



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

Complaint no:	2402 of 2023
Date of filing:	02.11.2023
Date of first hearing:	20.02.2024
Date of decision:	11.09.2025

**Dr. Sushma D/o Sh. Badri Nath Malhotra**

R/o House No. 58, Old Housing Board colony,  
Rohtak, (Haryana) 124001.

....COMPLAINANT

VERSUS

**M/S Parsvnath Developers Ltd. through its Chairman,**  
Registered Office at Parsvnath Tower, Near Shahdara Metro Station,  
Shahdara, Delhi: 110032

.... RESPONDENT

**CORAM: Parneet S Sachdev**  
**Nadim Akhtar**

**Chairman**  
**Member**

**Present: -** Mr. Sushil Malhotra, counsel for the complainant through VC.  
Ms. Rupali Verma, counsel for the respondent through VC.

### **ORDER (PARNEET S SACHDEV- CHAIRMAN)**

1. Present complaint has been filed on 02.11.2023 by the complainant 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.

**A. UNIT AND PROJECT RELATED DETAILS**

2. The particulars of the unit booked by complainant, sale consideration, the amount paid by the complainant and details of project are given in following table:

S.No.	Particulars	Details
1.	Name of the project	Parsvnath City, Rohtak
2.	Name of promoter	M/s Parsvnath Developers Ltd.
3.	RERA registered/not registered	Not Registered
4.	Unit no.	D-110 in Block D
5.	Unit area	300 sq. yards.
8.	Date of builder buyer agreement	02.06.2012
9.	Possession clause	<b>Clause 8(a):</b> <i>The Developer shall endeavour to complete the internal development works of the Colony within twenty four (24) months from the date of signing of this Agreement, subject to force</i>

		<p><i>majeure, restraints or restrictions from any courts/authorities, circumstances beyond the control of the Developer and subject to timely payments by the Buyers. For the purposes of this clause/agreement the date of submission of application with the competent authority for obtaining completion certificate in respect of internal development of the Colony shall be reckoned as the date of completion of development of the Colony. No claim by way damages/compensation shall lie against the developer in case of delay in handing over possession on account of any of the said reasons and the Developer shall be entitled to extension of time for completion of internal development.</i></p> <p><b>(b)</b> <i>The Developer shall make offer of possession of the Plot on completion of internal development works on the land area under the relevant licence in the Colony. The Buyer shall be entitled to the possession of the Plot only after all the amounts payable by him</i></p>
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		<i>under this Agreement have been paid and sale deed executed and registered in favour of the Buyer. The Developer on completion of internal development shall issue final call notice to the Buyer, who shall within 30 days thereof, remit all dues, execute sale deed and take possession of the Plot.</i>
9.	Date of Booking	28.10.2009
10.	Date of allotment to Original allottee	20.06.2011
11.	Date of endorsement to the complainant by original allottee	12.04.2021
12.	Deemed date of possession	02.06.2014 (as per BBA)
13.	Total sales consideration	₹14,95,000/- (as per conveyance deed on page no. 86)
13.	Amount paid by complainant	₹23,84,422/-
14.	Offer of possession	Yes, on 30.06.2020 (as per complainant pleadings)

**B. FACTS OF THE CASE AS STATED IN THE COMPLAINT**

3. Facts of the case are that the present complaint is filed by the complainant, Dr. Sushma, against the respondent M/s Parsvnath Developers Limited, for having indulged in unfair trade practices,

breach of contract, concealment of material facts and failure to deliver possession of the allotted residential plot within the stipulated period, thereby causing immense loss, harassment, and mental agony to the complainant.

4. That the complainant, Dr. Sushma, is a law-abiding citizen who, with her bona fide intention of constructing a residential house for her family, purchased a plot in the project Parsvnath City, Rohtak. The complainant is the present allottee of Unit No. D-110, situated in the said project.
5. That the respondent, M/s Parsvnath Developers Limited, is a company incorporated under the Companies Act, 1956, having its registered office at Parsvnath Tower, Near Shahdara Metro Station, Shahdara, Delhi – 110032. The respondent is the “Promoter” within the meaning of Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter the Act), and is bound by the duties and obligations thereunder. The project in question Parsvnath City, Rohtak is a plotted colony developed under license issued by the Government of Haryana, and therefore squarely falls within the jurisdiction of this Hon’ble Authority.
6. That the genesis of the present allotment traces back to the year 2009, when one Mr. Sudesh Mann initially booked a plot admeasuring 300 sq. yards in the respondent’s scheme by paying a sum of ₹2,25,000/- via



demand draft dated 16.10.2009 at the rate of ₹5,250/- per sq. yard. He was issued the provisional allotment. Subsequently, on 20.06.2011, the said booking rights were transferred to Mr. Sunil Kumar and Mr. Anil Kumar.

7. That thereafter, on 12.04.2021, the complainant Dr. Sushma purchased the said rights and liabilities in respect of Unit D-110 from Mr. Sunil Kumar and Mr. Anil Kumar after paying a premium of ₹85,00,000/- (Rupees Eighty-Five Lakhs only) in addition to the basic price and statutory charges. The respondent duly endorsed the transfer of booking rights in favour of the complainant on the said date.
8. That despite the complainant having cleared all dues including IDC, IDC, and other amounts, the respondent has failed to discharge its reciprocal obligations. The complainant's right to receive statutory delayed possession interest has been wrongfully denied, and arbitrary demands were raised without incorporating such interest.
9. That it is relevant to mention that the previous allottees had approached this Authority in Complaint No. 503 of 2019 titled Sunil Kumar vs. Parsvnath Developers Ltd., seeking refund. Various subsequent proceedings including Complaint No. 1366 of 2019 and Execution Complaint No. 794 of 2020 were also initiated. During pendency thereof, the respondent issued an offer of possession on 30.06.2020, however, the same was without inclusion of statutory delayed



possession interest and without completion of basic amenities such as water and electricity.

10. That ultimately, the complainant, under pressure and in view of the respondent's conduct, proceeded with the transfer of the unit in her favour. It is noteworthy that even after more than a decade from the promised date of possession i.e., October 2012, the project remains incomplete and deprived of essential amenities like water, electricity, sewerage treatment plant, and parks.
11. That the complainant has paid an amount of ₹23,84,422/- towards the cost of the plot and other charges, apart from the premium paid to previous allottees, which cumulatively constitutes her life savings. Despite the same, she has been made to suffer an extraordinary delay of over 11 years.
12. That the respondent issued a purported "Offer of Possession" dated 30.06.2020 in respect of Plot No. D-110. However, the said offer was neither valid in law nor in compliance with Section 17 and 19(10) of the Act, 2016, inasmuch as the project lacked completion/occupancy certificate and was devoid of basic civic amenities. Furthermore, the complainant was relocated from the originally allotted Plot No. D-125 (300 sq. yds) to Plot No. D-110 (299 sq. yds), thereby reducing the plot area and causing further prejudice.





13. That eventually, under coercion and threat of cancellation, the complainant executed the conveyance deed on 12.06.2023. However, the execution of conveyance deed cannot extinguish her statutory right to claim delayed possession interest, as settled by the Hon'ble Supreme Court in Wg. Cdr. Arifur Rahman Khan v. DLF Southern Homes Pvt. Ltd. and by this Hon'ble Authority in several cases including Complaint No. 2340 of 2019 (Mohinder Kumar Jain v. Pioneer Urban Land).
14. That even today, the project is incomplete and uninhabitable. The Local Commissioner's Report filed in Complaint No. 1253 of 2020 (Naresh Kumari v. Parsynath Developers Ltd.) records that there is no water supply, the electric substation is not functional, sewerage treatment plant is not constructed, and parks/green areas are undeveloped. Thus, the purported possession is nothing but an eyewash.
15. That the conduct of the respondent clearly amounts to deficiency of service, unfair trade practice, and fraud. The complainant is squarely entitled to delayed possession interest under Section 18 read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the due date of possession i.e., 15.10.2012 till the actual date of valid possession with basic amenities and completion certificate.
16. That in view of the aforesaid facts and circumstances, the complainant is constrained to approach this Hon'ble Authority seeking redressal of her grievances, adjustment of delayed possession interest in her





account, refund of excess/illegal demands, and compensation under Sections 71 & 72 of the Act.

**C. RELIEFS SOUGHT**

17. The complainant in her complaint has sought following reliefs:

- (i) To pass an appropriate award of upfront payment directing the respondent to provide delayed possession charges on amount ₹21,89,700/- for the Period of (from 12.10.2012 to till today at the Prescribed Rate of Interest. Justification:- Apex court judgement in Wg. Cdr. Arifur Rahman Khan and DLF Southern Homes Pvt. Ltd; Section 18, 19(4) of the RERA Act, 2016, RERA APPEAL NO 700 of 2022 Jaspreet Kaur Kohali vs Parasvnath decided on 15 05.2023 and RERA Complaint no 377 of 2021 Jaspreet Kaur Kohali vs Parasvnath decided on 25 07.2023).
- (ii) To pass an order for delay possession interest on ₹23,84,422/- at the prescribed rate for every month of delay from date of decision of this complaint till the receipt of completion certificate, providing basic amenities like water, electricity and development of project with the required specifications.

- (iii) To direct the respondent to provide basic amenities like water and electricity and develop the project with the required specification as mentioned in Builder buyer agreement.
- (iv) To direct the respondent to refund GST charges which were illegally received.
- (v) To direct respondent to refund ₹40,484/ with interest received by them as interest free security and maintenance charges as site is not developed with basic amenities.
- (vi) To direct the respondent to develop the project with contracted specification as contracted on page 17 of Builder buyer agreement.
- (vii) To direct the respondent builder to construct the Recreational club as contracted in para 13 (a) page 12 of builder buyer agreement.
- (viii) To provide ₹80,000/- as the litigation charges.
- (ix) To pass any order in favour of Complainant in the interest of Justice looking into facts and circumstances of case with in four corners of pleadings.

**D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed reply on 12.01.2024 and contested the complaint on the following grounds: -



18. That the present complaint is misconceived, not maintainable and is liable to be dismissed at the very threshold. The contractual obligations between the parties already stand concluded upon execution of the Conveyance Deed/Sale Deed dated 12.06.2023. The Complainant, having voluntarily accepted physical possession and executed undertakings waiving all claims, has no locus standi to maintain the present proceedings.
19. Originally, on 08.06.2010, Plot No. D-125 admeasuring 300 sq. yards in the project Parsvnath City, Rohtak was allotted to Mr. Sudesh Mann at a Basic Sale Price of ₹15,00,000/- (after discount of ₹75,000/-). On the request of the said allottee, the plot was transferred in favour of Mr. Sunil Kumar & Mr. Anil Kumar on 20.06.2011. Subsequently, a Plot Buyer Agreement ("PBA") was executed on 02.06.2012 between the Respondent and the said transferees.
20. Pursuant to the approval of the revised layout/demarcation and zoning plan by the competent Authority, Plot No. D-125 was renumbered as Plot No. D-110, admeasuring 299 sq. yards. The development work and essential infrastructure in the project were completed in 2014 itself.
21. On 30.06.2020, the respondent issued an offer of possession of Plot No. D-110 along with the Final Statement of Accounts (FSA) to Mr. Sunil Kumar. Thereafter, on 25.03.2021, Mr. Sunil Kumar & Mr. Anil Kumar executed an Affidavit-cum-Indemnity Bond/Undertaking categorically



declaring that they would not claim any interest, damages or compensation against the Respondent.

22. On 07.04.2021, the said plot was transferred to the complainant, Dr. Sushma, after the predecessors had accepted possession and executed the necessary affidavit. The complainant purchased the plot with full knowledge of the development status and the history of the allotment.
23. On 06.03.2023, the complainant herself filed an affidavit before the Respondent, inter alia, admitting that she would not be entitled to any penalty or compensation for delay, if any, prior to the endorsement of the Agreement in her favour. On 31.05.2023, after clearing her dues, a No Dues Certificate was issued to the Complainant. Thereafter, she executed a written undertaking declaring:

*"I have settled all my grievances/issues mutually with the Company in respect of the said booking and I shall not raise any claim or demand whatsoever under the Plot Buyer Agreement."*

24. On 12.06.2023, the complainant signed the certificate of possession confirming that she had taken physical possession of Plot No. D-110 (299 sq. yards) developed as per agreed specifications. On the same day, the duly registered Conveyance Deed/Sale Deed was executed in her favour, conclusively closing the contractual relationship between the parties. Having voluntarily accepted possession, executed undertakings, and thereafter obtained registration of Sale Deed, the



complainant is estopped in law from raising any further claims. Any grievance regarding delay or other charges stood waived by the complainant and her predecessors in interest. The complaint is thus barred by principles of estoppel, waiver and acquiescence.

25. Further, it was stated that there is no contravention of the Real Estate (Regulation and Development) Act, 2016 on the part of the Respondent. The complaint is a frivolous attempt to seek undue enrichment despite full and final settlement and execution of registered documents. The contract between the parties has attained finality and stands fully discharged.
26. The specific allegations in the Complaint regarding delay, excess charges, deficiency of services, or entitlement to delay compensation are denied in toto as false, frivolous, and baseless. The complainant voluntarily purchased the plot from the open market in April 2021, long after the project development was completed and after her predecessors had accepted possession.
27. The Complainant has approached this Hon'ble Authority with ulterior motive to extract unwarranted monetary benefit. The complaint is devoid of any merit, barred by settled principles of law, and deserves dismissal with exemplary costs.



**E. REJOINDER SUBMITTED BY THE COMPLAINANT:**

Learned counsel for the complainant filed rejoinder on 16.05.2024 on the following grounds: -

28. The complainant submits that the project in question has not yet been completed in accordance with the sanctioned plan and specifications as required under the Real Estate (Regulation and Development) Act, 2016. The respondent has failed to provide basic amenities such as water, electricity and sewage treatment plant. Despite the absence of these fundamental facilities, the respondent made an offer of possession, which was merely an attempt to avoid liability for delayed possession charges under the Act. This conduct of the respondent has been repeatedly observed in the orders of this Authority, including in the order dated 09.02.2022, wherein it was noted that arrangements for electricity and water connections were still pending and were to be made by the respondent. The Authority, however, kept the matter sine die, which has ultimately operated in favour of the respondent and deprived the allottees of the reliefs guaranteed to them under the RERA Act and the rule of law. The project is still incomplete and deficient on several counts, and the act of offering possession in such circumstances is in violation of Sections 3, 7, 11, 14(3), 18(1)(2)(3) and 19(10) of the Act.



29. The complainant further submits that the original buyer's agreement was executed on 02.06.2012 between the respondent and the previous allottees, namely Sunil Kumar and Anil Kumar. Thereafter, the unit was transferred to the complainant through an agreement to sell dated 20.02.2021, which was duly endorsed in the records of the respondent on 12.04.2021. The respondent had earlier issued an offer of possession dated 30.06.2020 in favour of the previous buyer despite the fact that no part-completion or occupation certificate had been obtained. Such an offer of possession is illegal and contrary to the mandate of Sections 17, 18(1)(2)(3) and 19(10) of the Act. The complainant, in order to secure her investment, executed a conveyance deed on 02.06.2023. The respondent is now relying upon an indemnity-cum-undertaking executed by the previous buyer to contend that the complainant is not entitled to claim delayed possession interest. This reliance is wholly misconceived as such an undertaking is arbitrary, one-sided, unfair and hit by Sections 23 and 28 of the Indian Contract Act, 1872, and is therefore void and unenforceable in law.
30. The primary question for consideration is whether a subsequent allottee, who acquired rights after an illegal offer of possession was made to the original allottee, is entitled to claim delayed possession interest from the original due date of possession. It is respectfully submitted that clause 16(a) of the builder-buyer agreement clearly permits assignment





of rights and liabilities subject to the conditions specified therein, and that once such an assignment has been recognized by the respondent through endorsement, the subsequent allottee steps into the shoes of the original allottee for all purposes. The definition of 'allottee' under Section 2(d) of the Act also includes a person who acquires a unit by transfer or otherwise, and no distinction has been made between the rights of original and subsequent allottees. This position has been reaffirmed by judicial precedents, including the decision of the Hon'ble NCDRC in *Rajnish Bhardwaj v. CHD Developers* decided on 26.11.2019, wherein it was held that a transferee endorsed by the builder enjoys all the rights and entitlements of the original allottee.

31. The statutory liability to pay interest for delay in handing over possession is cast upon the promoter under Section 18 of the Act and is independent of any contractual stipulation. Delayed possession interest is a statutory obligation and cannot be waived by an allottee by way of any agreement or undertaking that is contrary to public policy. Such waivers, even if obtained, are rendered void under Sections 23 and 28 of the Contract Act. The Hon'ble Supreme Court in *Waman Shrinivas Kini v. Ratilal Bhagwandas*, AIR 1959 SC 689, categorically held that a person cannot contract himself out of a statute enacted for public benefit. Similarly, in *Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan and IREO Grace Realtech Pvt. Ltd. v. Abhishek*



Khanna, the Apex Court has struck down one-sided clauses in builder-buyer agreements as unfair and constituting an unfair trade practice. The legislative intent behind Section 18 has been elaborated by the Hon'ble Supreme Court in *Newtech Promoter v. State of U.P.*, wherein it has been held that the provision is a mandatory safeguard for homebuyers who are considered vulnerable stakeholders.

32. Execution of a conveyance deed by the complainant does not take away the statutory right to claim delayed possession interest. This proposition is well settled by the Hon'ble Supreme Court in *Arifur Rahman Khan v. DLF Southern Homes* and by the Haryana Real Estate Appellate Tribunal in *Amit Gupta v. Athena Infrastructure Pvt. Ltd.*, which has further been upheld by the Hon'ble Punjab and Haryana High Court in *Emaar India Ltd. v. Kaushal Pal Singh*. The Hon'ble Supreme Court in *Capital Greens Flat Buyer Association v. DLF* has also held that indemnity or waiver clauses introduced by the developer cannot defeat the statutory rights of an allottee. Similar view has been taken in *Emaar India Ltd. v. Jagdeep Kumar* and in *Sharad Avasthi v. Pivotal Infrastructure*, where it was held that affidavit-cum-undertakings or indemnities cannot deprive allottees of reliefs under the Act.
33. In light of the above facts and settled principles of law, it is clear that the complainant, as a subsequent allottee duly recognized by the respondent, is entitled to delayed possession interest from the original



date of possession stipulated in the builder-buyer agreement. The respondent's attempt to deny such entitlement by relying on an indemnity-cum-undertaking executed by the previous buyer is a clear attempt to defeat the statutory mandate and cannot be countenanced. The complainant's right to claim interest under Section 18 of the Act is absolute, non-derogable and enforceable, and any act or document to the contrary is void and inoperative in law.

**F. ADDITIONAL WRITTEN ARGUMENTS BY THE COMPLAINANT**

34. I.d. counsel for the complainant has filed additional written arguments on 29.08.2025, which are essentially a reiteration of the submissions already made in the complaint, as well as in the rejoinder. He further sought additional reliefs in the said written arguments which cannot be taken into consideration at this stage because proper procedure for seeking such additional reliefs is not followed. The said written arguments does not call for any further consideration, as the points contained therein have already been duly taken into account while examining the present matter.

**G. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS**

35. During oral arguments in the previous hearings, learned counsel for the complainant reiterated the submissions as stated in the complaint. Also,



he relied upon different judgments of the Hon'ble Supreme Court, High Court and the Hon'ble NCDRC, stating that execution of a conveyance deed by the complainant does not take away the statutory right to claim delayed possession interest. I.d. counsel for the respondent also reiterated the contentions during previous hearings, as stated in her reply majorly stating that the contractual obligations between the parties already stand concluded upon execution of the Conveyance Deed/Sale Deed dated 12.06.2023. The complainant, having voluntarily accepted physical possession and executed undertakings waiving all claims, has no locus standi to maintain the present proceedings.

**H. ISSUES FOR ADJUDICATION**

36. Whether the complainant is entitled to the relief claimed by the complainant in terms of provisions of RERA Act of 2016.

**I. OBSERVATIONS AND FINDINGS OF THE AUTHORITY**

The Authority has carefully considered the pleadings, evidence on record, and arguments advanced by both the parties and observes relief wise as under:

***Relief No. 1:- "To pass an appropriate award of upfront payment directing the respondent to provide delayed possession charges on Amount Rs. 21,89,700/- for the Period of (From 12.10.2012 to till today at the Prescribed Rate of Interest. Justification:- Apex court judgement in Wg. Cdr. Arifur Rahman Khan and DLF Southern Homes Pvt. Ltd; Section 18, 19(4) of the RERA Act, 2016, RERA APPEAL NO 700 of 2022 Jaspreet kaur Kohali vs Parasynath***



*decided on 15.05.2023 and rera complaint no 377 of 2021 Jaspreet kaur Kohali vs Parasvath decided on 25.07.2023").*

37. With regard to relief no. 1, the complainant has sought delayed possession interest on an amount of ₹21,89,700/- from 12.10.2012 till the date of actual possession. However, the Authority notes that the figure of ₹21,89,700/- has not been substantiated anywhere on record. No receipts, statement of account, or any contemporaneous documents have been filed to establish that this exact amount was ever paid by the complainant or her predecessors. Similarly, the date 12.10.2012, claimed as the deemed date of possession, does not flow from the Buyer Builder Agreement or any other contract placed on record. The Buyer Builder Agreement dated 02.06.2012 clearly stipulates that the developer was obligated to complete the internal development works and hand over possession within 24 months, i.e., by 02.06.2014. In the absence of cogent material to justify both the amount and the date claimed, Relief No. 1 cannot be sustained.
38. Nonetheless, under Section 18 of the Real Estate (Regulation and Development) Act, 2016, the allottee is statutorily entitled to delayed possession charges for every month of delay, calculated on the actual amounts paid, from the committed date of possession *'till the date of handing over valid possession'*. Accordingly, Relief No. 1, as claimed, is rejected.



*Relief No. 2:- To pass an order for delay possession interest on Rs. 23,84,422/- at the prescribed rate for every month of delay from date of decision of this complaint till the receipt of completion certificate, providing basic amenities like water, electricity and development of project with the required specifications.*

39. With regard to relief no. 2, the complainant has sought delayed possession charges on the actual amounts paid by her, amounting to ₹23,84,422/-, from the date of complaint till the date of valid possession with completion certificate. The Authority finds that the committed date of possession under the Buyer Builder Agreement dated 02.06.2012 is 02.06.2014, i.e., within 24 months of its execution. The respondent has failed to demonstrate that possession was offered by this date. Instead, the record shows that the respondent issued an offer of possession only on 30.06.2020. However, this offer is not substantiated by any Occupation Certificate or Completion Certificate, which are mandatory preconditions for a valid and legal offer of possession.
40. The complainant has specifically contended that the offer was invalid for want of OC/CC. The respondent has not filed any rebuttal or supporting document on this issue. Furthermore, there is no communication or documentary evidence between 30.06.2020 and 12.06.2023, when the conveyance deed was executed. In the absence of any material showing earlier possession, it is presumed that the



complainant took possession only on 12.06.2023, i.e., on the date of execution of conveyance deed.

41. The respondent has raised an objection that since the complainant executed the conveyance deed dated 12.06.2023, the transaction stood concluded and no liability survives against the respondent. It is contended that by virtue of the said deed, the complainant is estopped from claiming any interest and the present complaint is a gross misuse of process of law. The Authority has carefully considered this plea. The main issue to adjudicate is

*"whether execution of the conveyance deed extinguishes the statutory right of the allottee to claim delayed possession interest".*

42. It is pertinent to note here that a conveyance deed, by its very nature, is an instrument through which title in an immovable property is transferred by the seller to the buyer. It evidences transfer of ownership, title and interest in the property in favour of the allottee. However, the execution of such deed does not by itself bring an end to statutory obligations of the promoter which have already accrued prior to its execution. The promoter's responsibility continues under the Act and cannot be avoided by placing reliance upon the conveyance deed. This principle flows directly from Section 11(4)(a) of the RERD Act, which mandates that the promoter shall remain responsible for all obligations and responsibilities to the allottees as per the agreement for sale till the





conveyance of all apartments/plots. Moreover, Section 14(3) provides that even after execution of the conveyance deed, the promoter remains liable for structural or workmanship defects for a period of five years from the date of handing over of possession. These provisions clearly establish that the execution of conveyance deed does not obliterate accrued liabilities of the promoter.

43. This view has been affirmed in *Vivek Maheshwari v. Emaar MGF Land Ltd.*, Consumer Case No.1039 of 2016, decided on 26.04.2019, where the Hon'ble NCDRC held that possession and execution of sale deed do not take away the right of the allottee to seek compensation for delay, as such right had already accrued prior thereto. The Commission observed that:-

*"7. It would thus be seen that the complainants while taking possession in terms of the above referred printed hand over letter of the OP, can, at best, be said to have discharged the OP of its liabilities and obligations as enumerated in the agreement. However, this hand over letter, in my opinion, does not come in the way of the complainants seeking compensation from this Commission under Section 14(1)(d) of the Consumer Protection Act for the delay in delivery of possession. The said delay amounting to a deficiency in the services offered by the OP to the complainants. The right to seek compensation for the deficiency in the service was never given up by the complainants. Moreover, the Consumer Complaint was also pending before this Commission at the time the unit was handed over to the complainants. Therefore, the complainants, in my view, cannot be said to have relinquished their legal right to claim compensation from the OP merely because the basis of the unit*



*has been taken by them in terms of printed hand over letter and the Sale Deed has also been got executed by them in their favour. "*

44. Similarly, in Appeal Nos. 272, 273 & 274 of 2019, **Manju Arya v. M/s TDI Infrastructure Pvt. Ltd.**, decided on 19.01.2021, the Hon'ble Haryana Real Estate Appellate Tribunal, Chandigarh, categorically held that execution of conveyance deed will not extinguish statutory rights that had already accrued due to delay in delivery of possession. Whatever statutory rights had accrued to the allottee prior to the conveyance deed cannot be defeated with the subsequent execution and registration of the conveyance deed. Relevant part of the order is reproduced below:

*"18. As far as appeal no.273 of 2019 is concerned, no doubt, the conveyance-deed was already executed and registered on the date of filing the complaint no.718 of 2018. But, in our view the execution and registration of the conveyance-deed will not absolve the promoter of the liability which had accrued before the execution and 9 Appeal No.272,273 & 274 of 2019 registration of the conveyance-deed. The moment the delay has occurred in the delivery of possession, the statutory right to claim the compensation had occurred to the appellant which cannot be subsequently extinguished with the execution and registration of the conveyance-deed.*

19. The learned Adjudicating Officer has referred to Section 11 sub section 4 (a) of the Act to dislodge the claim of the appellants which reads as under: -

*"11. Functions and duties of promoter. — (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: Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed."

20. As per the aforesaid provision of law, the promoter shall be responsible for all the obligations, responsibilities and functions under the provisions of the Act or the rules and 10 Appeal No.272,273 & 274 of 2019 regulations made thereunder or to the allottees as per the agreement for sale till the conveyance of all the apartments, plots or buildings, as the case may be. This provision does not say that the cause of action which had already accrued to the allottee against the promoter due to non-fulfilment of the obligations as per the agreement for sale shall stand extinguished with the execution of the conveyance-deed. Whatever statutory rights had accrued to the allottee prior to the conveyance-deed, cannot be defeated with the subsequent execution and registration of the conveyance-deed.

45. The Tribunal further relied upon the judgment of the Hon'ble Supreme Court in *Wg. Cdr. Arifur Rahman Khan & Ors. v. DLF Southern Homes Pvt. Ltd. & Ors.*, 2020(3) RCR (Civil) 544, wherein it was held as under:-

"The developer in the present case has undertaken to provide a service in the nature of developing residential flats with certain amenities and remains amenable to the jurisdiction of the Consumer Fora. Consequently, we are unable to subscribe to the view of the NCDRC that flat purchasers who obtained possession or executed Deeds of Conveyance have lost their right to make a claim for compensation for the delayed handing over of the flats."



22. Thus, the Hon'ble Apex Court has categorically laid down that the purchasers will not lose their right to claim compensation for the delayed handing over of the unit on the ground that the possession has been delivered and deed of conveyance has been executed. This authority is squarely applicable to the controversy in hand.

23. Even though this judgment has been rendered by the Hon'ble Apex Court under the Consumer Protection Act, 1986 but the principle of law laid down by the Hon'ble Apex Court in the aforesaid judgment will also be applicable to the cases under the Act. Thus, we are of the considered opinion that mere execution of the conveyance-deed by the respondent/promoter qua plot no.663, Block no.L, TDI City at Kundli, Sonipat, Haryana (Complaint No.718/2018, Appeal No.273/2019) will not extinguish the right of the appellant/allottee to claim the compensation which had already accrued to her much before the execution of the conveyance-deed."

46. In view of the foregoing precedents, Authority observes that all the agreements/ documents signed by the allottee reveals stark incongruities between the remedies available to both the parties. In most of the cases these documents and contracts are ex-facie one sided, unfair and unreasonable, whether the plea has been taken by the complainant/allottee while filing its complaint that the documents were signed under duress or not. The right of the allottee to claim delayed possession charges shall not be abrogated simply for the said reason.
47. The complainant/allottee has invested her hard-earned money and there is no doubt that the promoter has been enjoying benefits and the obligation of the developer - promoter does not end with the execution



of a conveyance deed. The essence and purpose of the Act was to curb the menace created by the developer/promoter and safeguard the interests of the allottees by protecting them from being exploited by the dominant position of the developer which he thrusts on the innocent allottees. Therefore, in furtherance to the Hon'ble Apex Court judgement and the law laid down in the Wg. Cdr. Arifur Rahman (supra), this Authority holds that even after execution of the conveyance deed, the complainant cannot be precluded from his right to seek delay possession charges from the respondent-promoter.

48. In the present case, the BBA dated 02.06.2012 clearly fixed the period of 24 months for completion, making 02.06.2014 the deemed date of possession. Admittedly, the respondent failed to offer valid possession by that date. The offer of possession was only made on 30.06.2020, but it was not accompanied with any occupation certificate or completion certificate, thereby rendering it invalid in law. The complainant specifically raised this objection, and the respondent has not filed any rebuttal or placed any OC/CC on record. Moreover, there is no communication or document on record between 30.06.2020 and execution of the conveyance deed on 12.06.2023. Hence, it is presumed that possession was taken only upon execution of the conveyance deed.



49. In these circumstances, the execution of the conveyance deed does not absolve the respondent of liability which had already accrued on account of delay in handing over possession. The statutory right of the complainant under Section 18 to claim delay compensation had crystallised on 02.06.2014 and cannot be defeated by any clause in the conveyance deed, including Clause 5. As repeatedly held by the Hon'ble Supreme Court in *Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan* (2019) 5 SCC 725 and *Kolkata West International City Pvt. Ltd. v. Devasis Rudra* (2019) 2 SCC 303, contractual clauses that unfairly abrogate the allottee's rights are unenforceable, and possession even if belatedly taken does not extinguish the allottee's entitlement to compensation.
50. In the present case, the Authority observes that the offer of possession dated 30.06.2020 cannot be treated as a valid offer in the eyes of law, as no documentary proof substantiating its validity has been placed on record. The respondent has also failed to produce any part completion certificate in support of the said offer. In fact, during the course of hearing on 10.07.2025, the learned counsel for the respondent candidly acknowledged that no part completion certificate has been obtained in respect of the project. In the absence of such a certificate, which is a mandatory prerequisite for a lawful and valid offer of possession, the Authority is constrained to hold that the purported offer of possession





cannot be accepted as valid. However, considering the admitted position that the complainant has been in enjoyment of the plot and that the conveyance deed has been executed on 12.06.2023, this Authority holds that the date of execution of the conveyance deed shall be treated as the date of taking over of possession by the complainant for the purpose of determining the period of delay and computing the delayed possession interest payable by the respondent.

51. Therefore, this Authority holds that in the present case, the complainant is entitled to delayed possession interest from 02.06.2014 (deemed date of possession as per BBA) till 12.06.2023 (date of execution of conveyance deed, deemed as possession date). The contention of the respondent that execution of the conveyance deed bars such claim is untenable and contrary to the settled position of law. Complainant herein is entitled to delayed possession charges which is provided under the proviso to Section 18 (1) of the Act,

*Section 18 (1) proviso reads as under :-*

*"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".*





52. The definition of term 'interest' is defined under Section 2(za) 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;*

53. 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. 11.09.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate + 2% i.e., 10.85%. Payment of delayed possession charges at the prescribed rate of interest. Interest for every month of delay, till the handing over of possession i.e. the date of execution of conveyance deed in the present case; at such rate, as 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".*

54. In view of aforesaid observations and reasoning, the Authority hereby concludes that the complainant is entitled for the delay interest from 02.06.2014(deemed date of possession) to 12.06.2023 (date of execution of conveyance deed, deemed as possession date)

55. Authority has got calculated the delay interest from 02.06.2014 (deemed date of possession) to 12.06.2023 (date of execution of conveyance deed, deemed as possession date) on total paid amount at the rate of 10.85% and said amount works out to ₹21,92,600/- as per detail given in the table below:

Sr. No.	Principal Amount	Deemed date of possession or date of payment whichever is later	Interest Accrued till 12.06.2023
1.	₹21,89,700/-	02.06.2014	₹21,46,704/-
2.	₹35,282/-	07.04.2021	₹8,359/-
3.	₹1,59,440/-	12.04.2021	₹37,537/-
	<b>Total=₹23,84,422/-</b>		<b>Total= ₹21,92,600/-</b>

***Relief No. 3:- To direct the respondent to provide Basic amenities like water and electricity and develop the project with the required specification as mentioned in Builder buyer agreement.***

56. With regard to relief no. (iii), it is observed that as per the Builder Buyer Agreement, the respondent developer was under an obligation to complete the internal development works and provide all basic amenities including water and electricity before offering possession. It is a settled principle that possession can only be considered valid upon completion of such amenities and obtaining of a part completion/occupation certificate. In the present case, there is nothing on record to show that any part completion certificate has been obtained by the respondent. The offer of possession dated 30.06.2020, therefore, remains doubtful in its validity. Further, no rebuttal has been furnished by the respondent regarding the complainant's contention that the said offer was invalid for want of occupancy/part completion certificate. Hence, the respondent is directed to complete the internal development works, ensure provision of basic amenities such as water and electricity, and only then shall the possession be treated as validly offered.

***Relief No. 4:- To direct the respondent to refund GST charges which were illegally received.***

57. With regard to relief no. (iv), the complainant has prayed for refund of GST charges allegedly collected by the respondent. It is noted that GST



was introduced in the year 2017, whereas the deemed date of possession under the Builder Buyer Agreement falls on 02.06.2014. Therefore, any GST charges levied by the respondent prior to the introduction of GST would be wholly illegal and liable to refund. The complainant has not provided any amount or calculations vis-à-vis any GST charge before 2017. Even though, in principle, any GST charged for a period when GST Act did not exist is illegal, however, in the absence of any claim by the complainant or information regarding any illegal GST charged, this authority cannot pass any order for a refund.

***Relief No. 5:- To direct respondent to refund ₹40,484/ with interest received by them as interest free security and maintenance charges as site is not developed with basic amenities.***

58. With regard to relief no. (v), the complainant has sought refund of a sum of ₹40,484/- collected towards interest free maintenance security and maintenance charges. The Authority observes that since the offer of possession was made on 30.06.2020 and the conveyance deed was executed on 12.06.2023, it is presumed that the complainant has since been in enjoyment of possession and respondent is maintaining the colony. Accordingly, it is the responsibility of the complainant to pay the maintenance charges. In such circumstances, the refund of IFMS and maintenance charges is not tenable and hence not allowed.



***Relief No. 6:- To direct the respondent to develop the project with contracted specification as contracted on page 17 of Builder buyer agreement.***

59. With regard to relief no. (vi), the complainant has prayed for directions to the respondent to develop the project as per the specifications mentioned in the Builder Buyer Agreement. The Authority notes that in the absence of a part completion certificate, it cannot be conclusively established that the project has been completed as per the stipulated specifications. The obligation to carry out the works in accordance with the contractual specifications rests with the respondent developer. Therefore, the respondent is directed to ensure compliance with the agreed specifications, and such compliance shall also form the basis for issuance of part completion certificate by the competent authority.

***Relief No. 7:- To direct the respondent builder to construct the Recreational club as contracted in para 13 (a) page 12 of builder buyer agreement.***

60. With regard to relief no. (vii), the complainant has sought directions for construction of the recreational club as mentioned in the Builder Buyer Agreement. The Authority observes that the construction of such facilities, including recreational clubs, generally falls within the purview of the service plans and estimates approved by the Director, Town and Country Planning (DTCP). This Authority has no jurisdiction



to issue directions in respect of such matters which lie within the domain of the DTCP and other competent authorities. However, clause 13(a) at page 12 of the Builder Buyer Agreement specifically records as follows:-

*"A Recreation Club is proposed to be provided by the Developer in the Colony. If provided, the Buyer shall pay the membership fee as may be prescribed by the Developer / Management of the Club. Membership shall be optional".*

In view of this clause in BBA, the obligation to provide the recreational club forms part of the commitments undertaken by the respondent under the agreement, and therefore, the respondent is bound to fulfill such obligation in terms of the provisions of the RERD Act, 2016 as well as the contractual commitments made therein. Accordingly, while the technical sanctioning of such facility lies within the domain of the DTCP, the respondent is directed to take all necessary steps to ensure that the recreational club, as contractually promised, is duly provided in the project in accordance with law and requisite approvals.

***Relief No. 8:- To provide ₹80,000/- as the litigation charges.***

61. With regard to relief no.8, complainant is seeking compensation of ₹80,000/- for litigation expenses. In this regard it is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as **"M/s Newtech Promoters and Developers Pvt. Ltd.**



V/s State of U.P. & Ors." has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaint in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses and compensation.


**J. DIRECTIONS OF THE AUTHORITY**

62. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the RERA Act of 2016 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) Respondent is directed to pay delayed possession interest of ₹21,92,600/- to the complainant towards delay caused in handing over the possession within 90 days from the date of this order.



63. In view of the above directions and observation, the case is disposed of.  
File be consigned to the record room after uploading of the order on the  
website of the Authority.



.....  
NADIM AKHTAR  
[MEMBER]



.....  
PARNEET S SACHDEV  
[CHAIRMAN]