

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

Complaint no. : 2013 of 2024  
Date of filing : 15.05.2024  
Date of decision : 29.07.2025

UDHAM SINGH

R/o: V.P.O Hayatpur, P.O. Garhi Harsaru,  
Gurugram, Haryana

**Complainant**

**Versus**

1. M/S Ansal Housing Limited

**Registered office at:** 606, 6<sup>th</sup> floor,  
Indraprakash, 21, Barakhambha road, New  
Delhi-110001

2. Samyak Projects Pvt. Ltd.

**Registered office at:** 111, FF Antriksh Bhawan  
22 Kasturba Gandhi Marg New Delhi

**Respondents**

**CORAM:**

Shri Arun Kumar  
Shri Ashok Sangwan

**Chairman  
Member**

**APPEARANCE:**

Sh. Vineet Kumar Yadav (Advocate)

Sh. Amandeep Kadyan (Advocate)

Sh. Shanker Wig (Advocate)

**Counsel for Complainant**

**Counsel for Respondent no. 1**

**Counsel for Respondent no. 2**

**ORDER**

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

be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made 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 complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Heads	Information
1.	Name of the project	Ansal hub 83 Boulevard, Sector 83, Gurugram, Haryana
2.	Nature of the project	Commercial
3.	DTCP License	71 of 2010 dated 15.09.2010
4.	Rera Registered	Registered vide no. 09 of 2018 dated 08.01.2018 valid up to 31.12.2020
5.	Unit No.	G-025 [pg. 44 of complaint]
6.	Area of the shop	233 sq. ft. [pg. 44 of complaint]
7.	Date of BBA with original allottee	11.12.2014 R2 is the confirming party [pg. 40 of complaint]
8.	Date of transfer of unit in name of complainant	19.03.2016 (pg. 66 of complaint)
9.	Letter issued by R2 for transfer of unit from G-025 to G-177 measuring 244 sq. ft.	04.05.2025
10.	Possession clause	<b>Clause 30</b> <i>The developer shall offer possession of the unit anytime, within a period of 42 months from the date of execution of agreement or within 42 months from the date of obtaining all the</i>

		<b><i>required sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all the dues by buyer and subject to force-majeure circumstances as described in clause 31. Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 42 months as above in offering the possession of the unit.</i></b>
11.	Date of commencement of construction	15.12.2014 (pg. 80 of complaint)
12.	Due date of possession	15.12.2018 Due date of possession is calculated from the date of commencement of construction being later. [6 months grace period allowed being unqualified] [*inadvertently mentioned as 15.12.2020 in POD dated 29.07.2025]
13.	Total sale consideration as per the buyer agreement	₹27,94,217/- [pg. 44 of complaint]
14.	Amount paid by the complainant	₹20,28,670/- [as per ledger dated 17.06.2017 in complaint at pg. 81]
15.	Occupation certificate /Completion certificate	Not obtained
16.	Offer of possession	Not offered

## B. Facts of the complaint

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

- a. That respondent No. 1 & 2 promoted a commercial project named "Ansals Hub 83 Boulevard" having commercial shops in Sector 83 of Gurugram in 2013. That both respondents No. 1 & 2 represented that the project was being constructed upon a "Commercial piece of land" admeasuring about 2.6 Acres. The project was promoted to be a part of residential colony namely "Vatika India next" being developed by M/s Vatika Ltd. in terms

of License no. 113 of 2008 dated 01.06.2008 and License no. 71 of 2010 dated 15.09.2010.

- b. That Respondents No. 1 & 2 represented that M/s Vatika Ltd. had transferred its complete rights, title and interest in the project land to one M/s Abhash Developers Pvt. Ltd. vide agreement dated 21.01.2013. That Respondents No. 1 & 2 further represented that vide agreement dated 01.04.2013 M/s Abhash Developers Pvt. Ltd. had further transferred its complete rights, title and interest in the project land to the respondent No. 2, M/s Samyak Projects Pvt. Ltd. That respondent No. 2 further represented that it had entered into an MOU dated 12.04.2013 with the respondent no. 1, M/s Ansal Housing & Construction Ltd., whereby the respondent no. 1 would be developing the above-mentioned project in terms of license/ permissions granted by the authorities/ DGTCP, Haryana.
- c. The project was represented to be very profitable as it would be a commercial project surrounded by a residential projects and it was further promised as per Clause 30 of the Builder Buyer Agreement executed between both the respondents no. 1 & 2 and the complainant which inter-alia stated that; "The Developer shall offer possession of unit at any time, within a period of 42 months from the date of execution of Agreement or within 42 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction. Further there shall be grace period of 6 months allowed to the Developer over and above the period of 42 months as above in offering the possession of the unit."

- d. That thus the respondents demonstrated the project to be very lucrative and made attractive to the public, in order to procure/ collect money from the buyers demonstrating themselves to be excellent in the field of construction activity as compared to other builders. That one Sh. Ajay Kumar Mehta had booked shop bearing No. G-25 in the above-mentioned project of the respondents. That predecessor in interest/ father of complainant had vide agreement dated 16.09.2013 purchased all rights/interest of above-said Sh. Ajay Kumar Mehta and paid Rs. 2,00,000/- to Sh. Ajay Kumar Mehta, i.e. the sum so far paid by Sh. Ajay Kumar Mehta to the respondents. That as the respondents had not yet executed Builder-Buyer agreement with Sh. Ajay Kumar Mehta, he could not transfer title over above-said shop to the father of the complainant. That thereafter, all payment of installments towards purchase price of above-said shop was made by the father of the complainant directly to the respondents.
- e. That on 11.12.2014, Builder-Buyer agreement was executed by the respondents with Sh. Ajay Kumar Mehta. That shortly thereafter, as per terms of above-said agreement between Sh. Ajay Kumar Mehta and father of complainant, the above-mentioned shop bearing no. G-25 was transferred in the name of father of the complainant on 05.01.2015. That subsequently, father of the complainant transferred his right over above-mentioned shop bearing No. G-25 in favor of the complainant, the transfer was confirmed by the Respondent No. 1 vide letter dated 19.03.2016. That a total amount of ₹18,39,261/- has been paid by the complainant to the respondents.



- f. That in January 2020 complainant received two letters (one for each shop of the complainant) from Respondent No. 1 demanding a no-objection letter from the complainant and further stating that the complainant is not liable to any compensation from the respondent No. 1 till 31.03.2023. The letter also arbitrarily increased the date of delivery till 31.03.2023, taking away the right of the complainant to seek any remedy.
- g. That as long time had passed and as no construction work was ongoing on the project, Complainant went to the project site, finding no officials of either Respondent No. 1 or 2 there, complainant called officials of respondent No. 2 namely Sh. Ajay Jain & Sh. Sanjay Jain on 08.07.2022 from the project site, enquiring about the status of the construction and the timeline by which the shops will be delivered. The complainant also requested to be granted a copy of the sanctioned plan, layout plan of the project along with stage-wise schedule of completion of the project. That complainant also asked for a copy of updated ledger for both the shops. That on this demand Sh. Sanjay Jain got angry with the complainant and threatened to cancel the allotment of the complainant in the above-mentioned project. Sh. Sanjay Jain also refused to provide any details about the project and asked the complainant to do whatever he can about it.
- h. That now, complainant has come to know about the pendency of Arbitration proceeding pending between respondent No. 1 & 2. Rera Registration of Project has been done only on 08.01.2018 by making false declaration that project is 90 % complete and that respondents possess license bearing no. 71 of 2010 dated 15.09.2010, the respondents also

had to apply for registration of the project within three months of the coming into force of the Rera Act, 2016.

- i. That as of date project is not Rera registered nor OC/CC obtained. The respondent No. 2 admits at Pg. 16 of the above-mentioned arbitration order dated 30.08.2021 that only 40-50% work has been done on the project and no construction done after 08.01.2018.
- j. On the date (Sept 2013) when the advance registration/ bookings were made and money was collected from prospective buyers, the respondents no. 1 & 2 were not having any sanction and license to execute the project from the Director of Town and Country Planning, Haryana. Thus, is in clear violation of Section 7 of 'The Haryana Development and Regulation of urban Areas Act, 1975', which prohibits to advertise and transfer plots without obtaining a license U/s 3 of the Act or to receive any amount thereof.
- k. That it is clear from the facts mentioned above by the complainant that respondent No. 1 & 2 have carried out only marginal development at the site despite expiry of nine years and that both the respondents No. 1 & 2 in connivance with each other and under conspiracy with others have committed cheating, criminal breach of trust and dishonest misappropriation of ₹45,00,881/-. Respondents never had any intention to give shop to complainant; it only induced deponent to commit cheating and misappropriation. Respondents with this modus operandi have cheated hundreds of people and the total cheating thus committed is more than 100 Crores of rupees.
- l. That respondents have indulged in unfair and deceptive trade practices as Respondents deliberately misused the money of the complainant for

years which indicates the mala fide and illegal acts of the Respondents. That the Respondents are deficient in providing services to the complainant, as only marginal development activity is carried out at the project till today. That the Respondents adopted delaying tactics to usurp the hard-earned money of the complainant, harassed complainant by not handing over of the possession of shops within forty-two months from the date of booking. That the Respondents had no approval, sanction, license at the time of advance registration of project and even today, but Respondents with mala-fide and illegal motive came out with the advance registration of project and collected money from the buyers. That the Respondents act of collecting Internal/ External Development Charges from the complainant is deficiency in service as same is neither used for the purpose mentioned nor was it deposited with the government authority.

- m. The Respondents were not having any license in respect of the project at the time it took money from the complainant and others and launched advance registration of its project. That respondents have without obtaining a license under section 3 of 'The Haryana Development and Regulation of Urban Areas Act, 1975' agreed to transfer shops, make an advertisement and received money in respect thereof. This is done by the respondents in violation of section 7 of 'The Haryana Development and Regulation of Urban Areas Act, 1975' and the respondents are liable to be punished and penalized for the same.
- n. That the respondents have collected EDC/IDC from the complainant and others, but this EDC/IDC is not deposited by the respondents with the competent authority, this is also evident from the data released by Town



and Country planning Department, Haryana on its website. That EDC dues against the respondent No. 1 are Rs 4,454 lacs and IDC dues against the respondent No. 1 are Rs 1,003 lacs. That print out of annexures are obtained with compliance of provisions of section 65B of evidence Act. That the computer output containing the information was obtained from the computer during the period over which the computer was used regularly to store or process information for the purposes of activities regularly carried on over that period by complainant having lawful control over the use of the computer. During the said period and throughout the material part of the said period, the computer was operating properly.

- o. That even after expiry of more than 11 years, respondents are still claiming that they have only completed part of the project which itself establishes the admission on the part of the respondents that there is undue delay and deficiency in service on the part of respondents. That this Hon'ble authority/ court has the territorial jurisdiction to decide the present matter between the parties. The entire cause of action has arisen within territorial jurisdiction of this Hon'ble authority/ court, all payments have been made within territorial jurisdiction of this Hon'ble authority/ court, letter dated January 2020 has been delivered to complainant within territorial jurisdiction of this Hon'ble authority/ court, threat to cancel booking of complainant has also been made within territorial jurisdiction of this Hon'ble authority/ court. This Hon'ble authority/ court also has exclusive subject matter jurisdiction to decide disputes between buyers and developers/ promoters.

- p. That the license granted to the respondents for the above-mentioned project situated at Sector 83, Gurugram, Haryana is also likely to be revoked U/s 7 of the RERA Act, 2016 due to unfair, deceptive and fraudulent practices of the respondent as mentioned above. That the respondent company for the purpose of promoting and selling its project has used unfair and deceptive practices, knowing fully well that it had no intention of fulfilling its promises.
- q. In view of the aforementioned facts and circumstances, it is clear that the respondents are misusing their dominant power over the complainant. The complainant has been duped off their hard-earned money invested in the said project. The complainant submits that the respondent has caused deficiency in service and unfair trade practice by failing to deliver the possession of the unit booked on time, unilaterally and illegally trying to curtail right of complainant to seek penalty for delay in possession and further threatening to cancel booking of the complainant. That reliefs sought by the complainant have been enumerated in the complaint above.

**C. Relief sought by the complainant:**

4. The complainant has sought following relief(s).
- Delay Penalty as prescribed under RERA w.e.f. 16.09.2013 from the date of each individual payment for Shop bearing no. G-25 till the date of actual delivery of possession @ 24 % p. a compounded quarterly.
  - Directing for quashing/ cancellation of letter dated January 2020 issued by Respondent No. 2.
  - Directing the respondent not to charge other administrative charges.

- d. To deliver the possession of both the above-mentioned shops complete in all respects along with OC and CC within set time-frame.
  - e. Directing the respondents to allow the complainant to visit and inspect the shops and not to levy Holding charges till the outcome of this complaint.
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 no. 1:**

6. The respondents have contested the complaint on the following grounds.
- a. That the complainants had approached the answering Respondent for booking a shop in an upcoming project Ansal Boulevard, Sector 83, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. an agreement to sell dated 11.12.2014 was signed between the parties.
  - b. That the current dispute cannot be governed by the RERA Act, 2016 because of the fact that the builder buyer agreement signed between the complainant and the answering Respondent was in the year 2014. It is submitted that the regulations at the concerned time period would regulate the project and not a subsequent legislation i.e. RERA Act, 2016. It is further submitted that Parliament would not make the operation of a statute retrospective in effect.
  - c. That even if for the sake of argument, the averments and the pleadings in the complaint are taken to be true, the said complaint has been preferred by the complainant belatedly. The complainant has admittedly filed the

complaint in the year 2022 and the cause of action accrue on 06.11.2019 as per the complaint itself.

- d. That even if the complaint is admitted to be true and correct, the agreement which was signed in the year 2015 without coercion or any duress cannot be called in question today. It is submitted that the builder buyer agreement provides for a penalty in the event of a delay in giving possession. It is submitted that clause 34 of the said agreement provides for Rs. 5/ sq. ft. per month on super area for any delay in offering possession of the unit as mentioned in Clause 30 of the agreement. Therefore, the complainant will be entitled to invoke the said clause and is barred from approaching the Hon'ble Commission in order to alter the penalty clause by virtue of this complaint more than 8 years after it was agreed upon by both parties.
- e. That the Respondent had in due course of time obtained all necessary approvals from the concerned authorities. Similarly, the approval for digging foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the Respondents have in a timely and prompt manner ensured that the requisite compliances be obtained and cannot be faulted on giving delayed possession to the Complainant.
- f. That the answering Respondent has adequately explained the delay. It is submitted that the delay has been occasioned on account of things beyond the control of the answering Respondent. It is further submitted that the builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The Respondent ought to have complied with the orders of the Hon'ble High Court of



Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process.

- g. Similarly, the complaint itself reveals that the correspondence from the Answering Respondent specifies force majeure, demonetization and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID-19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.
- h. That the answering respondent and the complainant admittedly have entered into a builder buyer agreement which provides for the event of delayed possession. It is submitted that clause 31 of the builder buyer agreement is clear that there is no compensation to be sought by the complainant/prospective owner in the event of delay in possession.
- i. That the answering Respondent has clearly provided in clause 34 the consequences that follow from delayed possession. It is submitted that the Complainant cannot alter the terms of the contract by preferring a complaint before the Hon'ble HRERA Gurugram.
- j. That admittedly, the Complainant had signed and agreed on Builder Buyer Agreement dated 06.11.2015. That perusal of the said agreement would show that it is a Tripartite Agreement wherein M/s Samyak Projects Pvt. Ltd is also a party to the said agreement and the Complainant in the present case deliberately has not made M/s Samyak Projects Pvt. Ltd a party in the present matter.
- k. The said M/s Samyak Project Pvt. Ltd. in terms of its arrangement with the respondent could not develop the said project well within time as was



agreed and given to the respondent, the delay, if any, is on the part of M/s Samyak Project Pvt. Ltd. not on the part of respondent, because the construction and development of the said project was undertaken by M/s Samyak Project Pvt. Ltd.

- i. That in an arbitral proceeding before the Ld. Arbitrator Justice A.K Sikri, M/s Samyak Project Pvt. has taken over the present project the answering Respondent for completion of the project and the Respondent has no locus or say in the present project.

**E. Reply by the respondent no. 2**

7. The respondent has contested the complaint on the following grounds:
  - a. That the perusal of the Builder Buyer Agreement at page 3 ("Clause D") would show that M/s Samyak Projects Pvt. Ltd possesses all the rights and unfettered ownership of the said land whereupon the projects namely boulevard 83, Sector 83 Gurgaon, Haryana is being developed. That the operating lines at page 3 ("Clause D") of the Builder Buyer Agreement are as follows: "The Developer has entered into an agreement with the confirming party i.e M/s Samyak Projects Pvt. Ltd.
  - b. As Respondent No.1 failed to fulfill its obligation under the said MoU and construction of the said Project was substantially delayed. Therefore, due to abject failure of Respondent No.1 to perform its obligations under the said MoU and to construct the said Project, the Respondent No.2 being left with no other option, terminated the said MoU vide Termination Notice dated 10.11.2020. The Respondent No.2 also published a Public Notice in the newspaper dated 16.12.2020 informing the public at large about the termination of said MoU by Respondent No.2 due to breach of the terms of MoU by the Respondent No.1.

- c. The Respondent No.1 challenged the termination of MoU before the Hon'ble High Court of Delhi in OMP (I) (COMM) No.431 of 2020 in the matter titled as "Ansal Housing Limited vs. Samyak Projects Private Limited" under Section 9 of the Arbitration and Conciliation Act, 1996. The Hon'ble High Court of Delhi was pleased to refer the matter to Arbitration and appointed Justice A.K Sikri, (Retired Judge of Supreme Court) as the Sole Arbitrator and appointed Local Commissioner.
- d. The Learned Arbitrator rejected the prayer of Respondent No.1 for stay on the termination of MoU and directed the Respondent No.1 to handover the possession of said Project on 14.10.2021 to Respondent No.2 for taking over the balance construction of the said Project. The Learned Arbitrator vide Order dated 02.09.2022 held that Respondent No.2 shall also be free to approach the allottees and demand and/or collect monies from them in respect of their Units.
- e. That the answering respondent acting in good faith and in the interest of public at large, in benefit/interest of the allottees of the aforementioned project, the answering respondent sought to authenticate and verify the veracity of the agreements/allotments made by AHL and urged the allottees including the complainants vide various Emails to come forward for KYC process and show bona fide by paying the balance amounts payable due as the project stood on the verge of completion.
- f. It came to the knowledge of Respondent No.2 that Respondent No.1 has done several dummy transactions by creating fake profiles of allottees. Thus, the Respondent No.2 issued Notice dated 04.05.2023 to the Complainant for verification of the Complainant and legitimacy of the transaction undertaken by Respondent No.1

- g. Notice dated 04.05.2023 to the Complainants in order to comply with the verification process. It was specifically mentioned that, in case no response is received on or before 20.05.2023 from the allottees, then the allotment of the said Unit Bearing No. G-025 shall stand forfeited/cancelled. Despite numerous attempts to engage with the Addressees of the Complainants, no satisfactory response or compliance was received, leading to the cancellation of the allotment of said Unit Bearing No. G-025 in question.
- h. Since Respondent No.1 is registered as 'Promoter' in respect of the said Project with the Real Estate Regulatory Authority ("RERA"), Respondent No.2 requires a No Objection Certificate from the Allottees for the purpose of carrying forth the development of the said Project and obtain necessary permission from the RERA. Therefore, in order to change the Developer of said Project, the Respondent No.2 required written consent of the allottees of said Project.
- i. That more than 167 satisfied allottees after all the verification process executed the Addendum Agreement with the Respondent No.2 wherein it was agreed that the allottees will not make any claim against Respondent No.2 till the expiry of Permitted Period of completion of said Project as granted by the relevant authorities. It was further agreed by the allottees that allottees will not initiate any civil, criminal or legal proceedings of any nature whatsoever against Respondent No.2 before the expiry of the Permitted Period of completion of said Project.
- j. As Respondent No.2 was not a party to the Builder Buyer Agreement executed with Respondent No.1. The captioned Complaint is liable to be dismissed against Respondent No.2. That said Ansal Housing Ltd in terms



of its BBA dated 11-12-2014 with the Complainant. It is pertinent to note that the delay in completion of the Project is caused due to the malfeasance and negligence of the M/s Ansal Housing Ltd. Not on the part Respondent No.2, because the construction and development of the said project was undertaken by M/s Ansal Housing Ltd.

- k. Respondent No.2 has proceeded to commission experts who are in the process of determining the status of the construction and the further steps / construction necessary to complete the Project, Respondent No.2 is making its best endeavours to ensure that the progress of the said Project can be fast tracked. However, the pace of development of said Project is being affected by frivolous and premature challenged being made against the efforts of Respondent No.2.
- l. That after fully understanding that Respondent no. 2 as a land owner have their limited liabilities to the Extend provided the land only and as a confirming party and Sign Builder Buyer Agreement without having any obligation towards Completion and Construction and Financial liability in the project and Builder Buyer Agreement. That BBA dated 11-12-2014 which was signed and executed without coercion or any duress cannot be called in question today. That the complainant has mischievously impleaded the present Applicant as one of the respondents in the present complainant and the possibility of some foul play on the part of the complainant cannot be ruled out.
- m. That the complaint filed by the complainant is not maintainable in the present form and is filed on the false and frivolous grounds. The bare reading of the Complaint does not disclose any cause of action in favor of the Complainant and the present Complaint has been filed with malafide

intention to blackmail the Respondent No.2 with this frivolous Complaint and hampering the Project. That the cancellation of the allotment is in accordance with legal provision. The Respondent No.2 has acted diligently and transparently throughout this process and Interest in the project, and any actions taken are well within the framework of the law. That the captioned Complaint is liable to be dismissed against Respondent No.2. That it is also equally important to mention here that third-party rights had already been created by the Respondent No 2 in the above said shop bearing number G-025 and had already been sold to another allottee.

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 those undisputed documents and submissions made by the parties.

**F. 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.

**F. I Territorial jurisdiction**

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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.

**F. 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) (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) 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.

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

**G.I. Delay Penalty as prescribed under RERA w.e.f. 16.09.2013 from the date of each individual payment for Shop bearing no. G-25 till the date of actual delivery of possession @ 24 % p. a compounded quarterly.**

**G.II. To deliver the possession of both the above-mentioned shops complete in all respects along with OC and CC within set time-frame.**

13. In the present matter the complainant was allotted unit no. G-025, admeasuring 233 sq. ft. in the project "Ansal Hub 83 Boulevard" Sector 83 by the respondent-builder for a total sale consideration of ₹27,94,217/- and they have paid a sum of ₹20,28,670/-. The BBA dated 11.12.2014 was further endorsed in favor of complainant on 19.03.2016. As per clause 30 of the BBA, respondents were obligated to complete the construction of the project within a period of 42 months from the date of execution of agreement or within 42

months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. The occupation certificate for the project has not yet been obtained from the competent authority.

14. Respondent no. 2(land owner) and respondent no. 1(developer) entered into a MoU dated 12.04.2013 whereby the development and marketing of the project was to be done by the respondent no. 1 in terms of the license/permissions granted by the DTCP, Haryana. Upon failure of respondent no. 1 to perform its obligations as per MoU and complete the construction of the project within the agreed timeline, respondent no. 2 terminated the said MoU vide notice dated 10.11.2020 and issued a public notice in newspaper for termination of the MoU. The matter pursuant to the dispute was referred to the Delhi High Court under section 9 of the Arbitration & Conciliation Act, 1996 and vide order dated 22.01.2021 Hon'ble High Court of Delhi appointed the Hon'ble Justice A.K. Sikri, former Judge of the Hon'ble Supreme Court of India as a sole arbitrator of Arbitral Tribunal.
15. The complainant i.e., Ansal Housing Pvt. Ltd. in the petition sought various reliefs including to stay the operation of the termination letter dated 10.11.2020 and the public notice dated 16.12.2020 till the final arbitral award is given. The Arbitral Tribunal vide order dated 31.08.2021 granted no stay on termination notice dated 10.11.2020 and no restraining order in this regard was passed against the M/s Samyak Projects Pvt. Ltd. Further, vide order dated 13.10.2021 of the sole arbitrator respondent no. 1 was directed to handover the aforementioned project to the respondent no. 2. Following the directive outlined in the order dated 13.10.2021 of the sole arbitrator, respondent no. 1 handed over the project to respondent no. 2 via a possession



letter dated 14.10.2021, for the purpose of undertaking the remaining construction tasks. Subsequently, on 02.09.2022, the Sole Arbitrator directed respondent no. 2 to finalize the project within the stipulated timeline, specifically by the conclusion of June 2023 and to collect funds from the allottees with a condition that the amount so collected shall be put in escrow account.

16. The authority is of the view that the builder buyer agreement has not been executed between the parties but the complainant has made an application for booking to respondent no. 1 only and also the ledger has also been issued by the respondent no. 1.
17. Further, the authority observes that the occupation certificate for the project is yet to be received and the project stands transferred to the respondent no. 2 who is now responsible to complete the same. In view of the above, the liability under provisions of Section 18(1) of the Act & Rules read with builder buyer agreement shall be borne by both the respondent no. 1 and the liability to handover the unit shall lie with respondent no. 2 only.
18. In view of the above, the liability under provisions of Section 18(1) of the Act & Rules read with builder buyer agreement shall be borne by both the respondents. The complainant intends to continue with the project and are seeking delay possession charges interest on the amount paid. 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:

*"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. -*

*in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

*he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

*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."*

*(Emphasis supplied)*

19. Clause 30 of the application form provides for handing over of possession.

*"The Developer shall offer of the unit any time a period of 42 months from the date of execution of agreement or within 42 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later, further there shall be a grace period 6 months allowed to the developer over and above the period of 42 months."*

20. **Due date of possession and admissibility of grace period:** As per clause 30 of the BBA, the possession of the allotted unit was supposed to be handed over within a period of 42 months from the date of execution of agreement or within 42 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later. A grace period of 6 months is allowed being unqualified. The due date of possession is calculated from the date of commencement of construction i.e., 15.12.2014 being later. Accordingly, the due date of possession comes out to be 15.12.2018. The occupation certificate for the project has not yet been obtained from the competent authority.

21. **Payment of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the 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]

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.

22. 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.
23. 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., 29.07.2025 is **8.90%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.90%**. (\*the rate of interest is inadvertently mentioned as 11.10% in POD dated 29.07.2025)
24. 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—*



*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 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;"*

25. 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 them in case of delayed possession charges.
26. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 30 of the BBA, the possession of the subject unit was to be delivered within stipulated time i.e., by 15.12.2018. However, till date no occupation certificate has been received by respondents and neither possession has been handed over to the allottee till date.
27. The Authority is of considered view that there is delay on the part of the respondents to offer of possession of the allotted unit to the complainants as per the terms and conditions of the allotment letter. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.
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/promoter is established. As such, the allottee shall be paid by the promoter interest for every month of delay from the due date of possession i.e., 15.12.2018 till the date of valid offer of possession plus 2 months after obtaining occupation

certificate from the competent authority or actual handing over of possession, whichever is earlier at prescribed rate i.e., 10.90% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

**G.III. Directing for quashing/ cancellation of letter dated January 2020 issued by Respondent No. 2.**

29. The respondent no. 2 itself has issued a letter dated 04.05.2025 accepting the request of the complainant to change the original unit bearing no. G-025 to G-177. The said act of respondent no. 2 has itself set aside the cancellation letter issued in January 2020.

**G.IV. Directing the respondent not to charge other administrative charges.**

**G.V. Directing the respondents to allow the complainant to visit and inspect the shops and not to levy Holding charges till the outcome of this complaint**

30. The respondent shall not charge anything which is not the part of the BBA.

**H. Directions of the authority**

31. 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):

- a. The respondents are directed to pay interest at the prescribed rate of 10.90% p.a. for every month of delay from due date of possession i.e., 15.12.2018 till the date of valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier; as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- b. The respondent no. 2 is further directed to hand over the actual physical possession of the unit to the complainants within 2 months after obtaining occupation certificate upon payment of outstanding dues.

- c. 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 delayed possession charges as per section 2(za) of the Act.
- d. The respondents are directed to pay arrears of interest accrued within 90 days from the date of order of this order as per rule 16(2) of the rules.
- e. The respondent shall not charge anything which is not the part of BBA.
32. Complaint stands disposed of.
33. File be consigned to registry.

(Ashok Sangwan)  
Member

(Arun Kumar)  
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 29.07.2025