any hidden charges which, as a general practice of builders, may be forcibly imposed by the Respondents on the Complainant, at the time of possession.
 - VII. Direct the respondents to hand over the complainant the sanctioned plans, layout plans along with stage wise schedule of completion of the project.
 - VIII. Direct the respondent to pay to the complainant the interest/ delayed possession charges at the applicable rates under law. since the complainant have already paid upfront the total price to the respondents and in view of the respondent's track record, direct them to pay forthwith to the Complainant the interest/DPC in cash through banking channels here and now and not by way of any kind of set off.
 - IX. Direct the respondents to pay the complainant compensation and damages, including for stress, mental harassment and agony, costs of the legal proceedings and various other expenses incurred by the complainant due to the respondents failure to allot and hand over the plot to the complainant on a timely basis and in pursuing proceedings in this behalf
5. In the present complaint, the respondent-promoter no.1 has failed to file a reply despite several opportunities granted by the authority. It shows that the respondent no.1 is intentionally delaying the procedure of the Authority by avoiding to file the written reply. In view of the above, Hence, in view of the same, the Authority has no option but to proceed the ex-parte against the respondent no.1.

D. Reply by the respondent no. 2 and 3.

6. Common written statement on behalf of respondent no. 2 and respondent no. 3:
- i. It is submitted that the **receipt** based on which the present complaint has been filed has **not** been issued by the answering respondents. Hence, the present complaint is not maintainable at all against the answering respondents and hence, respondents no. 2 and 3 deserve to

be deleted from the array of parties under the principles of order 1 Rule 10 of the Code of Civil Procedure, 1908. That each and every allegation, averment, and statement made in the complaint is denied. That the present reply is without prejudice to the above preliminary objection.

- ii. That it is pertinent to mention here that the present complaint is a sheer abuse of the process of this Court as it has been filed to seek a remedy in the absence of any corresponding vested right. The complainant neither an allottee qua the answering respondents nor there is any agreement with answering respondents that can sought to be enforced by the complainant by invoking the provisions of the Real Estate (Regulation and Development) Act, 2016.
- iii. That the Complainant has misused and abused the process of law by filing the captioned Complaint that too on the basis of the receipt dated 19.09.2006, which was *allegedly* issued towards tentative registration of plot in future project of the arrayed respondent no. 1.
- iv. 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, has still decided to keep his 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.

- v. It may be pertinent to mention here that neither does the receipt on which the complainant has sought to harp makes any reference to the answering respondents nor specifies any understanding with the answering respondents with respect to any plot number, date of completion or total consideration. The receipt is conspicuously silent on the details of the name of the project, the sector in which it is situated, and other vital details. The said receipts clearly state that the receipt was issued by respondent no. 1. Hence by any stretch of the imagination such a RECEIPT is not legally enforceable against the answering respondents 2 and 3 and hence, relief of specific performance is not available against the answering respondents.
- vi. That at the threshold, it is submitted that there is no averment of any cause of action against the answering respondents in the complaint. No action has been shown to have arisen against the Answering respondents. Further, there is no cause of action whatsoever that can be considered to be within the period of limitation. That the complaint is timed barred and therefore deserves to be set aside on this count alone, amongst other preliminary grounds that the answering respondents have raised through the present reply. In such circumstances, the Authority ought to dismiss the complaint with exemplary costs.
7. All other averments made in the complaints 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 submission 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 Town and Country Planning Department, 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 allottees 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 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.

F. Objections raised by the respondent no.2 and 3.

F.I Deletion the name of respondent no. 2 and 3 from array of the parties.

13. The respondent nos. 2 and 3 submit that the complaint is not maintainable against them as the receipt relied upon by the complainant was not issued by them but by respondent no. 1. There exists no agreement or allotment between the complainant and respondent nos. 2 and 3. The complaint is based on a speculative transaction for a future project with no definite terms or government approvals at the time. The receipt lacks essential details such as project name, sector, plot number, and completion timeline. Therefore, no enforceable rights arise against respondent nos. 2 and 3.
14. In this regard, it is observed by the Authority that the respondent-promoters -Ramprastha Promoter Private Limited, Ramprastha Developer Private Limited, Ramprastha Promoter and Developer Private Limited, and Ramprastha Estates Private Limited -though incorporated as separate legal entities, are in effect functioning in collusion with each other as a single composite unit. A cursory review of the MCA master data clearly reveals that all these entities share the same registered address and use the same official email ID, i.e., compliances@ramprastha.com. These companies also share common persons functioning in different capacities as managing directors, and authorised representatives, and they operate under a common branding and group identity. Such deliberate structuring appears to be a calculated attempt to mislead allottees by issuing allotment letters and executing agreements for sale under different company names, thereby evading legal responsibilities. This pattern of conduct amounts to an unfair trade practice and violates the principles of transparency, accountability, and good faith enshrined under the applicable legal framework. In view of the above facts and in line with the settled principle that no person can take advantage of their own wrong, it is evident that the respondents have used a façade of corporate separateness to shield themselves from liability. Therefore, all the respondent-promoters ought to be treated as a single entity, and their

liability must be construed as joint and several for all consequences arising from the present complaint.

F.II Objection regarding maintainability of complaint

15. 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 2006. 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.
16. 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 above Section is reproduced hereunder: -

3.(1). 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:

17. 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.
18. It is important to note that despite receipt of consideration of Rs. 1,50,000/- against the booked plot back in 2006, the respondent-promoter has failed to execute an agreement for sale with respect to the same and has failed to get the plot registered in name of the complainants till date. 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.

19. Keeping in view the aforesaid facts and legal position, the objection with regard to the complaint barred by limitation is hereby rejected

G. Findings on the relief sought by the complainants.

- G. I Direct the respondents to demarcate and allot the plot in the project (250 X 2 square yards) to the complainant.**
- G.II Direct the respondents to execute a plot buyer's agreement with the complainant.**
- G.III Direct the respondents to complete the development of the project in question and to handover the possession of the plot in question to the complainant after obtaining the completion certificate.**
- G.IV Direct the respondent to pay delayed possession charges at the applicable rates under law**

20. The above mentioned reliefs no. G.I, G.II, G.III & F.IV as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected
21. The complainants have booked a plot admeasuring 250 X 2 (500) sq. yards in the project of respondent named "Ramprastha City" located in Sector 92, 93 and Sector 95, Gurugram by making a payment of Rs.1,50,000/- vide receipt dated 19.09.2006. It was also specifically clarified that a specific plot shall only be earmarked once the zoning plans are approved.
22. The Hon'ble Punjab and Haryana High Court, in CWP No. 24591-2024 titled as M/s Ramprastha Developers Private Limited and Ors. and State of Haryana and Ors., the 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 hass 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 spective 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 allotment and are 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 delay, till the handing over of the possession, at such rate as 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 may be prescribed."
 (Emphasis supplied)*

25. **Due date of handing over 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 preliminary allotment letter dated 19.09.2006. 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 19.09.2009.
27. **Admissibility of delay possession charges at prescribed rate of interest:** 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 29.07.2025, 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 allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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 respondents /promoter which is the same as is being granted to the complainants in case of delay 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 respondents are in contravention of the

Section 11(4)(a) of the Act by not handing over possession by the due date. The Authority has observed that the due date of possession was 19.09.2009. However, the respondents/promoter have not allotted a specific plot number to the complainants and also has failed to handover possession of the plot to the complainants till date of this order. Accordingly, it is the failure of the respondents/promoter to fulfil its obligations and responsibilities to allot a specific unit number and hand over the physical possession. The Authority is of the considered view that there is delay on the part of the respondents to offer of possession of the booked 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 promoter as well as allottees.

33. 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. This 2 months' of 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 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., 19.09.2009 till valid offer of possession after obtaining occupation certificate from the competent Authority plus 2 months or actual handing over of possession whichever is earlier.
34. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondents is established. As such the complainants are entitled to delay possession charges at the prescribed rate i.e., @10.90% p.a. w.e.f. 19.09.2009

till offer of possession plus 2 months after obtaining 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.

G.V. Direct the respondents to execute a conveyance deed and offering the possession to the complainant.

G.VI. Direct the respondents not to charge from / have the Complainant pay stamp duty /other outgoes in excess to the rate prevailing/circle rate as on 19.09.2009. The respondents need to bear any additional cost towards the same or similar such outgoes or expenses

35. The above mentioned reliefs no. G.V & F.VI as sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected.
36. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
37. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable

G.VII Direct the respondents to hand over the complainant the sanctioned plans, layout plans along with stage wise schedule of completion of the project

38. As per Section 19(1) of the Act, the allottees are entitled to obtain information relating to sanctioned plans, layout plan along with specifications, approved by the competent authority and such other information as provided in this Act or rules and regulations made thereunder or the agreement for sale signed with the promoter. Therefore,

in view of the same, the respondent is directed to provide details i.e., actual area of the allotted unit in question to the complainant within a period of 30 days from the date of this order.

G.VIII Direct the respondents not to charge any escalation cost and / or any hidden charges which, as a general practice of builders, may be forcibly imposed by the respondents on the complainant, at the time of possession

39. The complainant seeks a direction that the respondent should not charge any escalation cost or hidden charges, which are generally imposed by builders at the time of possession. The Authority observes that the complainant has failed to provide any document regarding the escalation cost allegedly demanded by the respondent. However, since possession has not yet been offered, the complainant cannot assume that the respondent will impose such charges. Hence, no relief is granted at this stage. Nevertheless, the respondent is not permitted to charge any amount that is not part of the buyer's agreement.

G.IX Direct the respondents to pay the complainant compensation and damages, including for stress, mental harassment and agony, costs of the legal proceedings and various other expenses incurred by the complainant.

40. The complainants are seeking above mentioned relief w.r.t. compensation. *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.* has held that an allottee is entitled to claim compensation and 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 and 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 and legal expenses.

H. Directions of the authority

41. 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/promoters are directed to allot a specific plot of 250 X 2 (500) sq. yds in its project namely Ramprastha City, Sectors 92,93 and 95, Gurugram and execute builder buyer's agreement within a period of 30 days.
 - ii. The respondents are directed handover possession of the plot in question within three months after obtaining completion/part completion certificate from the competent authority.
 - iii. 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., 19.09.2009 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.
 - iv. The arrears of such interest accrued from 19.09.2009 till the date of order by the authority shall be paid by the respondent/promoter to the complainants within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per Rule 16(2) of the Rules.
 - v. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

- vi. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delay possession charges as per section 2(za) of the Act.
- vii. The respondents are directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

42. Complaint stands disposed of.

43. File be consigned to registry.



Ashok Sangwan
Member



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 22.07.2025