



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	316 of 2023
Date of filing:	07.02.2023
Date of first hearing:	21.03.2023
Date of decision:	09.09.2025

Ranbiri, W/o Sh. Nirbhey Singh Tomar,
R/o House no. 198 B, Jiwan Nagar,
Sonipat,

....COMPLAINANT

VERSUS

M/s Jai Krishna Arctec-J.V.,
through its Managing Director
Regd. Office: 8-B, Hansalya Building,
Barakhamba road, Connaught place,
New Delhi-110001,

....RESPONDENT

Present: Adv. Ramesh Malik, Ld. Counsel for the complainant.
Adv. Anmol Chawla, Ld. Counsel for the respondent.

ORDER (Dr. GEETA RATHEE SINGH)

1. Present complaint was filed on 07.02.2023 by 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 fulfil 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 complainants i.e. details of sale consideration, amount paid by them and details of project are detailed as under:-

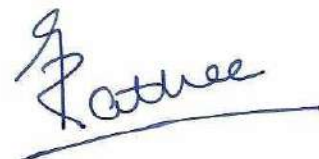
S.No.	Particulars	Details
1.	Name of the project	Greenwood City, Sector 26 and 27, Sonipat.
2.	Plot no.	220, Block C
3.	Originally allotted area	250 sq. yards.
4.	RERA registered/ not registered	Unregistered
5.	Date of Plot Buyer Agreement	21.08.2012
6.	Deemed date of possession as provided in apartment buyer's agreement (36+6)	20.08.2015
7.	Basic sale price	Rs. 14,87,813/-
8.	Amount paid by complainant	Rs. 17,51,530 /-

[Signature]

9.	Offer of possession	Not offered
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B. FACTS OF CASE AS STATED IN COMPLAINT:

3. The complainant had booked a residential plot bearing No. C-220, measuring 250 sq. yards in the project "Greenwood City" situated at Sector 26 & 27, Sonipat, Haryana, being developed by the respondent – Jai Krishna Artec J.V. The said plot was initially allotted to a third party, namely Shri Sunil Kumar, from whom the complainant purchased it by paying transfer charges of ₹12,500/-. All rights and liabilities under the agreement were endorsed in favour of the complainant, thereby creating privity of contract between the complainant and the respondent.
4. A plot buyer agreement (PBA) dated **29.08.2012** was executed between the complainant and the respondent-company. However, the said agreement does not specify any clear timeline for handing over possession of the plot. As per settled law and precedents of this Hon'ble Authority, where no time is stipulated for delivery of possession, the same is to be construed as **three years from the date of execution of the plot buyer agreement**. Accordingly, the respondent was obligated to deliver possession of the plot by **29.08.2015**.



5. The total sale consideration for the plot was ₹14,87,813/-, against which the complainant has already paid an aggregate sum of ₹17,51,530/- to the respondent-company, including all charges such as EDC and IDC.
6. The complainant regularly complied with all payment demands raised by the respondent without any default. On **20.03.2014**, the respondent issued a statement of account showing a balance of ₹3,35,031/-, which was duly paid by the complainant on **16.04.2014**, vide receipt no. 4991.
7. In the year 2020, upon personally visiting the respondent's office at Connaught Place, New Delhi, the complainant was shocked to discover that the layout plan of the project had been revised without any prior notice, and her originally allotted plot No. C-220 was substituted with plot No. C-169. Subsequently, the complainant addressed a letter dated **03.02.2020** to the respondent, seeking clarification regarding the details of the size of the new plot and the remaining payment dues. However, no reply was received from the respondent. A copy of the complainant's letter dated 03.02.2020 has been annexed as Annexure C-5.



8. Complainant sent another letter dated 12.09.2022 to the respondent stating that several allottees had received letters for execution of sale deeds and had accordingly completed registration of their plots. The complainant requested the respondent to issue a similar letter to her and also sought information on the final payment to be made, if any. This letter also remained unanswered. A copy of the complainant's letter dated 12.09.2022 has been annexed as Annexure C-6.

C. RELIEF SOUGHT:

9. The complainants prayed for the following relief(s):-
- a) To direct the respondent - Company to offer actual physical possession of the plot in question in the project of respondent;
 - b) To Direct the respondent - Company to pay interest on delayed possession for more than 7 years as per Rule 15 of Haryana Real Estate (Regulation And Development) Rules, 2017;
 - c) To direct the respondents to pay upfront interest and also monthly interest as per the direction given by this Hon'ble Authority in Complaint No.865 of 2020 titled as Deepak Gupta Versus M/s Parsvnath Developers Ltd. and other connected bunch of complaints.
 - d) To direct the respondent to pay Rs.10,00,000/- as part of damages to the complainant on account of mental agony, torture and harassment;



- e) To direct the respondent - Company to obtain license from Haryana Town & Country Planning, Haryana of the project Greenwood City, Sector 26 & 27, Sonipat, Haryana if not yet obtained.
- f) Any other relief- remedy which is deemed fit by this Hon'ble Authority in the present facts and legal preposition of the case.

D. REPLY FILED BY THE RESPONDENT ON 02.06.2023

- 10. The project, Greenwood City is registered under the Real Estate (Regulation & Development) Act, 2016. The Project is divided into two phases comprising of - (i) 100.863 acres vide License No. 185 of 2007; and (ii) 36.69 acres vide License No. 103 of 2017, issued by Directorate of Town and Country Planning ('DTCP'), Haryana. All the development works in phase - I of the project have already been completed in terms of the RERA registration. The Respondent had applied for the grant of part completion certificate for phase - I of the said project on 21.01.2019. The DTCP was pleased to issue part completion certificate for phase - I of the said project on 17.08.2020.
- 11. Plot buyer's agreement, dated 29.08.2012 was executed between the respondent and the complainant for plot no.220, in block C in the said project, for a basic sale consideration of Rs.14,87,813/- exclusive of other charges. The terms and conditions of the said agreement were mutually agreed, and no objection, whatsoever was raised by the complainant till the filing of the captioned Complaint. That the basic sale consideration of



the said plot was exclusive of various charges is apparent from clause 2(b) of the said agreement. Additionally, Clause 5 of the said agreement envisaged that the respondent shall have right to effect alterations in the layout plan of colony etc; Clause 6 of the said agreement provides that any increase or decrease up to 10% of the originally allotted area shall be adjusted at booking rate. However, in case increase/decrease are more than 10%, then the promoter shall have sole discretion to decide the rate; Clause 7 of the agreement provides that in case, the particular plot is omitted or the promoter is unable to hand over the same or any alternative plot to the buyer, the promoter will be liable to refund only the actual amount received by him from the buyer towards the price along with a simple interest @10% p.a. and shall not be liable to pay any other compensation. Thus, in case the plot allotted to any allottee is not available for any reason whatsoever, the allottee can seek refund along with interest @ 10% p.a. as per the said Agreement.

12. The competent authority while approving the layout plan modified the green area of the said project leading to change in plot size and in some cases, plot number as well. As per final zoning plan, the number of the said plot was changed to C-169 and the size of the said plot has also been changed. The Plot booked by the Complainant was for the size measuring 250 sq. yards, however due to final zoning plan, the said plot is no more in the category of the scheduled size of 250 square yards. The



Complainant is well aware of the change of plot size and plot number and the same is acknowledged by the Complainant vide letter dated 03.02.2020.

13. The respondent offered following alternative options:

Sr. No	Plot No.	Allotted Area(in sq. yards)	Direction facing	PLC	Road
1.	B-62	263	North	Commercial Facing	12 M road
2.	D-29	239	East	N.A	12 M road
3.	D-40	250	North	N.A	12 M road
4.	D-42	239	West	N.A	12 M road
5.	D-59	239	East	N.A	12 M road
6.	D-61	239	East	Corner	12 M road

14. The Complainant had booked a plot of size 250 sq. yards, East facing, corner plot on 12 metre Road. As the said plot is no more available due to final zoning, the respondent has offered various similar featured plots to the complainant, for example, the plot bearing No. D-61 is East facing corner plot on 12 metre road. In the alternative, the Respondent had also provided the option to the Complainant to refund the amount paid to the Respondent along with 10% per annum as per the said agreement. However, the complainant for reasons best known to her, has neither accepted any other alternative plot nor agreed to take refund alongwith interest. Thus, the Respondent has made every endeavour to give an alternative offer to the Complainant or refund along with interest.

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15. The respondent has invested substantial amount in the said project to complete the construction and handover the possession of the plots to its allottee and has already offered possession to the allottees of the said project. Moreover, approx. 379 registries have already been completed
16. Even during the ongoing pandemic, the respondent continued with the process of execution of the registries in favour of the allottees of the said project and has taken necessary steps in expediting the process post issuance of part completion certificate of Phase - I of the said project from DTCP.
17. It is apparent from the above facts that all the development works in Phase - I of the said project is complete and the respondent has already obtained part completion certificate on 17.08.2020. The respondent had already offered possession of the plots to the various allottees and approx. 379 registries have already been effected in favour of various allottees of respondent. Many of the plot owners are already constructing their plots in the said Project.
18. Respondent time and again contacted the complainant to take possession of any of the alternative available options for a plot of similar size however the complainant has been evading the proposals of the respondent and has now filed the captioned complaint with a view to harass and arm twist the respondent. Therefore, respondent has requested to dismiss the captioned complaint.



E. ISSUE FOR ADJUDICATION:

19. Whether complainant is entitled to relief of possession along-with delay interest for delay in handing over the possession in terms of Section 18 of Act of 2016?

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT:

20. Ld. counsel for the complainant argued that respondent is not offering possession of the plot as there is a change in the zoning plan and the size of plot in question has been increased due to said change. Respondent is offering alternative plot, however the same is not acceptable to the complainant due to the reason that the plot he booked still physically exists on the project location.

Ld. counsel for the respondent has submitted that as per the final revised zoning plan the number of the plot 220 was changed to plot no. 169 and its size was also changed and plot no. 169 is not sold to anyone till now in compliance of the order of the Authority dated 09.11.2023. He also submitted that the plot no. 220 was admeasuring 250 sq. yds. whereas plot no. 169 now admeasures 330 sq. yds. Though physical location of the plot at the project site remains the same. Ld. counsel furthermore submitted that the respondent is willing to offer a similarly featured plot to complainant of similar size, however if the complainant still insist on taking possession of the originally allotted plot (now plot no. 169) then as per clause 6,

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respondent is at discretion to decide the rate for increased area and in the present complaint respondent wish to charge at prevailing current market price.

G. OBSERVATIONS AND FINDINGS OF THE AUTHORITY

21. Authority has gone through rival contentions. In light of the background of the matter captured in proceeding paragraphs and also arguments advanced by both the parties. Authority observes that there is no dispute between the parties with respect to the fact that complainant was allotted plot no. C-220 in the respondent's project Greenwood City, Sector 26 and 27, Sonipat, Haryana and an agreement for the same was executed between the parties on 29.08.2012. Complainant has paid an amount of ₹17,51,530/- against the basic sales price of Rs. 14,87,813/-. Due to revision in layout plan, the erstwhile plot number has changed from C-220 to 169 and its area has been increased from 250 sq.yds. to 330 sq.yds.
22. The respondent has pleaded in his reply that it offered similarly featured alternate plots to the complainant, but the offer was not accepted by the complainant. However, there is nothing on file to show that the respondent ever offered any similarly featured alternate plots to the complainant till the filing of the complaint. Further, even if for the sake of argument, it is accepted that the respondent offered alternate plots, once the plot originally allotted to complainant is existing at the site and only its area has increased and its number has changed, then in the considered opinion of this



Authority, complainant cannot be forced to accept the unilateral offer of the respondent, as, had the originally allotted plot ceased to exist, then, the situation would have been altogether different. Accordingly, the unilateral self-serving decision of respondent cannot be forced upon the conscience decision of the complainant.

23. Learned counsel for the respondent has forcefully argued that though the respondent is ready to offer possession of the originally allotted plot (earlier plot no.C-220, now plot no.169) however, now for the enhanced area, the respondent would charge the price of his discretion. However, this argument is not acceptable for the following reasons; firstly, respondent has not pleaded to this effect. Thus, this argument being beyond pleading cannot be accepted. Secondly, though per clause no.6 of Plot Buyer Agreement, respondent could have claimed the price of his choice, but, this arbitrary and completely lopsided clause could be inserted as it was a pre-RERA agreement, as, after coming into force of RERA Act, 2016, such onerous clause could not have been inserted. However, even if this clause has been taken into consideration still, since the respondent promoter had not communicated this fact to the complainant at the relevant point of time i.e. after revision of layout out plan in the year 2017 whereby the area of the allotted plot was increased. Thereby, the act of respondent has precluded the complainant from taking informed decision based on his financial competency. Thus, the respondent cannot be allowed to change



his stand after filing of complaint, as, it stood estopped by its own act and conduct. Thirdly, in property related matters, the windfall passes on to the allottee. Had it been the case where the size of the plot of the complainant would have decreased, the loss of such decrease would have been borne by the complainant only. Now, in the present case, where there is an increase in the area, it is sheer luck of the complainant and once respondent has not communicated anything with respect to the price of increased area from 2017, till the filing of the complaint, then the interest of justice would be fully served if the complainant makes payment of increased area at the same rate at which 250 sq.yd. area has been purchased. Consequently, this argument of respondent to charge for the increased area at its own whims and fancy is hereby turned down and it is held that the complainant is entitled to possession of plot no. 169 admeasuring 330 sq. yds and that too at the price originally agreed between the parties for 250 sq. yds.

24. Once it has been established that complainant is entitled to seek possession of the originally allotted plot (now bearing no.169) then the next question that arises for adjudication is as to whether the complainant is also entitled for interest on delay in offer of possession or not.
25. In the present complaint, the plot buyer agreement for a corner plot no. C-220 measuring 250 sq. yards in the project "Greenwood City" was executed between the parties on 21.08.2012, however, the agreement for sale did not a time for handing over of possession. Thus, the question



arises as to what should have been the deemed date to hand over the possession of the allotted plot. In this regard, Apex Court in 2018 STPL 4215 SC titled as **M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure)** and **anr** inter-alia observed that :

Moreover, a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract i.e., the possession was required to be given by last quarter of 2014.

In view of the ratio of above judgement, deemed date of possession works out to be 20.08.2015. Neither it is the case of the respondent nor any material on file that respondent ever offered possession of the allotted plot to complainant till date. In these circumstances, provisions of Section 18 of the Act come into play by virtue of which while exercising the option of taking possession of the unit, allottee is entitled to interest for the entire period of delay caused, at the rates prescribed. Thus, it can fairly be concluded that complainant is entitled to seek interest for delay in offer of possession.

26. Once it has come on record that complainant is entitled for interest on delay in offer of possession, the next question that would arise is as to for what period he is entitled? In the present complaint, as observed above, the deemed date for handing over possession comes out to be 20.08.2015.



Though the respondent admittedly received part completion certificate on 17.08.2020, however, there is absolutely nothing to prove that the respondent ever made any legally valid offer of possession. As such, complainant is entitled to receive interest on delayed offer of possession from 28.08.2015 till a legally valid offer of possession is made to her. Qua the rate of interest section of 18 of the Act provide that interest shall be awarded at such rate as may be prescribed. The term 'interest' has been defined under Section 2 (za) of RERA Act, 2016.

(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.."

27. 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 i.e. 26.08.2025 is 10.85%. **Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.85%.**
28. Authority has got calculated the interest on total paid amount from due date of possession i.e. 20.08.2015 till the date of this order i.e. 09.09.2025 which works out to ₹ 19,12,906/- and further monthly interest of ₹ 15,620/- as per detail given in the table below:



Sr. No.	Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till 09.09.2025 (in ₹)
	17,51,530/-	20.08.2015	19,12,906/-
Monthly interest:			15,620/- (For every month till valid offer of possession)

29. The complainant is seeking compensation of ₹10,00,000/- for mental agony, torture and harassment. 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." (supra), 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 complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.



H. DIRECTIONS OF THE AUTHORITY

30. Hence, 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) Respondent is directed to offer possession of plot no. 169 admeasuring 330 sq. yds. in Greenwood City, Sector- 26 and 27, Sonipat to complainant within 30 days of uploading of this order. Respondent to pay upfront delay interest of ₹19,12,906/- (till date of order i.e. 09.09.2025) to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order. Respondent is also under obligation to pay further monthly interest @ ₹ 15,620/- till the valid offer of possession. In case respondent fails to comply with the aforesaid directions legal consequences shall follow.

(ii) Complainant will remain liable to pay the balance sale consideration amount for the increased area of 80 sq.yds. at the same rate at which the plot measuring 250 sq.yds. has been purchased to the respondent at the time of possession offered to her.

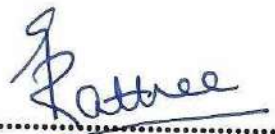
(iii) The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e, 10.85% by the respondent/



promoter which is the same rate of interest which the promoter shall be liable to pay to the allottees.

(iv) The respondent shall not charge anything from the complainant which is not part of the plot buyer's agreement.

31.**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]