

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

Complaint no.:	6475 of 2024
Date of Pronouncement:	01.08.2025

Shweta Sethi**Address:** - House No. 474, Laxmi Garden,
Near Shiv Mandir, Gurugram, Haryana-122001**Complainant**

Versus

Renuka Traders Pvt Ltd**Address:** - B-2/3, Kh No 8/8, Second Floor,
Chattarpur Ext, New Delhi 110074**Respondent****CORAM:**

Shri Arun Kumar

Chairman**APPEARANCE:**

Shri Kanish Bangia (Advocate)

Complainant

Shri Shubham Mishra (Advocate)

Respondent

ORDER

1. The present complaint dated 21.01.2025 has been filed by the complainant 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 thereunder or to the allottee as per the agreement for sale executed inter se.

A. Project and unit related details

2. The particulars of the project, the details of 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:

Sr. No.	Particulars	Details
1.	Project Name and Location	Aashiyara, Sector-37 C Gurugram
2.	Project area	5 acres
3.	Nature of the project	Affordable group housing
4.	DTCP License no and validity status	15 of 2018 dated 13.02.2018 valid upto 12.02.2023
5.	RERA Registered/ not registered	26 of 2018 dated 28.11.2018 valid upto 31.01.2023
6.	Unit no.	405, 4 th floor, T-T10, 2BHK
7.	Unit area	548.921 sq. ft.
8.	Agreement for sale on	13.12.2019
9.	Possession clause 7.1	<p><i>Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023.</i></p> <p><i>The Promoter agrees and understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/</i></p>

		<p>guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above-mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement.</p>
10.	Due date of possession	31.07.2023 Note: - Grace period is allowed.
11.	Total sale price of the flat	Rs. 22,34,014/-
12.	Amount paid by the complainant	Rs. 23,45,717/-
13.	Occupation certificate	N/A
14.	Offer of possession	N/A

B. Facts of the complaint:

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

- i. That the marketing officials of the Respondent further represented to the Complainant that a site visit could be availed and, since the Respondent was well known for strictly adhering to timelines with complete dedication, the Complainant should not miss this "lifetime opportunity," as the booking window was stated to be closing within a few days.
- ii. That the Complainant was compelled to sign a blank application form under assurances provided by the Respondent's personnel. Relying upon these assurances and representations, the Complainant agreed to purchase an apartment/unit in the Respondent's project, with the dream of owning a home therein.
- iii. Accordingly, the Complainant booked Unit No. 405, Fourth Floor, Block/Tower T10, 2 BHK (Type-B), having a super area of 548.921 sq. ft. in the said project, and paid an amount of Rs. 1,11,700/- at the time of booking. The Respondent executed an Agreement for Sale dated 13.12.2019 with the Complainant in respect of the said unit.
- iv. Despite making timely payments in response to every demand letter, the Complainant was hopeful of receiving possession of the apartment by the date stipulated in Clause 7.1 of the Agreement for Sale, i.e., on or before 31.01.2023. However, during regular site visits, the Complainant observed significant delays, as the construction was not progressing in accordance with the approved plan and timeline. Concerned by this, the Complainant repeatedly raised the issue with the Respondent through personal visits, formal letters, and emails, seeking clarity on the delay.

- v. The Respondent, however, merely offered vague assurances that possession would be delivered as per the Agreement, without addressing the evident lack of progress at the site. Despite these repeated promises, the Respondent continuously failed and neglected to hand over possession within the agreed timeline, causing severe distress and frustration to the Complainant, who had acted in good faith.
- vi. The delay not only disrupted the Complainant's plans for accommodation but also imposed financial strain owing to the prolonged waiting period. Having lost all hope of receiving possession and interest for the delay—now more than two years beyond the committed date of 31.01.2023—the Complainant has been compelled to approach this Authority for redressal.
- vii. Though the Respondent's representatives repeatedly assured the Complainant that the matter would be addressed promptly, no actual steps were taken. Relying on such assurances, the Complainant waited patiently; however, the issue remains unresolved, causing continued inconvenience and uncertainty. The Complainant has made numerous attempts to highlight the issue to the Respondent through telephonic conversations and emails, but the Respondent failed to take any corrective action. This apathy has aggravated the situation, causing the Complainant substantial financial loss and mental harassment.
- viii. The Complainant has already paid a sum of Rs. 23,45,717/-, which is more than 100% of the total sale consideration of Rs. 22,34,014/-. The Respondent is therefore liable to compensate the Complainant for the monetary losses, mental agony, and

harassment suffered, as per Section 12 of the RERA Act, 2016 and the rules framed thereunder. It is submitted that the Respondent is guilty of deficiency in service, unfair trade practices, making false statements and misrepresentations, and providing incorrect assurances while selling the said unit. Such conduct falls squarely within the ambit of the provisions of the RERA Act, 2016.

- ix. The Government of Haryana, through its Town and Country Planning Department, issued Gazette Notification dated 19th August 2013 No. PF-27/48921, introducing the *Affordable Housing Policy-2013* under Section 9A of the Haryana Development and Regulation of Urban Areas Act, 1975. This policy was intended to ensure timely completion of group housing projects with pre-defined unit sizes and pre-defined prices, within a prescribed timeframe, so as to increase the supply of affordable housing in the urban market. Although the Real Estate (Regulation and Development) Act, 2016 came into effect from 01.05.2016, the said Affordable Housing Policy continues to remain valid and enforceable, being a special policy for a specific objective. The provisions of the policy are not inconsistent with the RERA Act, 2016, nor have they been repealed by the legislature.
- x. It is evident that the Respondent deliberately delayed construction and misused the Complainant's hard-earned money, thereby causing financial and mental harassment. The delay was intentional, mala fide, and aimed at extracting additional funds from the Complainant. The definition of "Agreement for Sale," as envisaged under the RERA Act, covers both pre-RERA and post-

RERA agreements. The Complainant's claim is based squarely on the remedies available under Section 18 of the Act. Accordingly, the operation of these provisions cannot be restricted only to post-RERA agreements, and the Complainant is fully entitled to relief under the Act.

C. The complainant is seeking the following relief:

4. The complainant has sought following relief(s):
 - a. Direct the respondent to hand over the possession of the apartment, along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.
 - b. It is most respectfully prayed that the Authority be pleased to order the respondent not to charge anything which not the part of the payment plan as agreed upon.
 - c. It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit.
 - d. Direct the respondent to get the conveyance deed executed without raising illegal demands from the complainant.
 - e. Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications.
 - f. Direct the respondent to replace the internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall.
 - g. Direct the respondent to provide sliding doors in the balcony.
 - h. Direct the respondent to provide RCC chajja on the top floor buildings.

- i. Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as per approved drawings, submitted at HRERA form REP-PART H.
 - j. Direct the respondent to specify as whether they are providing parking as per the amendment in the Affordable Housing Policy.
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.
6. The present complaint was filed on 21.01.2025. Despite being afforded sufficient opportunities, the Respondent has failed to file its written statement/reply. Advocate Sh. Subham Mishra appeared on behalf of the Respondent on 02.05.2025 and 01.08.2025; however, no reply has been filed till date. In view of the above, the right of the Respondent to file its defence stands struck off. It is further noted that the only application filed on behalf of the Respondent was one seeking dismissal of the complaint, filed on 11.04.2025.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainant. The case now proceed on merits shall based on the complainant submission.
- D. Jurisdiction of the authority**
8. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:
- D.1 Territorial jurisdiction**
9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Real Estate

Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District, therefore this authority has completed territorial jurisdiction to deal with the present complaint.

D. II Subject-matter jurisdiction

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

Section 11

.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case 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.

11. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

E. Findings on the objection raised by the respondent in the application.

E.1 Objection regarding dismissal of complaint.

12. The respondent-promoter has filed an application dated 11.04.2025 seeking dismissal of the present complaint on the ground that the

complainant is already a co-complainant in a collective complaint titled "Aashiyara Society vs. Renuka Traders M. Ltd." bearing Complaint No. RERA-GRG-7218-2022. It has been contended by the respondent that the said collective complaint was instituted by the association on behalf of approximately 97 allottees, including the present complainant, raising common issues relating to delay in possession, demand for interest, poor construction quality, and other grievances concerning the same project.

13. Vide order dated 27.05.2025, the Authority had directed the association to file individual complaints in respect of certain reliefs, such as delay possession charges, compensation, and other personal grievances, which cannot be adjudicated collectively through an association complaint under the provisions of the RERA Act. In view of the aforesaid direction of the Authority and considering the nature of the reliefs sought in the present complaint, the plea raised by the respondent for dismissal of the complaint is hereby rejected.

F. Findings on the relief sought by the complainant.

F.1 Direct the respondent to hand over the possession of the apartment, along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.

14. 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."

15. Clause 7.1 of the agreement for sale dated 13.12.2019 provides for handing over of possession and is reproduced below:

"Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023. *The Promoter agrees and understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above-mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement."*

16. **Due date of handing over possession:** In the present case, the promoter has proposed to hand over the possession of the subject unit on or before 31.01.2023. Therefore, the due date of possession comes out to be 31.07.2023 including grace period of 6 months in lieu of Covid-19 (It is observed that the grace period was not recorded in the proceedings dated 01.08.2025. However, the same has been specifically provided for and defined in the final order. Accordingly, the final due date for handing over possession shall be reckoned in terms of the said grace period as stipulated herein).

17. **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.

18. 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.
19. 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., 01.08.2025 is **8.90%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.90%** (Inadvertently, the rate was recorded in the POD dated 01.08.2025 as 11.10%).
20. 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;"*

21. Therefore, interest on the delay payments from the complainant 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.
22. On consideration of the documents available on record and submissions made by both the parties, 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 7.1 of the agreement for sale executed between the parties on 13.12.2019, the possession of the subject unit was to be delivered by 31.07.2023 including grace of 6 months in lieu of Covid. It is important to note that till date respondent-promoter has not obtained occupation certificate from the competent Authority. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 13.12.2019 to hand over the possession within the stipulated period.
23. 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 complainant is entitled to delay possession

charges at rate of the prescribed interest @10.90% p.a. w.e.f. 31.07.2023 till offer of possession plus 2 months or actual handing over of possession after obtaining occupation certificate/ 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.

F. II It is most respectfully prayed that the Authority be pleased to order the Respondent not to charge anything which not the part of the payment plan as agreed upon.

24. As per the provisions of the Act, 2016, a promoter is bound to adhere strictly to the terms and conditions agreed upon with the allottee. Any additional charges, which are not mentioned in the builder buyer agreement cannot be unilaterally imposed upon the allottee. Therefore, respondent-promoter is directed not to charge anything which is not part of buyer agreement.

F.III It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit

25. As per the documents on record it is evident that the complainant has already paid more than the agreed sale consideration. It is important to note that till date the respondent has neither obtained occupation certificate nor offered possession to the complainant. In view of the above submissions and findings the respondent is directed not create any third-party rights nor cancel the allotment of the subject unit.

F. IV Direct the respondent to get the conveyance deed executed without raising illegal demands from the complainant.

26. 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. 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

F.V Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications.

F.VI Direct the respondent to replace the internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall.

F.VII Direct the respondent to provide sliding doors in the balcony.

F.VIII Direct the respondent to provide RCC chajja on the top floor buildings.

F.IX Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as per approved drawings, submitted at HRERA form REP-PART H.

F.X Direct the respondent to specify as whether they are providing parking as per the amendment in the Affordable Housing Policy.

27. The above-mentioned reliefs no. F.V, F.VI, F.VII, F.VIII, F.IX and F.X as sought by the complainant is being taken together and these reliefs are interconnected.

28. In the present case, the demand to replace MS angle door frames with wooden door frames, substitute ash brick walls with RCC walls, provide sliding balcony doors, RCC chajjas, and appropriate parking as per the amended Affordable Housing Policy, all fall within the scope of construction quality, adherence to approved plans, and promised specifications. However, to date no occupancy certificate/completion certificate has been received from the competent Authority. The promoter is advised to adhere to the sanctioned building plan and the specifications provided in the buyer agreement as well as to comply with the Affordable Housing Policy. If there are any structural defects or other defects in workmanship, quality, or provision of services within five years from the date of possession, in such cases, as per Section 14(3) of the RERA Act,

2016, the promoter shall be liable to rectify such defects without further charge, within 30 days of the intimation. If the promoter fails to do so, the allottee shall be entitled to appropriate compensation as provided under the Act.

G. Directions of the authority

29. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The respondent is directed to pay interest to the complainants 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., 31.07.2023 till offer of possession plus 2 months or actual handing over of possession after obtaining occupation certificate/ completion certificate from the competent authority.
 - ii. The arrears of such interest accrued from 31.07.2023 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.
 - iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - iv. The rate of interest chargeable from the allottee 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.

- v. The Respondent is directed to hand over possession of the subject unit to the Complainant/Allottees, upon payment of outstanding dues, if any, after obtaining the Occupancy Certificate. The Respondent shall further ensure execution of the conveyance deed in respect of the allotted unit in favour of the Complainant, in terms of Section 17(1) of the Real Estate (Regulation and Development) Act, 2016, subject to payment of applicable stamp duty and registration charges.
 - vi. The respondent shall not charge anything from the complainant which is not part of the agreement for sale dated 13.12.2019.
 - vii. The respondent-promoter is not entitled to charge holding charges from the complainant-allottees at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 on 14.12.2020.
30. Complaint stands disposed of.
31. File be consigned to registry.

HARERA
GURUGRAM


Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 01.08.2025