



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	3274 of 2022
Date of filing:	19.12.2022
First date of hearing:	28.02.2023
Date of decision:	09.09.2025

Mrs. Sumitra w/o Ramesh Kumar
25,Block B, Baba Haridass Enclave,
Jharoda Kalan

....COMPLAINANT

VERSUS

Ruhil Promoters Private Limited
Office at Sector-3 Bahadurgarh,
District Jhajjar, Haryana-124507

.....RESPONDENT

Complaint no.:	489 of 2023
Date of filing:	10.03.2023
First date of hearing:	10.05.2023
Date of decision:	09.09.2025

Mrs. Jyoti w/o Ravinder Rathi
R/o 13/849, Gali No. 2, Arya Nagar
Bahadurgarh, 124507

....COMPLAINANT

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VERSUS

Ruhil Promoters Private Limited
Office at Sector-3 Bahadurgarh,
District Jhajjar, Haryana-124507

.....RESPONDENT

Present: - Adv. Ashish Kumar, Ld. Counsel for Complainant through VC
Adv. Kamal Dahiya, Ld. Counsel for Respondent through VC

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaints have been filed by respective complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.
2. Both the captioned complaints are being taken up together as they pertain to the same project of the respondent and facts and grievances involved are similar and complainant are seeking same relief. This bunch is being decided taking Complaint No. 3274 of 2022 as the lead case.

A. UNIT AND PROJECT RELATED DETAILS:

3. The particulars of the project, details of sale consideration, amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:



Sr. No.	Particulars	Details
1.	Name of the project	Ruhil Residency, Sector-3, Bahadurgarh
2.	Nature of the project	Residential
3.	RERA Registered/not registered	Registered vide Registration No. 139 of 2017
4.	Details of Unit	Apartment no. F -1002, 10 th floor, Tower F-2 measuring super area of 1489 sq. ft.
5.	Date of Builder/ Apartment Buyer Agreement	07.12.2012
6.	Possession clause in BBA (Clause 9.1)	<i>"Subject to force majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs etc., the Developer proposes to complete the construction within a period of 36 months from the date of execution of this agreement with grace period of 180 days under normal circumstances."</i>
7.	Due date of possession	07.06.2016.
8.	Total/Basic sale consideration	Rs. 38, 98,050/-
9.	Amount paid by complainant	Rs. 37,78,545/-
10.	Whether occupation certificate received or not.	Occupation certificate received on 17.03.2022
11.	Offer of possession	19.10.2022
12.	Handing Over Agreement	19.10.2022



**B. FACTS OF THE PRESENT CASE AS STATED BY THE COMPLAINANT
IN THE COMPLAINT:**

4. The case of the complainant is that the complainant had booked an apartment bearing no. F-1002, 10th Floor, Tower F-2 in respondent's project, "Ruhil Residency", Sector-3, Bahadurgarh" in the year 2012.
5. Complainant paid an amount of ₹37,78,545/- against the total sale consideration of ₹ 38,98,050/- for the unit. An apartment buyer agreement was executed between the parties on 07.12.2012. As per clause 9(i) of the agreement, respondent had committed to deliver possession of the unit within 36 months along with a grace period of 180 days i.e., 42 months from the date of execution of the agreement, which comes to 07.06.2016.
6. The complainant went to the building and inspected the entire project and after going through the project the complainant specially mentioned about the problems like non-construction of the Club House, pending work of Stair cases as no railing are installed on the said stair cases, no common area are properly constructed, poor construction quality, Fitting and Fixture work in respect of the unit/Apartment was pending and nothing was installed as per the specification mentioned in the Agreement (Annexure C-5). Further the complainant specifically pointed out the installment in respect of the Club Membership and Stair cases, as the club was never made and further the payment for the staircase was never part of the agreement, but the respondent never paid any heed and always forced the complainant to pay for the said demand otherwise they will



neither handover the possession of unit and they will start imposing penalty for the non-payment of the amount.

7. That the complainant also asked them not to take maintenance charges before handing over the physical possession of the unit but respondent doing the unfair trade practice starting levying the maintenance charges @2.5 rs. per sq. ft. per month from each allottee from March, 2022. Along with that the respondent/builder took an amount of Rs.3,00,000/- in cash from the complainant in respect of the staircase and when the complainant asked for the receipt they denied to supply the same by saying that the said amount has been paid in cash and same has been cleared.
8. That the respondent/builder also failed to provide the fitting and fixtures of the said unit as per the page 28 of the apartment buyers agreement dated 07.12.2012. Further, on 19.10.2022 the complainant has to take the possession of the unit under protest where the respondent/builder had committed unfair trade practice and after taking the entire consideration has to take the possession of unit. Further on 19.10.2022 the respondent/builder forcefully made the complainant to sign the documents before handing over the actual physical possession of the unit and on the denial for signing the same the respondent/builder threaten the complainant that they will not hand over the possession of the unit if they denied to put her signatures on the said documents, finding no way out the complainant had to sign the documents.



9. That the complainant as on date also requested many times to the respondent/builder to compensate for the delay for handing over the possession of the unit as per the provision of act but the said respondent is adamant that he is not afraid of anyone and he will not compensate the complainant in respect of the delay caused by them for handing over the possession of unit. Further, the respondent/builder has also failed to execute the registry/conveyance deed of the said flat, the complainant made multiple request but same has been denied for one reason or other by the respondent/builder.

C. RELIEF SOUGHT

10. That complainant seeks following relief and directions to the respondent: -
- i. Direct the respondent to provide all the amenities, fitting and fixtures as per the Agreement.
 - ii. Directing the respondent to pay the delay interest as per the act till the time the respondent failed to handover the physical possession of the unit as per the provision of the Act.
 - iii. Directing the respondent to execute the conveyance/sale deed executed in favour of the complainant in respect of the above mentioned unit.
 - iv. Direct the respondent to refund the amount taken in respect of the club membership and to refund the maintenance charges taken by the respondent/Builder before taking the physical possession of unit.
 - v. Direct the respondent to return the money taken in view of the staircases and bear the expenses of the staircase which was never the part of the agreement.



- vi. Any other order or relief which this Hon'ble Authority deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the Complainant and against the Respondent.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned Counsel for respondent filed reply on 11.09.2023 pleading therein:

11. That the complainant had booked unit in the project of the respondent namely RUHIL RESIDENCY situated at Sector-3, Sarai Aurangabad Village, Bahadurgarh, Distt. Jhajjar, Haryana-124507. Complainant was allotted apartment no. F-1002. The unit in question i.e. F-1002 is situated at 10th Floor in Tower no. F-2 admeasuring 1489 sq. ft.
12. That respondent filed an application for grant of occupation certificate on 13.01.2020 with the concerned department, which was kept pending with the department and also got delayed due to Covid-19 situation as national lockdown was announced in the entire country. On 17.03.2022, occupation certificate was received by respondent from the concerned department. Respondent submitted that force majeure on account of Covid-19 outbreak be taken into consideration for relaxation as Covid-19 outbreak lead to delay in handing over of possession. Thus, the Covid-19 period may be taken as zero period for the purpose of calculation of delay possession interest.
13. That time taken by the department since year 2020 for grant of occupation certificate be also taken as one of the force majeure, since respondent had no control over time taken by department allowing to issue occupation certificate.



Furthermore, the project is complete in all respects, to support this respondent referred to report submitted in Complaint No. 413/2022 by Local Commissioner, whereby it is stated that the project is complete in all respects.

14. It is submitted that the complainant is defaulter as the complainant never adheres to the payment plan opted by them and made several defaults in payment of installments against the unit in question. Further he submitted that complainant has taken physical possession long back in 2022 after settling all payables and receivables. The Handing over agreement had also been executed between the parties on 19.10.2022. Complainant took physical possession of the unit in question after accepting an amount of Rs. 4,50,776/- as compensation/delay possession interest, that was calculated as per the terms of apartment buyer agreement. Hence the complainant shall not be allowed to raise the dispute again and again, once settled between the parties. As such the instant complaint needs to be set aside on this score only.

E. ISSUES FOR ADJUDICATION

15. Whether the complainant is entitled to relief of delayed possession charges along with interest?
16. Whether the complainant is entitled to refund maintenance charges, club charges and staircase charges?



F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

17. Facts set out in the preceding paragraph demonstrate that the complainant booked an apartment bearing no. F-1002, 10th Floor, Tower F-2, in respondent's project i.e., "Ruhil Residency", Bahadurgarh" in the year 2012. An apartment buyer agreement was executed between the parties on 07.12.2012. Admittedly, an amount of ₹37,78,545/- has been paid against the total sale consideration of ₹38,98,050/- by the complainant in lieu of the booked unit till date.

18. Authority observes that as per clause 9(i) of apartment buyer agreement executed between the parties, possession of the unit should have been delivered by 07.06.2016. However, respondent has failed to deliver possession of the booked unit within the stipulated time period. Respondent has attributed this delay in delivery of possession to force majeure conditions on account of COVID outbreak and the time taken by the department in issuing occupation certificate.

The possession of the unit in question became due on 07.06.2016. It is a matter of fact that COVID-19 outbreak hit construction activities post 22nd March 2020 i.e nearly four years after the deemed date of possession. Authority observes that possession of the unit had already been delayed for a long period of time even before the COVID-19 halted construction. Respondent had failed to construct the project on time and deliver possession to the complainant. Further, reliance is placed on judgement passed by Hon'ble Delhi High Court in case titled as "*M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP*"



(1) (Comm.) No. 88/2020 and I.A.S 3696-3697/2020” dated 29.05.2020, wherein Hon’ble High Court has observed that:

“69. The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March, 2020 in India. The contractor was in breach since September, 2019. Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.

The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by September, 2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself.”

Therefore, as far as delay in delivery of possession of the unit in question is concerned, respondent cannot be allowed to claim benefit of COVID19 outbreak as a force majeure condition.

Respondent has also cited departmental delay in issuing occupation certificate as a force majeure condition. In this regard, it is observed that respondent had committed to deliver the possession of the unit by 07.06.2016, meaning thereby that respondent should have applied and obtained the occupation certificate by 07.06.2016, however, as per record, the respondent had applied for issuance of occupation certificate on 13.01.2020 i.e., after lapse more of the



4 years from the stipulated time and thereafter the same was issued on 17.03.2022.

Furthermore, respondent has taken a defense that the period for which the occupation certificate was pending before the competent authority be excluded for the delayed period as the delay in issuance of occupation certificate is attributable to the competent authority and not the respondent. There is no document on record to show that the application for occupation certificate was complete as in all aspects and there was no deficiency in the application that was conveyed to them. Moreover, the Authority has already included the grace period of 180 days as provided in the agreement to sale while computing the due date of possession. No case for further concession is made out.

Herein all the pleas/grounds taken by the respondent to plead the force majeure condition happened after the deemed date of possession had already passed and the delivery of possession had been long due. Respondent cannot be allowed to take advantage of delay caused in delivery of project due to its own account and hence, the claim of the respondent is rejected.

19. As discussed earlier as per clause 9(i) of apartment buyer agreement executed between the parties, possession of the unit should have been delivered by 07.06.2016, however, possession certificate was issued in favour of the complainant allottee vide dated 19.10.2022 i.e. after a delay of more than six years. As per facts possession certificate was issued to the complainant after receipt of occupation certificate on 17.03.2022. It is also a matter of record and



admitted by the complainant that he is in possession of the unit. Hence, he is entitled to delay possession interest from the period 07.06.2016 i.e., due date of possession till the date of issuance of possession certificate/handover of possession i.e 19.10.2022.

20. Respondent has averred that the complainant is not entitled to receive any delay interest since, he has voluntarily signed the the handing over agreement dated 19.10.2022, and accepted compensation of ₹ 4,50,776/-. Vide said agreement complainant had also agreed to claim no further interest in respect of the booked unit. This argument of the respondent cannot be accepted since the complainant is before this Authority claiming his statutory right of delayed possession interest on account of delay in delivery of possession. The rebate of Rs. 4,50,776/- is a miscellaneous compensation given to the complainant which in no way diminishes the statutory right of the complainant to seek delayed possession charges as per RERA Act, 2016. As far as handing over agreement is concerned, the complainant had merely executed said agreement to secure his possession of the unit in question, however, it does not act as an estoppel to the rights of the complainant to lay claim for delay interest under Section 18(1) of RERA Act, 2016. Also, even if it is presumed for the sake of discussion that the complainant had accepted compensation at the time of offer of possession, then also accepting the same does not diminish the right of the complainant to seek relief of delay interest as the RERA Act U/s 18 provides for parallel remedy of delay interest 'and' compensation. Fact of the matter is that



possession of the unit has been inordinately delayed for more than six years, hence, the complainant is entitled to seek delay interest for the said period. Authority, hereby, concludes that the complainant is entitled for the delay interest from the deemed date i.e., 07.06.2016 till the date on which a legally valid offer of possession i.e., 19.10.2022 is made to the complainant. The definition of term 'interest' is defined under Section 2(z a) of the Act which is as under:

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;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: "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 (NCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public”..”

21. Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date of pronouncement of order i.e., 09.09.2025 is 8.85% Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. **10.85%**.
22. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which on date 09.09.2025 works out to **10.85%** from the due date of possession i.e. till the date of handover of possession.
23. Authority has got calculated the interest on total paid amount from date of payments till date of order (i.e 29.07.2025) and same is depicted in the table below:

Complaint No. 3274 of 2022

Sr. No.	Principal Amount (in ₹)	Due date of possession of Date of Payment whichever is later	Interest Accrued till date of order i.e 09.09.2025 (in ₹)
1.	3280969	07-06-2016	2268552
2.	235000	03-04-2017	141529



3.	262576	29-12-2020	51515
4.	9900	19-07-2022	274
5.	9500	20-07-2022	260
6.	9800	21-07-2022	265
7.	100000	21-07-2022	2705
8.	9500	22-07-2022	254
9.	9000	23-07-2022	238
10.	9000	25-07-2022	233
11.	9500	19-10-2022	240
12.	9900	28-07-2022	247
13.	9900	19-10-2022	244
14.	9500	19-10-2022	232
15.	4500	19-10-2022	108
Total=39,78,545/-			24,66,896/-

Complaint No. 489 of 2023

Sr. No.	Principal Amount(in ₹)	Due date of possession of Date of Payment whichever is later	Interest Accrued till date of order i.e 09.09.2025 (in ₹)
1.	25,54,253/-	30.01.2017	15,06,407/-
2.	2,13,528/-	15.12.2018	82,515/-
3.	3,41,553/-	05.04.2022	9,442/-
Total-31,09,334/-			15,98,364/-



It is noted that in Complaint No. 489 of 2023, the complainant has claimed to have paid an amount of ₹ 35,61,257/- to the respondent in lieu of booked unit. However, as per the receipts annexed the total paid amount is ₹ 31,09,334/-. As per the demand letter dated 05.04.2022 placed on record by the complainant has received a compensation of ₹ 5,29,277/- from the respondent company towards payment of total sale consideration. No interest is payable to the complainant over said amount. Thus, the total paid amount for the purpose of calculation of interest is being taken as ₹ 31,09,334/- only.

24. Further, complainant is seeking relief of refund of maintenance charges, staircase charges and club charges paid by complainant to respondent. She alleged that charges raised on account of staircase charges and maintenance charges are not in consonance with the buyer's agreement, and finally Club Member charges have been wrongly charged since there is no operational club at site.

a) With regard to staircase charges, it is observed by the Authority that charges raised under 'staircase charges' are for construction of additional staircase for emergency fire safety as per directions by Fire Safety Department. Since the demand on account of staircase charges has been proportionately charged from the complainant, therefore it is liable to pay the same. Authority in complaint no. 607 of 2018 titled as 'Vivek Kadyan Vs TDI Infrastructure Ltd.' has already laid down the



principle for calculation of fire exit stair case and same is applicable in this case as well.

b) With regard to maintenance charges, it is observed that according to clause 1(viii) of the apartment buyer agreement, the complainant has agreed to pay demand raised on account of maintenance charges, therefore the complainant is liable to pay the same. Maintenance charges become payable after a valid offer of possession is made to the complainant. In present circumstances, the offer of possession was validly communicated to the complainant on 19.10.2022 as per observations recorded in above paragraph. So, the complainant is liable to pay these charges from 19.10.2022.

c) With regard to the club membership charges, it is observed that club charges can only be levied when the club facility is physically located within the project and is fully operational. Complainant have submitted that the proposed club has not been constructed till date. Respondent have not placed any document/photograph to negate the claim of the complainant. Respondent is entitled to charge club membership charges only after the club at the site becomes functional and the complainant is able to make use of it. Since at present the club is not there, respondent is entitled to refund for the same.

d) In addition to aforesaid grievances, complainant also stated that respondent has miserably failed provide the amenities, fitting and fixture as per



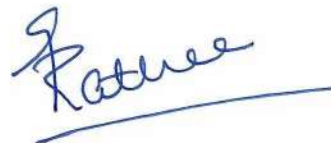
agreement. With this regard complainant is advised to approach the Adjudicating Officer for seeking the relief of compensation u/s 18(3) of RERA Act 2016.

- e) With regard to execution of conveyance deed, Authority is of the considered view that there is no impediment on execution of conveyance deed in favour of an allottee when allottee pays the full consideration and gets the possession. After this stage, execution of conveyance deed is nothing but updating of records in respect of transfer of property. In the present case, possession has already been handed over to complainant. Accordingly, respondent promoter is obligated/duty bound u/s 17 of the RERA Act, 2016 to execute a registered conveyance deed in favor of the complainant.

G. DIRECTIONS OF THE AUTHORITY

25. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) In Complaint No. 3274 of 2022 respondent is directed to pay upfront delay interest of ₹24,66,896/- to the complainant towards delay already caused in handing over the possession. Interest shall be paid as up till the time as provided under section 2(z) of the RERA Act, 2016.
- (ii) In Complaint No. 489 of 2023 respondent is directed to pay upfront delay interest of ₹15,98,364/- to the complainant towards delay already



caused in handing over the possession. Interest shall be paid as up till the time as provided under section 2(za) of the RERA Act, 2016.

- (iii) A period of 90 days is given to the respondents to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.
 - (iv) Respondent is directed to get the conveyance deed registered in favor of complainant in both captioned complaints within one month of date of this order. Complainant(s) shall pay the stamp duty charges for getting the conveyance deed executed.
26. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


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DR. GEETA RATHEE SINGH
[MEMBER]