

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

Complaint no.: 5838 of 2024
Date of decision: 01.08.2025

Rohit Harmesh Ghanara

R/o: - G101, Army flats, Sector 4, MDC,
Panchkula (Urban Estate), Haryana

Complainant

Versus

M/s Emaar MGF Land Ltd.

Office address: ECE House 28, Kasturbha
Gandhi Marg, New Delhi-110001

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Prashant Vashist (Advocate)

Shri Dhruv Rohatgi (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions as provided

under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name and location of the project	"Colonnade", Sector 66, Gurugram
2.	Nature of the project	Commercial colony
3.	Project area	2.25 acres
4.	DTCP license no.	163 of 2008 dated 19.08.2008 valid up to 18.08.2025
5.	Name of licensee	Logical Developers Pvt. Ltd
6.	RERA Registered/ not registered	156 of 2017 dated 28.08.2017 valid up to 31.12.2023
7.	Unit no.	CHC R-02-032, 2 nd floor (As per letter of offer of possession dated 13.01.2023 on page no. 132 of the reply) (Note: As per letter of offer of possession unit no. has been revised to CHC R-02-032, 2 nd Floor from CHC R-FF-032, First Floor)
8.	Unit area admeasuring	269.47 sq. ft. (Super area) (As per letter of offer of possession dated 13.01.2023 on page no. 132 of the reply) (Note: As per letter of offer of possession area of the unit has been revised to 269.47 sq. ft. from the earlier area of 267 sq. ft.)
9.	Allotment letter	15.04.2015 (As per page no. 27 of the complaint)
10.	Date of buyer's agreement	30.08.2016 (As per page no. 32 of the complaint)
11.	Possession clause	16. POSSESSION (a) Time of Handing over the possession:

		(i) The Company shall endeavor to offer possession of the unit to the allottee within 42 months from August, 2016 from the date of start of construction, whichever is earlier , subject, however, to force majeure conditions as stated in clause 34 of this agreement and further subject to the allottee having strictly complied with all the terms and conditions of this agreement and not being in default under any provisions of this agreement and all amounts due and payable by the allottee under this agreement having been paid in time to the company. The company shall give notice to the allottee, offering in writing, to the allottee to take possession of the unit for his occupation and use (" Notice/Intimation of Possession ")
12.	Due date of possession	August, 2020 (Note: Due date to be calculated 42 months from August, 2016 being earlier plus 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020.)
13.	Total sale consideration	Rs.22,78,222/- (As per SOA dated 14.02.2025 on page no. 113 of the reply)
14.	Amount paid by the complainant	Rs.6,09,608/- (As per SOA dated 14.02.2025 on page no. 113 of the reply)
15.	Payment request letter	08.05.2017, 28.06.2017, 20.07.2017 & 10.04.2019 (As per page no. 99-105 of the reply)
16.	Reminder letter	03.05.2019 & 20.05.2019, 06.02.2023, 21.02.2023 (As per page no. 109-112 of the reply)
17.	Occupation Certificate	31.03.2022 (As per page no. 129 of the reply)
18.	Offer of possession	13.01.2023 (As per page no. 132 of the reply)

B. Facts of the complaint:

3. The complainant has made the following submissions:

- i. That the respondent claim himself as reputed builder and developer. The respondent gave advertisement in various leading newspapers about their forthcoming project named project- Colonnade, a construction linked plan, situated at sector 66", a commercial complex promising various advantages, like world class amenities and timely completion/execution of the project etc. Relying on the promise and undertakings given by the respondent in the advertisements, the complainants booked a commercial unit no. bearing no. FF-032 admeasuring 267 sq. feet in the project Colonnade located at Sector 66 Gurugram on 18.03.2012 and paid an amount of Rs.1,62,500/- as a booking amount.
- ii. That after three years of taking the booking amount for the said unit, the respondent executed an allotment letter in favor of the complainants, wherein all the particulars of the unit being booked by the complainants along with the price and area of the unit was mentioned. As per the allotment letter the complainants were allotted a unit bearing No. FF-032 in the project Colonnade located at sector 66, Gurugram having an area of 267 sq. feet at a basic lease premium of Rs.6,500/- per sq. ft. exclusive of other charges EDC, IDC and PLC.
- iii. That thereafter, on 30.08.2016, the respondent executed builder buyer agreement with the complainants regarding the above said unit.
- iv. That as per clause 16 of the builder buyer agreement, the respondent was supposed to handover the possession of the unit within 42 months from August 2016 along with an additional grace period of 4 months the said period expired on June 2020, whereas the respondent offered the possession on the above said unit on 11.10.2023, after a delay of approx. 4 years from the period as have been stipulated in the builder buyer

agreement.

- v. That in the year 2021, the complainant came to know that the respondent is doing an alteration in the building plan of the project, which would be detrimental to all the unit buyers as the area would be reduced and there can be change in the allotted unit to all the allottees.
- vi. That thereafter the complainant went on to meet the officials of the respondent at their office, various times, and the officials of the respondent gave their assurance to the complainant that their unit and area of the unit will remain unchanged and he will get the promised unit as per the builder buyer agreement.
- vii. That the complainants received an offer letter of possession on 13.01.2023 and to the utter shock and surprise to the complainants, the respondent have not only offered a delayed possession but have also changed the allotted unit from CHC R-FF-032 to CHC R-02-32 and the area of the shop was also altered from 267 sq. ft. to 269 sq. ft.
- viii. That after the receiving of the said offer letter of possession the complainants approached the respondent asking for the offer letter of the unit which was originally allotted/purchased by them, the respondent again gave assurances to the complainants for the same and requested for some time in doing so.
- ix. That the complainants kept on calling and visited the office of the respondent several times during the said period and kept on insisting his demand of issuing an allotment letter for the initial booked unit and in return got the promises and assurances of the respondent company that he will get the original booked unit, in some time.
- x. That even after waiting for considerable amount of time and getting no response from the officials of the respondent company, it became crystal clear to the complainants that the respondent's intention was never there

to give the allotted/purchased unit to the complainants but rather was to cheat and defraud the complainants and to usurp the money paid by the complainants to them and in order of doing so they kept on giving false promises and assurances to the complainants.

- xi. It would also be relevant to mention here that the complainants have already made a payment of Rs.6,09,608/- to the respondent and is ready to make the remaining payment if, the respondent offers the possession of the unit which was originally booked by the complainant. That it would also be relevant to mention here that the respondent has deliberately increased the area in order to extract more money from the complainants.
- xii. That complainant requested the respondent to recall the cancellation of the unit and further requested to give the offer letter of possession of the unit initially booked by them, and for which complainants were ready to pay the entire amount to the respondent. The respondent did not pay any heed to the request of the complainant.
- xiii. That is further submitted that the conduct of the respondent shows that intention of the respondent was to fraud the innocent complainants and grab their hard-earned money which was already paid for the unit to the respondent. The complainant had visited the office of the respondent multiple times, where the officials of the respondent refused to meet the complainant. It is further that respondent cannot impose unfair, unilateral conditions upon the complainants.
- xiv. That due to omission on the part of the respondent the complainant has been suffering from disruption on their working arrangement, mental torture, and agony and also continues to incur severe financial losses. This could have been avoided if the respondent had offered the possession of the unit/shop originally booked by the complainants.
- xv. That the cause of action for filing of the present complaint arose when the

respondent issued the allotment letter. The cause of action subsequently arose on multiple occasions when the complainant made requests to the respondent to make the payment of the outstanding amount. The cause of action is continuous one and still subsisting, hence the present complaint.

xvi. That despite several attempts of the complainant the respondent is least interested in doing justice or working as per law. The complainant being left with no other alternative, is forced to file the present complaint to revive the unit.

C. Relief sought by the complainant:

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

- i. Direct the respondent to execute the agreement/ buyer agreement with the complainant for the booked unit which has been unilaterally changed by the respondent.
- ii. Direct the respondent not to sell the said unit to any third party.
- iii. Direct the respondent to accept the outstanding payment till date of the said unit.
- iv. Direct the respondent to hand over the possession of the said unit.
- v. Direct the respondent to execute the conveyance deed for the said unit.
- vi. Direct the respondent to pay the interest on account of delay in offering possession paid by the complainant as sale consideration of the said unit from the due date of possession till the date of delivery of possession.
- vii. Direct the respondent not to charge any penalty/ interest from the complainant.
- viii. Direct the respondent to pay the cost of litigation amounting to Rs. 1,00,000/-.

D. Reply by the respondent:

5. The respondent has contested the complaint on the following grounds:
- i. That the present complaint is not maintainable in law or on facts. It is submitted that the present complaint is not maintainable before this Hon'ble Authority under the Real Estate (Regulation and Development) Act, 2016 and the Haryana Real Estate (Regulation and Development) Rules, 2017.
 - ii. That the complainants have got no locus standi or cause of action to file the present complaint. The present complaint is based on an erroneous interpretation of the provisions of the act as well as an incorrect understanding of the terms and conditions of the buyer's agreement dated 22.07.2016.
 - iii. That the complainants are estopped by their own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint.
 - iv. That the complainants are not "allottees" but are actually investors who had purchased the unit in question as a speculative investment. Moreover, in so far, the unit in question is concerned, the complainants were lessees in respect of the same and not owners. Thus, the complaint is not maintainable in law.
 - v. That the complainants had approached the respondent and expressed their interest in booking a commercial unit in the commercial project being developed by the respondent known as "Colonnade" situated in Sector 66, Gurugram. Prior to making the booking, the complainants had conducted extensive and independent enquiries with regard to the project and it was only after they were fully satisfied about all aspects of the project, that the complainants took an independent and informed decision, uninfluenced in any manner by the respondent, to book the unit in question.

- vi. That the complainants had been provisionally allotted unit no. CHC R-02-032 (previously unit no. CHC R-FF-032), admeasuring 267 square feet approx. The complainants had opted for a construction-linked payment plan. The buyer's agreement was executed between the complainants and the respondent on 22.07.2016.
- vii. That the complainants had opted for a construction linked payment plan in terms of which after booking, the instalments were payable upon achievement of the construction milestone indicated in the payment plan. Although the complainants had agreed and undertaken to make timely payments in accordance with the payment schedule, but the complainants defaulted in payment of instalments. The respondent issued payment request letters and reminders for payment as per the payment plan. The statement of account as updated on 14.02.2025 reflecting the payments made by the complainants as well as the accrued delayed payment interest.
- viii. That it would not be out of place to mention that the respondent had completed construction of the project and had applied for the occupation certificate in respect thereon on 08.12.2021. The occupation certificate was issued by the competent Authority on 31.03.2022.
- ix. That it is pertinent to note that once an application for grant of occupation certificate is submitted for approval in the office of the concerned statutory authority, the respondent ceases to have any control over the same. The grant of sanction of the occupation certificate is the prerogative of the concerned statutory authority over which the respondent cannot exercise any influence. As far as the respondent is concerned, it has diligently and sincerely pursued the matter with the concerned statutory authority for obtaining of the occupation certificate. No fault or lapse can be attributed to the respondent in the facts and

circumstances of the case. Therefore, the time period utilised by the statutory authority to grant occupation certificate to the respondent is necessarily required to be excluded from computation of the time period utilised for implementation and development of the project

- x. That upon receipt of the occupation certificate, the respondent offered possession of the unit in question to the complainants vide letter dated 13.01.2023. The complainants were informed about the increase in super area of the unit from 24.81 square meters/267 square feet to 25.03 square meters/269.47 square feet and was also called upon to remit the balance amount as per the attached statement and also to complete the necessary formalities and documentation so as to enable the respondent to hand over possession of the unit to the complainants. It is submitted that the area of the unit had been slightly increased in terms of clause 6 of the buyer's agreement.
- xi. That moreover, the complainants had also been informed about the renaming of the unit in question from CHC R-FF-032 to CHC R-02-032. It is pertinent to mention that the revised building plans had been approved by the concerned statutory authorities leading to change in nomenclature. According to the approved building plans, there were some revisions/ modifications leading to the change in nomenclature of the floors from lower ground floor, upper ground floor, first floor and second floor to ground floor, first floor, second floor and third floor, respectively. In view thereof, the unit of the complainants had not actually been shifted/changed but only the nomenclature had been altered.
- xii. That however, the complainants had failed to make payment of the balance amount of Rs.20,71,008/- and take possession of the unit despite having been issued letter of offer of possession dated

13.01.2023. The aforesaid balance amount has been duly mentioned in the statement of account dated 14.02.2025. Moreover, the complainants had also been reminded on several occasions to make payment of the outstanding amount by the respondent despite the respondent being under no obligation to do so.

- xiii. That it is submitted that the respondent has duly fulfilled its contractual obligations under the buyer's agreement by offering possession of the unit into the complainants within the time period stipulated under the buyer's agreement. There is no default or lapse on the part of the respondent and therefore the institution of the present false and frivolous complaint is absolutely unjustified and unwarranted.
- xiv. That clause 16 of the buyer's agreement provides that subject to force majeure conditions and delay caused on account of reasons beyond the control of the respondent, and subject to the allottee not being in default of any of the terms and conditions of the same, the respondent expects to deliver possession of the unit within a period of 42 months plus four months grace period, from august 2016 or the date of start of construction, whichever is earlier. In the case of delay by the allottee in making payment or delay on account of reasons beyond the control of the respondent, the time for delivery of possession stands extended automatically. In the present case, the complainants are defaulters who have failed to make timely payment of sale consideration as per the payment plan and are thus in breach of the buyer's agreement. The time period for delivery of possession automatically stands extended in the case of the complainants in accordance with clause 17 (vi) of the buyer's agreement, till payment of all outstanding amounts to the satisfaction of the respondent.

- xv. That the respondent was adversely affected by various construction bans, lack of availability of building material, regulation of the construction and development activities by the judicial authorities including NGT in NCR on account of the environmental conditions, restrictions on usage of ground water by the High Court of Punjab & Haryana, demonetization etc. and other force majeure circumstances, yet, the respondent completed the construction of the project diligently and timely, without imposing any cost implications of the aforementioned circumstances on the complainants and demanding the prices only as and when the construction was being done.
- xvi. That it is submitted that the interest for the alleged delay demanded by the complainants is beyond the scope of the buyer's agreement. The complainants cannot demand any interest or compensation beyond or contrary to the agreed terms and conditions between the parties.
6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

7. The objection raised by the respondent regarding rejection of complaint on ground of subject matter jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.1 Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all

purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11

.....

(4) The promoter shall-

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

Section 34: Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

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

F. Finding on objections raised by the respondent:

F.I Objection regarding the complainant being investor.

11. The respondent took a stand that the complainant is investor and not consumer and therefore, he is not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a

complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the buyer's agreement, it is revealed that the complainant is buyer and he has paid a total price of Rs.6,09,608/- to the promoter towards purchase of a unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

"2(d) 'allottee' in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"

12. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the buyer's agreement executed between promoter and complainant, it is crystal clear that the complainant is allottee as the subject unit was allotted to them by the promoter. The concept of investor is not defined or referred to in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". Thus, the contention of the promoter that the allottee being investor is not entitled to protection of this Act also stands rejected.

G. Findings on the relief sought by the complainant:

- G.I Direct the respondent to execute the agreement to sell/ buyer agreement for the booked unit which has been unilaterally changed by the respondent and also to not create any third-party rights on the said unit.**
- G.II Direct the respondent to accept the further amount due from the complainant.**
- G.III Direct the respondent to hand over the possession of the said unit.**
- G.IV Direct the respondent to pay the interest on account of delay in offering possession paid by the complainant as sale consideration of the said**

unit from the due date of possession till the date of delivery of possession.

G.V Direct the respondent not to charge any penalty/ interest from the complainant.

13. The above-mentioned reliefs sought by the complainant are taken together being inter-connected.

14. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

*.....
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

15. Clause 16(a) of buyer's agreement dated 30.08.2016 provides for handing over of possession and is reproduced below:

a) Time of Handing over the possession:

(i) The Company shall endeavor to offer possession of the unit to the allottee within 42 months from August, 2016 from the date of start of construction, whichever is earlier, subject, however, to force majeure conditions as stated in clause 34 of this agreement and further subject to the allottee having strictly complied with all the terms and conditions of this agreement and not being in default under any provisions of this agreement and all amounts due and payable by the allottee under this agreement having been paid in time to the company. The company shall give notice to the allottee, offering in writing, to the allottee to take possession of the unit for his occupation and use ("Notice/Intimation of Possession")

16. The Authority has gone through the possession clause of the agreement and observes that the respondent-developer proposes to handover the possession of the allotted unit within 42 months from August, 2016 with grace period of 4 months. Thus, the due date of possession comes to June, 2020. But as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020, a grace period of six months has been allowed by the Authority. Therefore, the due date of possession comes to August, 2020.

17. Admissibility of delay possession charges at prescribed rate of interest: The complainant is seeking delay possession charges however, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

18. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

19. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 01.08.2025 is @ 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%.

20. The definition of term 'interest' as defined under section 2(z) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.

21. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.90% by the respondent/promoter

which is the same as is being granted to them in case of delayed possession charges.

22. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. The due date of handing over of possession is August, 2020 but the offer of possession was made on 13.01.2023. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such the allottees shall be paid, by the promoter, interest for every month of delay from the due date of handing over the possession i.e., August, 2020 till offer of possession (13.01.2023) after obtaining occupation certificate plus two months i.e., 13.03.2023 at prescribed rate i.e., 10.90 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

G.VI Direct the respondent to execute the conveyance deed for the said unit.

23. Section 17 (1) of the Act deals with duties of promoter to get the conveyance deed executed and the same is reproduced below:

"17. Transfer of title. -

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

24. The authority observes that OC in respect of the project where the subject unit is situated has been obtained by the respondent promoter on 31.03.2022. As on date, conveyance deed cannot be executed in respect of,

the subject unit, however, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the occupation certificate/completion certificate from the competent authority. In view of above, the respondent shall execute the conveyance deed of the allotted unit within 3 months after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainant as per norms of the state government.

G.VII Direct the respondent to pay the litigation amount of Rs. 1,00,000/-.

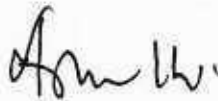
25. The complainant is seeking the above-mentioned relief with respect to compensation. The Hon'ble Supreme Court of India in *Civil Appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Ltd. V/s State of UP & Ors.* has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the adjudicating officer as per Section 71 and the quantum of compensation and litigation expense shall be adjudged by the adjudicating officer having due regards to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses.

H. Directions of the Authority:

26. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:
- The respondent is directed to pay the interest at the prescribed rate i.e. 10.90% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. August, 2020 till 13.01.2023 i.e., expiry of 2 months from the date of offer of possession (13.03.2023). The arrears of interest accrued so far shall

be paid to the complainant within 90 days from the date of this order as per rule 16(2) of the rules.

- ii. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainant is directed to pay outstanding dues, if any, after adjustment of delayed possession charges.
 - 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., 10.90% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
 - iv. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.
 - v. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.
27. The complaint stand disposed of. True certified copies of this order be placed on the case file of each matter.
28. Files be consigned to the registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 01.08.2025