

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

Complaint no. : 3209 of 2024
Date of filing : 22.07.2024
Date of decision : 22.07.2025

Purshottam Das Singhal
R/o: - D-10/9, Model Town, Delhi-110009

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:

Shri Garvit Gupta
Ms. R. Gayatri Mansa, Kush Kakra

Advocate for the complainant
Advocates for the respondents

ORDER

1. The present complaint dated 22.07.2024 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 of the project	N/A
2.	Project area	Cannot be ascertained
3.	Plot no.	N.A.
4.	Unit area admeasuring	300 sq. Yds. (Page no. 33 of the complaint)
5.	Date of receipt in favour of the original complainant	20.07.2006 (page 33 of complaint)
6	Date of endorsement	01.12.2020
7	Welcome letter	N.A.
8	Preliminary Allotment letter	N.A
9	Date of execution of plot buyer's agreement	N.A.
10	Possession clause	N.A.
11	Due date of possession	20.07.2009 [Calculated as per <i>Fortune Infrastructure and Ors. Vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU/SC/0253/2018</i>]

12	Basic price of the plot	N.A.
13.	Amount paid by the complainants	Rs.09,00,000/- [As per receipt information at page no. 33 of the complaint]

B. Facts of the complaint

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

- i. That the respondents are affiliates and part of the ramprastha group, that operates through a maze of 75 plus companies, with one applying for and getting TCP, HUDA etc licenses, another undertaking booking and allotment of properties, another applying for HRERA registrations and still others performing various development and other activities. Thus, respondents and all other ramprastha group companies, their directors, authorized representatives, agents, successors and assigns and persons acting by, through or under them are conjoint and thereby jointly and severally liable for compliance with the respondent's obligations under law, contract and equity.
- ii. That respondent no.1 offered for sale plots in its upcoming project, ramprastha city, a residential plotted colony within a gated community at Sector 37 C and D/ Sector 92,93,95, 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 Sector 37D/ Sector 92,93,95 in Gurugram, Haryana (the "**Project**"). The original allottee i.e Hari Ram received a marketing call from the office of respondent no.1 in the month of May, 2006 for booking in this upcoming project of the respondent no.1. The original allottee 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 original allottee 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 original allottee would be handed over within a span of 3 years from the date of the booking.

- iii. That the original allottee, induced by the assurances and representations made by the respondent no.1, booked a residential plot for the personal use and of the family of the complainant in the project of the respondent no.1. The respondent no.1 informed the original allottee that the size of the plot available with the respondent no.1 is of 300 sq. yards and its sale consideration would be calculated at the rate of Rs. 3000/- per sq. yards. On this basis the Complainant booked a plot of 300square yards in the Project at Ramprastha City, Sector 37 D/ Sector 92,93,95, Gurugram, Haryana against the Price/sale consideration for the Plot of Rs. 9,00,000/- (Rupees Nine lakhs only), hereinafter the "**Plot**". It is pertinent to mention here that the respondent no.1 in order to convince the original allottee to make a booking in the said project showed various documents and papers including

the approvals, licenses, and ongoing communications with the authorities and joint ventures and collaborations with reputable organizations.

- iv. That the original allottee was informed by respondent no.1 that a specific plot number shall be issued only after full and final payment of cost of the plot is deposited. Thus, the original allottee based on the respondent no.1's demand for upfront payment of the sale consideration amount Rs. 9,00,000/- for the plot in the project. It is pertinent to mention here that the said payment was made by the original allottee solely based on the demands and requests of the respondent no.1 and the assurances of the respondent no.1 to allot a specific plot to the original allottee only after the sale consideration amount/full consideration is paid.
- v. That respondent no.1 issued receipt no. 571 dated 20.07.2006 signed by its director acknowledging the upfront payment of all inclusive full consideration (defined below) for the plot of Rs. 9,00,000/- paid by the original allottee towards the booking of the plot in the project of the respondent no.1. it needs to be noted that the all inclusive upfront consideration included the price of land in the fully developed project with all sorts of facilities, amenities and services, development, works, infrastructure, preferential location and all sort of charges and expenses, including all taxes/fees/charges/cess/levies etc which may be levied in connection with the development/construction of the project and payable by the respondent no.1/promoter up to the date of handing over of the plot to the original allottee . The respondent no.1 vide the said receipt categorically stated that the said payment is against the registration of 300 sq. yards plot in the project of the respondent no.1. Since, the booking was made by the original allottee on 20.07.2006, the due date of possession of the plot, as per the assurances of respondent no.1 was 20.07.2009.

- vi. That the original allottee was 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.
- vii. That the original allottee 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.
- viii. That thereafter, on account of unfortunate demise of the original allottee, the complainant approached the respondents and requested the respondents to endorse the allotment in the name of the complainant. The respondents acceded to the request of the complainant and endorsed the receipt issued in the name of the original allottee in favour of the complainant with effect from 1.12.2020.
- ix. That the complainant has been running from pillar to post and have been mentally and financially harassed by the conduct of the respondents. That the complainant in April, 2023 came across public notices in the newspaper got published by respondent no.3. i.e an affiliate company of the respondents no.1 and 2 with respect to the project in question in lieu of which license no. 128 of 2012 was granted. This showed to the complainant that his hard-earned monies have been siphoned off jointly by the respondents, including 1,2 and 3, who were all conniving together and acting with common intent

C Relief sought by the complainants: -

4. The complainants have sought following relief(s)

- I. Direct the respondents to demarcate and allot the plot in the project 300 square yards to the Complainant.
- II. Direct the respondents to issue allotment letter and 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 /other outgoes in excess to the rate prevailing/circle rate as on 20.07.2009. 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 respondents to pay to the complainant the interest/ delayed possession charges at the applicable rates under law. Since the complainant has already paid upfront the 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-promoters have 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 respondents.

D. Jurisdiction of the authority

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

D.1 Territorial jurisdiction.

7. 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.

D.II Subject matter jurisdiction

8. 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.

9. 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.

E. Findings on the relief sought by the complainants.

- E. I Direct the respondents to demarcate and allot the plot in the project (3 00 square yards) to the complainant.**
- E.II Direct the respondents to execute a plot buyer's agreement with the complainant.**
- E.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.**

E.IV Direct the respondent to pay delayed possession charges at the applicable rates under law

10. The above mentioned reliefs no. E.I, E.II, E.III & E.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.
11. The original allottee has booked a plot admeasuring 300 sq. yards in the future potential project by making a payment of Rs.09,00,000/- vide receipt dated 20.07.2006. It was also specifically clarified that a specific plot shall only be earmarked once the zoning plans are approved. Till date, the respondent has miserably failed to specify the project as well as plot number where 300 sq. yards. has been allotted. The original allottee tired of the neglectful behaviour of the respondent. On account of demise of the original allottee, the complainant requested the respondent to endorse the allotment in the name of the complainant. The respondent acceded to the request of the complainant and endorsed the receipt in favour of the complainant with effect from 01.12.2020. Thereafter the complainant enquired about the allotment of a specific plot and execution of buyer agreement but to no avail. Thus, the complainant filed the present complaint pleading for possession of the plot along with delayed possession charges and other reliefs.
12. Now the question before the authority is whether the receipt issued by the respondent/promoter falls within the definition of agreement, as per section 2(e) of The Contract Act, 1872 and which provides that:

"Every promise and every set of promise forming the consideration for each other is an agreement."

13. Further, section 10 of the Act of 1872 defines the conditions under which the agreement made fall with the definition of contract and the same provides as under:

"All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not hereby expressly declared to be void."

14. There are a large number of cases coming to the notice of the authority wherein the builder had taken the whole or partial amount of money and only issued receipt against the allotment of a plot either in the exiting or in its upcoming project at Gurugram. Neither it issued any allotment letter nor executed any builder buyer's agreement. The holders of those receipt/allotments are harassed a lot to act on the basis of the documents issued by the developer and has to run here and there to initiate any civil or criminal action against the builder. Most of such cases relate to the period before the Act, 2016 came into existence. Infact, the very purpose of enacting the legislature was to address such malpractices and bring them to an end. After the enforcement of the Act of 2016, a promoter is obligated to comply with the provisions of the Act and follow the same while receiving any money against allotment of unit and execution of builder buyer agreement.
15. Further, 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 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 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 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 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 "

16. 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.
17. 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."

18. **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."

19. In the instant case, the promoter has allotted a plot in its project vide receipt dated 20.07.2006. 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 20.07.2009.
20. **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.

21. 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.
22. 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% **10.90% (vide proceeding dated 22.07.2025, the rate of interest inadvertently recorded as 11.10%)**..
23. 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. The relevant section is reproduced below:

"(z) "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;"*

24. 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.

25. 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 plot was to be delivered by 20.07.2009. However, despite receipt of Rs. 09,00,000/- against the booked plot back in 2006, 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.

26. It is important to note that the complainant is the subsequent allottee. In cases where the complainant/subsequent allottee endorsed after expiry of the due date of handing over possession, the authority is of the view that the subsequent allottee cannot be expected to wait for any uncertain length of time to take possession. Even such allottees are waiting for their promised flats and surely, they would be entitled to all the reliefs under this Act. It would no doubt be fair to assume that the subsequent allottee had knowledge of delay, however, to attribute knowledge that such delay would continue indefinitely, based on priori assumption, would not be justified. In cases where subsequent allottee had stepped into the shoes of original allottee after the expiry of due date of handing over possession and before the coming into force of the Act, the subsequent allottee shall be entitled to delayed possession charges w.e.f. the date of entering into the shoes of original allottee i.e. nomination letter or date of endorsement on the agreement, whichever is earlier. Therefore, the complainants are entitled to delay possession charges at the prescribed rate of interest @10.90% p.a. w.e.f. 01.12.2020 (when the complainant step into the shoes of the original allottee after the expiry of due date of possession) till actual handing over of possession or offer of possession plus 2 months after obtaining completion certificate/part completion certificate from the competent authority or, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

27. 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.
28. 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. 01.12.2020 (when the complainant step into the shoes of the original allottee after the expiry of due date of possession) 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.
29. It is submitted that 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.

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

E.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 20.07.2019. The respondents need to bear any additional cost towards the same or similar such outgoes or expenses.

30. The above mentioned reliefs no. E.V & E.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.
31. 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.

32. 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.

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

33. 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

E.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

34. 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.

E.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

35. 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.

F. Directions of the authority

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

- i. The respondent is directed to allot a specific plot and execute buyer's agreement within a period of 30 days. In case, respondent promoter due to non-availability of plots is not able to allot and

offer its possession to the complainant, he will be liable to make available to him a plot of the size, as booked, specifying the future upcoming project wherein specify plot number shall be provided in a specified time framed.

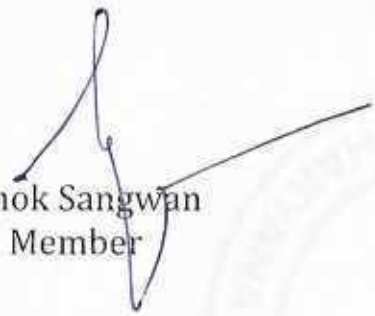
- ii. The respondent is directed to handover possession of the plot in question within three months after obtaining completion/part completion certificate from the competent authority.
- iii. The respondent/promoter is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.90% p.a. for every month of delay from the due date of possession i.e., 01.12.2020 (date of endorsement) till offer of possession plus two months after obtaining completion certificate/part completion certificate from the competent authority or actual handing over of possession or, 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 01.12.2020 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 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 allottee, in

case of default i.e., the delayed possession charges as per section 2(za) of the Act 2016.

- 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.

37. Complaint stands disposed of.

38. File be consigned to registry.



Ashok Sangwan
Member



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 22.07.2020