

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

**Complaint No. :** 1081 of 2024  
**Date of decision:** 04.09.2025

1. Shri Vineet Gandhi

**R/o:-** A-76, Yamuna Enclave, G.T. Road, Panipat- 132103  
(Haryana)

2. Shri Roop Chand Sukhija

**R/o:-** T2A, JBB Grand, Sector-35, Karnal- 132001

**Complainants**

**Versus**

M/s Green Heights Project Private Limited

**Regd. Office at:-** 271, Phase-II, Udyog Vihar, Gurugram,  
Haryana-122016

**Respondent**

**CORAM:**

Shri Vijay Kumar Goyal

**Member**

**APPEARANCE:**

Shri Garvit Gupta (Advocate)

Ms. Preeti Yadav (Advocate)

**Complainant  
Respondent**

**ORDER**

1. The present complaint has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities, and functions under the provisions of the Act or the rules and regulations made there under or to the allottees as per the agreement for sale executed inter-se them.

**A. Project and unit related details**

2. The particulars of the project, the details of 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. No.	Particulars	Details
1.	Name of the project	"Baani Centre Point", Sector - M1D, Urban Complex, Manesar, Gurugram
2.	Project area	2.681 acres
3.	Nature of the project	Commercial
4.	DTCP license no. and validity status	59 of 2009 dated 26.10.2009 valid upto 12.09.2020
5.	Name of licensee	M/s Paradise System Pvt. Ltd.
6.	RERA Registered/ not registered	Registered vide regd. no. 187 of 2017 dated 14.09.2017 valid up to 13.09.2019
7.	Unit no.	FF-009, First floor (Page 41 of complaint)
8.	Unit area admeasuring	372 sq. ft. (Page 41 of complaint)
10.	Date of allotment letter	01.12.2014 (Page 27 of complaint)
11.	Date of execution of commercial space buyer's agreement	12.12.2016 (Page 36 of complaint)
12.	Possession clause	<b>2.1 Possession</b> <i>The possession of the said premises shall be endeavored to be delivered by the intending purchaser by tentative date of 30.09.2017 with a grace period of 6 months beyond this date subject to clause 9 and completion of construction.....</i>
13.	Due date of possession	30.03.2018 ( <b>Note:-</b> Including grace period of 6 months is allowed being un conditional)
14.	Basic sale consideration	Rs.31,83,374/- plus additional charges (Page 59 of complaint)
15.	Amount paid by the complainant	Rs.27,04,319/- (submitted by respondent page 02 of reply)
16.	Occupation certificate	Not obtained



17	Offer of possession	Not offered
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**B. Facts of the complaint**

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

- a) That the respondent offered for sale units in a commercial complex known as '*Baani Centre Point*' which claimed to comprise of commercial units, car parking spaces, recreational facilities, gardens etc. on a piece and parcel of land situated in Sector M1D, Gurugram, Haryana. The respondent also claimed that the DTCP, Haryana had granted license bearing no. 59 of 2009 on a land area of about 2.681 acres in Village Lakhnaula, Tehsil Manesar, and Gurugram to its associates companies for development of a commercial colony in accordance with the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and Rules made thereunder.
- b) That the complainants received a marketing call from the office of respondent in the month of December, 2012 for booking in commercial project of the respondent. The complainants had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. The complainants assurances and representations made by the respondent, decided to book a commercial unit in the project as the complainants required the same in a time bound manner for their own use. This fact was also specifically brought to the knowledge of the officials of the respondent who confirmed that the possession of the commercial unit to be allotted to the complainant would be positively handed over within the agreed time frame. The representatives of the respondent that the payment plan in question would be '*Construction Linked Plan*'. Moreover, at the time of booking, it was promised and assured by the respondent to the complainants that the agreement would be

executed in a short span of time and the said unit would be handed over to the complainants by 30.09.2017. They made a payment of Rs.2,50,000/- at the time of booking the said unit and the respondent had accordingly issued receipts dated 02.05.2013 acknowledging the said payments.

- c) That vide provisional allotment letter dated 01.12.2014 i.e., after 1.5 years from the date of first payment, the respondent allotted a Unit bearing no. FF-009, First Floor admeasuring 372 sq. ft. at the rate of Rs.6,500/- per sq. ft. After the allotment of the unit by the respondent, the respondent raised the demand dated 01.12.2014 towards the installment against 'commencement of work at site'. The complainants believing the said payment demand to be correct, paid the demanded amount without any delay vide cheque no. 000016 for an amount of Rs.1,25,000/- and vide cheque dated 002365 for Rs.1,25,000/- and accordingly the respondent issued receipts dated 16.03.2015 acknowledging the said payments.
- d) That on 03.11.2015, the respondent raised a payment demand against 'On Laying of Raft' which was duly paid by the complainants without any delay or default. Further, the respondent raised another payment demands dated 03.02.2016 against 'casting of 3<sup>rd</sup> basement roof slab' and 11.04.2016 against 'casting of 2<sup>nd</sup> basement roof slab. That both the said demands were duly fulfilled by the complainants without any delay in making the said payments. The complainants without any delay or default continued to make the payments as and when demanded by the respondent. The respondent, however, failed to execute the buyer's agreement or address the genuine concerns of the complainants in respect of the same.
- e) That on account of a delay of more than 3 years in execution of the buyer's agreement, the complainants again sent several reminders and even visited the office of the respondent to enquire about the execution of the said



agreement. The representatives of the respondent again assured the complainants that the agreement would be duly executed and further promised the complainants that the possession of the unit would be delivered timely to the complainants. They had paid a substantial sum towards the said unit already and thus had no other option but to believe the representations and promises of the respondent. Finally, after almost three long years, the respondent intimated the complainants regarding the execution of the buyer's agreement vide letter dated 11.11.2016.

- f) That while in the case of the complainant making the delay in the payment of instalments, the respondent company is shown to be entitled to charge interest @ 15% per annum, the complainant is shown to be only entitled to an amount calculated at 9% per annum for the period of delay in offering the possession of the unit beyond the period stated by the respondent.
- g) That the above stated provisions of the buyer's agreement besides other similar one-sided provisions are on the face of it highly illegal, absurd, unilateral, arbitrary, unconscionable and not valid. The legislature has promulgated the Act, 2016 to balance the bargaining power of the allottees who have been disadvantaged by the abuse of the dominant position of the developers. A bare perusal of the above clauses highlights the one-sided arbitrary agreement and the abuse of dominant position is all pervasive in the terms and conditions of the agreement executed by the respondent vide various clauses imposing all the liabilities on the complainant, while conveniently relieving itself from all obligations on its part.
- h) The respondent/promoter refused to amend or change any term of the pre-printed buyer's agreement and further threatened the complainant to forfeit the previous amounts paid by him if further payments are not made. The complainant had made substantial payment before the execution of the

agreement. Since the complainant had already parted with a considerable amount of the sale consideration, they were left with no other option but to accept the lopsided and one-sided terms of the buyer's agreement. Hence the buyer's agreement dated 12.12.2016 was executed and as per clause 2.1 of the agreement, the possession of the unit was to be handed over by the respondent by 30.09.2017 with a grace period of six months.

- i) Then subsequently the respondent raised various demands on 20.12.2016, 10.05.2017 and 10.10.2017 respectively sent the complainants demand against '1st Basement Roof Slab', 'On Casting of 4th Floor Roof Slab' and 'On Start of Brick Work'. The complainants without any delay or defaults fulfilled the said payment demands.
- j) That the complainants have till date made the payment of Rs.27,00,000/- out of Rs.31,83,374.08 strictly as per the terms of the allotment and the development linked payment plan and no default in making timely payment towards the instalment demands has been committed by the complainants. The respondent/promoter used to only provide a short time span to make the payment of all the payment demands. Yet, all the payments were made by the complainants without any delay.
- k) That the respondent has miserably failed to send any other legal payment demand for the period of 5 years from the date of issuance of last payment demand for the simple reason that the respondent has not completed the construction within the agreed time frame. It is pertinent to mention herein that the last payment demand 'Completion of Super Structure' was sent by the respondent to the complainant in the year 2018 and the same was paid by the complainant within the time period. The next payment demand as per the terms of the allotment and the construction linked payment plan which was to be raised at the stage of 'Offer of Possession' has till date not

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been issued by the respondent to the complainant because the respondent failed to complete the structure till that stage. Since all the payment demands except the demand to be raised at the time of offer of possession were sent by the respondent to the complainant, then the respondent /promoter should have been in the condition even otherwise to apply for the grant of the occupation certificate in the year 2018 itself. There is inordinate delay in developing the project well beyond what was promised and assured to the complainants.

- l) That the respondent has committed various acts of omission and commission by making incorrect and false statements at the time of booking. There is an inordinate delay of 71 months calculated up to March, 2024 and till date the possession of the allotted unit has not been offered by the respondent to the complainants. The non-completion of the project is not attributable to any circumstance except the deliberate lethargy, negligence and unfair trade practices adopted by the respondent /promoter.
- m) That the project is an ongoing project and hence falls under the first proviso to Section 3(1) of the Act 2016. The complainants believe that no occupation and completion certificate has been issued for the project in question till date and hence this project falls clearly under the jurisdiction of this Authority. The respondent in utter disregard of its responsibilities has left the complainant in the lurch and the complainant has been forced to chase the respondent for seeking relief.
- n) That the cause of action for the present complaint is recurring one on account of the failure of the respondent to perform its obligations within the agreed time frame. The cause of action again arose when the respondent failed to hand over the possession and compensation for delay on its part

and finally about a week ago when the respondent refused to compensate the complainant with the delayed possession interest amount and compensation. The complainant reserve his right to approach the appropriate Forum to seek compensation.

**C. Relief sought by the complainant**

4. The complainant has sought the following relief(s):

- I. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 30.03.2018 till actual handing of the possession.
- II. Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the occupation certificate from the concerned authorities.
- III. Direct the respondent to execute the conveyance deed of the unit in favour of the complainant.
- IV. Direct the respondent to not raise any payment demand, in violation of the provisions of the Act, 2016 and/or contrary to the terms of the agreement.
- V. To imposed penalty to the builder on account of various defaults and illegalities under the Act, 2016 and the same be ordered to be paid to the complainant.

5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to Section 11(4)(a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondent**

6. The respondent has contested the complaint on the following grounds.

- I. That a collaboration agreement dated 30.03.2013 was entered into between M/s Paradise Systems Pvt. Ltd. as the original landholder and Green Heights Projects Pvt. Ltd., as the Developer. That various permissions were sought from different authorities by the original landholder and the development was undertaken by the respondent consequent to those permissions and the commercial project is constructed on the subject land by the respondent duly following the norms and compliances as per law. That the respondent as per the terms of the collaboration agreement paid the amount of Rupees



Twenty-Eight crores and Forty lakhs to the landowners i.e. Paradise Systems Private Limited by way of cheques and RTGS from the period 27.02.2013 to 03.02.2016.

- II. That vide letter dated 23.05.2013 the entire external development charges and internal development charges in respect of land were paid to Directorate, Town and Country Planning, Haryana. That plans for construction of the commercial colony were filed which were sanctioned vide sanction letter dated 23.07.2014.
- III. That the construction was initiated in the project and during that process a letter was received from Directorate of Town and Country Planning directing to stop the construction in compliance of the Injunction order from the Hon'ble Supreme Court of India dated 24.04.2015. The land owner approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether it is applicable to the land and license however Supreme Court directed it to approach DTCP for clarifications.
- IV. That the land owner approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation of all the projects and till original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations. The landowner then approached Punjab and Haryana high court for directions to CBI to handover original files in respect of the project of respondent and the High Court by order dated 27.03.2017 passed appropriate directions.
- V. That vide judgement dated 12.03.2018, the project **BAANI CENTER POINT, SECTOR M1D, MANESAR** of M/s Green Heights Projects Pvt. Ltd. was not

included in tainted projects which clearly meant that the Respondent could commence construction subject to renewal of licenses and other permissions.

- VI. That shortly after the stay was lifted on 12.03.2018, M/s Paradise Systems Pvt. Ltd. approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018 and thereafter the Respondent has developed the project said which is almost complete and was left for some finishing works and interiors. It shall be pertinent to mention that while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.
- VII. That later on the HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 through M.A. No. 50 of 2019 in the matter of **Rameshwar & ors Vs. State of Haryana & Ors.** CA 8788 of 2015 being "Application for Clarification of Final Judgment dated 12.03.2018 passed by this Hon'ble Court". The Hon'ble Supreme Court through its order dated 13.10.2020 again granted an injunction on further construction of projects of the parties to the said case including M/s. Paradise Systems Pvt. Ltd.'s project of Baani Center Point, Sector M1D, Manesar.
- VIII. That the respondent vide letter dated 25.07.2022 has also applied for renewal of license and other permissions from DTCP which is awaited. The project was registered under the provisions of the Act, 2016 vide registration no. 187 of 2017 and after the judgement of the Hon'ble Supreme Court the respondent has filed an application for extension of the registration under section 7 sub clause 3 dated 04.08.2022.
- IX. That the stay on construction order by the Hon'ble Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing over possession of the unit. The intention of the force majeure



clause is to save the performing party from consequences of anything over which he has no control. It is no more *res integra* that force majeure is intended to include risks beyond the reasonable control of a party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated.

- X. That the real estate sector is dependent on the speed of the construction and due to the order by the Hon'ble Supreme Court, there has been a complete stoppage on all construction activities. The respondent is in the process of taking required approvals from Government authorities so that the offer of possession is given to the allottees very soon. There is no malafide intention of the respondent to get the delivery of the project delayed to the allottees.
- XI. That on 03.10.2023, Paradise vide letter to the DTCP requested the renewal of license no. 59 of 2009 and approval for the transfer of said license. Subsequently, on 18.10.2023, DTCP issued an office memo granting the renewal of the license. However, DTCP did not process the application for the transfer of the license. Since the DTCP did not process the application for the transfer of the license, Paradise sent another letter dated 31.10.2023 to the DTCP, requesting approval for the transfer of license no. 59 of 2009 along with other pending applications. Further, the respondent also sent a letter 04.04.2024 to the Enforcement Directorate, requesting clearance to the DTCP for the transfer of the license and change of developer. However, as of now, the clearance is still awaited.

XII. That the construction timeline and, consequently, the possession schedule were significantly affected by two "**zero periods**" mandated by the DTCP. These periods were; (i) first zero period: **24.04.2015 to 12.03.2018** and (ii) second zero period: **23.07.2018 to 21.07.2022**. These government-imposed "zero periods" are critical for understanding the delay in possession, as they were unforeseen and beyond the respondent's control, thereby invoking the force majeure provision of the agreement. For clarity, "zero period" means unavoidable delay in a project's development, due to government interventions or legal proceedings. During such periods, construction progress is halted. The combined effect of these zero periods significantly extended the project timeline.

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 parties.

**E. Jurisdiction of the authority**

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

**E.I Territorial jurisdiction**

9. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purposes 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 a complete territorial jurisdiction to deal with the present complaint.

**E.II Subject matter jurisdiction**

10. 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) 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 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.

**F. Findings on the objections raised by the respondent.****F.1 Objection regarding delay due to force majeure circumstances.**

12. The respondent took a plea that as per the Clause 9 - Force Majeure of the space buyer agreement "The intending seller shall not be held responsible or liable for failure or delay in performing any of its obligation or undertakings as provided for in this agreement, if such performance is prevented, delayed or hindered by an act of god, fire, flood, civil commotion, war, riot, explosion, terrorist acts, sabotage, or general shortage of energy, labour, equipment, facilities, material or supplies, failure of transportation, strike, lock-outs, action of labour union, change of Law, new legislation, enactment, court orders, delays in Government approval, change of Law, new legislation, enactment, court orders, delays in government approval, Act of Government or intervention of Statutory Authorities or any other cause not within the reasonable control of the Intending Seller". Therefore, as the project "Baani Centre Point" was under stay orders of the Hon'ble Supreme Court of India for 7 years 3 months (24.04.2015 to 21.07.2022) which was beyond the respondent's reasonable control and because of this no construction in the project could be carried. Hence, there is no

fault of the respondent in delayed construction which has been considered by DTCP and the Authority while considering its applications of considering zero period, renewal of license and extension of registration by the Authority.

13. Due to reasons stated hereinabove it became impossible to fulfil contractual obligations due to a particular event that was unforeseeable and unavoidable by the respondent. It is humbly submitted that the stay on construction order by the Hon'ble Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing over possession of the unit. The intention of the Force Majeure clause is to save the performing party from consequences of anything over which he has no control. It is no more res integra that force majeure is intended to include risks beyond the reasonable control of a party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. Thus, it was submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension in terms of the buyer agreement.
14. The Authority is of the view that the pivotal issue arises from the builder's actions during the period between 24.04.2015 to 01.03.2018 in question that is despite claiming force majeure due to external impediments, the builder continued construction activities unabated thereafter concurrently received payments from the allottees. During the period 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in M.A No. 50 of 2019 vide order dated 21.07.2022 which was in operation from 13.10.2020 to



21.07.2022 and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, there was no construction carried out in the project nor any demands made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order of Hon'ble Supreme Court on further construction/development works on the said project.

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

**G.I Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 30.03.2018 till actual handing of the possession.**

**G.II Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the Occupation Certificate from the concerned authorities.**

15. The above mentioned reliefs are being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected
16. The complainants have submitted that they booked a unit bearing no. GF-102 on ground floor admeasuring 401 sq. ft. of super area and the same was allotted to them by the respondent via allotment letter dated 01.12.2014. Thereafter, the space buyer agreement was executed between the complainants and the respondent on 12.12.2016. As per clause 2 of the said agreement dated 31.03.2017, the respondent undertook to handover possession of the unit to the complainants tentatively by 30.09.2017 along with a grace period of six months. The complainants have till date made a payment of Rs.27,04,319/- out of the sale consideration of Rs.31,83,374/-.
17. The respondent stated that a collaboration agreement dated 30.03.2013 was entered into between M/s Paradise Systems Pvt. Ltd. being the original landholder and M/s. Green Heights Projects Pvt. Ltd., being the developer for the

project namely "Baani Center Point". Thereafter, the construction was initiated in the project and during that process a letter was received from Directorate of Town and Country Planning directing to stop the construction in compliance of the Injunction Order from the Hon'ble Supreme Court of India dated 24.04.2015. Thereafter the respondent-builder approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether it is applicable to the land and license however the Hon'ble Supreme Court directed it to approach DTCP for clarifications. The respondent builder approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of entire 912 acres have been taken by Central Bureau of Investigation of all the projects and till original files are returned back by CBI, DTCP will not be in a position to provide clarification in respect of various representations. The landowner then approached Hon'ble Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of respondent and the High Court by order dated 27.03.2017 passed appropriate directions. It is pertinent to mention here that between the periods of 24.04.2015 till 12.03.2018, the Hon'ble Supreme Court of India had passed directions in respect of 912 acres of land in 3 villages including the land where the present project (Baani Center Point) is constructed. That vide judgment dated 12.03.2018, the project of the respondent was not included in tainted projects which clearly meant that respondent could commence construction subject to renewal of licenses and other permissions. Shortly after the stay was lifted on 12.03.2018, M/s Paradise Systems Pvt. Ltd. approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018 and thereafter the respondent has developed the project which is almost complete and was left for some finishing works and



interiors. It shall be pertinent to mention that while renewing the license, the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.

18. Later on, the HSIIDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 through M.A. No. 50 of 2019 in the matter of **Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015** being "Application for Clarification of Final Judgment dated 12.03.2018 passed by the Hon'ble Court". It is submitted that the Hon'ble Supreme Court through its order dated 13.10.2020 again granted an injunction on further construction of projects of the parties to the said case including M/s. Paradise Systems Pvt. Ltd. project of Baani Center Point. The relevant portion of the said order stated that: - "Pending further considerations, no third-party rights shall be created and no fresh development in respect of the entire 268 acres of land shall be undertaken. All three aforesaid developers are injuncted from creating any fresh third-party rights and going ahead with development of unfinished works at the Site except those related to maintenance and upkeep of the site". That finally through the recent judgment on 21.07.2022, the stay on the construction was cleared by the Hon'ble Supreme Court of India in **M.A. 50 of 2019** in the matter of **Rameshwar Vs. State of Haryana & Ors. CA 8788 of 2015**.
19. After consideration of all the facts and circumstances, the Authority is of the view that the matter concerns two distinct periods: from 24.04.2015 to 12.03.2018 and from 13.10.2020 to 21.07.2022. The respondent collected payments and executed buyer's agreements during the first period, i.e. 24.04.2015 to 12.03.2018, which indicates their active involvement in real estate transactions. Further, it is important to note that during the "stay period", the respondent – builder raised demands which are reproduced as:

Demand Raised On	Demand Raised On Account of
03.11.2015	'On laying of raft'

03.02.2016	'On casting of 3 <sup>rd</sup> basement roof raft'
11.04.2016	'On casting of 2 <sup>nd</sup> basement roof slab'
20.12.2016	'1st basement Roof Slab'
10.05.2017	'On casting of 4 <sup>th</sup> floor roof slab'
10.10.2017	'On start of brick work'

20. As per aforementioned details, the respondent has raised the demands during the period in which 'stay' was imposed. Also, the builder continued construction activities unabated thereafter concurrently received payments from the allottees during that time. This sustained course of action strongly suggests that the builder possessed the capability to fulfil their contractual obligations despite the purported hindrances. Hence, granting them a zero period for the purpose of completion of the project would essentially negate their involvement and the actions they took during that time. Therefore, it is justifiable to conclude that the respondent is not entitled to a zero period and should be held accountable for their actions during the stay period.
21. However, during the period 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in **M.A No. 50 of 2019** vide order dated 21.07.2022 which was in operation from **13.10.2020 to 21.07.2022** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, no construction was carried out in the project nor any demands were made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.



22. In all the complainants, the allottee intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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."*

23. **Due date of possession:** As per Clause 2.1 of the buyer's agreement, the time period of handing over possession and the same is reproduced below:

***".....2.1 Possession***

*The possession of the said premises shall be endeavoured to be delivered by the intending purchaser by tentative date 30.09.2017 with a grace period of 6 months beyond this date subject to clause 9 and completion of construction..."*

*[Emphasis supplied]*

24. Thus, the due date for handing over of possession as per the above mentioned clause was 30.09.2017. Also, the grace period of 6 months being unqualified is granted to the respondent. Therefore, the due date comes out to be 30.03.2018
25. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges till the date of delivery of possession to the complainant. 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, *ibid*.
26. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, has determined the prescribed rate of interest. The

rate of interest, determined by the legislature, is reasonable and if the said rule is followed to award interest, it will ensure uniform practice in all cases.

27. 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., 04.09.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
28. 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.
29. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent which is the same as is being granted to them in case of delayed possession charges.
30. 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 as per the agreement. By virtue of clause 2.1 of the agreement executed between the respondent and the allottees of the same project, the due date of possession comes out to be 30.03.2018 including grace period being unqualified.
31. The Authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the unit which is allotted to her and for which he has paid a considerable amount of money towards the sale consideration. Further, the Authority observes that there is no document placed on record from which it can be ascertained that whether the respondent has applied for occupation certificate/part occupation certificate or what is the status of construction of 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.

32. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 30.03.2018 till valid offer of possession after obtaining occupation 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. The Authority vide order dated 23.07.2024, in case title ***Brahm Singh Yadav and Kulbhushan Yadav Vs. Green Heights Projects Private Limited*** passed by the full bench of the Authority, in the interest of equity, no interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court wherein this was explicitly instructed to cease any further development in the project.
33. Further, the respondent is directed to offer the possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupation certificate, after paying the outstanding dues.

**G.III Direct the respondent to execute conveyance deed of the allotted unit in favour of the complainant.**

34. In the present complaint, the respondent has not obtained the Occupation Certificate yet. As per Section 11(4)(f) and Section 17 (1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the allottees. Also, as per Section 19 (11) of the Act, 2016, the allottee is also

obligated to participate towards registration of the conveyance deed of the unit in question.

35. In view of the above, the respondent is directed to execute conveyance deed in favour of the complainant in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining occupation certificate.

**G.IV Direct the respondent to not raise any payment demand, in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the agreement.**

36. The respondent/promoter is directed to not to charge anything which is not part of the space buyer's agreement.

**G.V To imposed penalty to the builder on account of various defaults and illegalities under the Act, 2016 and the same be ordered to be paid to the complainant.**

37. If a developer fails to comply with the provisions of the RERA Act, including failing to deliver the property on time or not adhering to the declared project details, they are subject to penalties. However, before imposing such a penalty, RERA follows a due process that includes conducting an investigation and a hearing where the developer can present their case.

38. The above said relief was not pressed by the complainant counsel during the arguments in the course of hearing. Also, the complainant failed to provide or describe any information related to the above-mentioned relief sought. The Authority is of the view that the complainant does not intend to pursue the above relief sought by him. Hence, the authority has not rendered any findings pertaining to the above-mentioned relief.

#### **H. Directions of the authority**

39. 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 to pay interest to the complainants against the paid-up amount at the prescribed rate of interest i.e., 10.85% p.a. for every month of delay from the due date of possession 30.03.2018 till valid offer of possession after obtaining occupation certificate, plus two months 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. No interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the stay order Hon'ble Supreme Court on further construction/development works on the said project.
- II. The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottee 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 allottee(s) before 10<sup>th</sup> 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 respondent is directed to offer possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupation certificate.
- V. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% 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. No interest shall be payable by the respondent and complainant from 13.10.2020 to 21.07.2022 in view of the

stay order Hon'ble Supreme Court on further construction/development works on the said project.

- VI. The respondent is directed to execute conveyance deed in favour of the complainant in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining occupation certificate.
- VII. The respondent-builder is directed not to charge anything which is not part of space buyer's agreement. The respondent is not entitled to charge any amount against holding charges from the complainant/allottee at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in Civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
40. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order wherein details of amount paid along with due date have been specified.
41. Complaint as well as applications, if any, stand disposed off accordingly.
42. Files be consigned to the registry.

**Dated: 04.09.2025**

  
**(Vijay Kumar Goyal)**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram