

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

Complaint no. : 3368 of 2023
Date of filing complaint: 28.07.2023
Date of order : 18.09.2025

Hans Raj Mehta

Resident at: House No. 8B, Hira Nagar,
Patiala, Punjab - 147001.

Complainant

Versus

M/s Pivotal Infrastructure Pvt. Ltd.

Regd. Office at: 309, 3rd Floor, JMD Pacific
Square, Sector-15, Part-II, Gurugram,
Haryana - 122001

Respondent

CORAM:

Shri Vijay Kumar Goyal

Member

APPEARANCE:

Shri Rajan Kumar Hans (Advocate)

Shri Ankit Vohra (AR) along with

Ms. Kirandeep Kaur (Advocate)

Complainant

Respondent

ORDER

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

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A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name and location of the project	"Ridhi Sidhi" at Sector 99, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Project area	6.19375 acres
4.	DTCP license no.	86 of 2014 dated 09.08.2014 valid up to 31.03.2026
5.	RERA Registered/ not registered	Registered 236 of 2017 dated 19.09.2017 valid up to 08.08.2019
6.	Registration extension vide no.	HARERA/GGM/REP/RC/236/2017/EXT/177/2019 dated 30.12.2019 valid up to 31.08.2020
7.	Unit no.	T4-103, 1st floor, Tower-4 (As per page no. 20 of the complaint)
8.	Unit area admeasuring	487 sq. ft. (Carpet area) (As per page no. 20 of the complaint)
9.	Date of apartment buyer's agreement	10.02.2016 (As per page no. 19 of the complaint)
10.	Date of building plan approval	17.10.2014 (As per page no. 18 of the reply)
11.	Environmental clearance dated	22.01.2016 (As per page no. 24 of the reply)
12.	Possession clause	8.1. EXPECTED TIME FOR HANDING OVER POSSESSION <i>"Except where any delay is caused on account of reasons expressly provided for under this agreement and other situations beyond the reasonable control of the company and subject to the company having obtained the occupation/completion certificate from the competent authority(ies), the company shall endeavour to complete the</i>

		<i>construction and handover the possession of the said apartment within a period of 4 years from the date of grant of sanction of building plans for the project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later, subject to timely payment by the allottee of all the amounts payable under this agreement and performance by the allottee of all other obligations hereunder."</i> [Emphasis supplied] (As per page no. 29 of the complaint)
13.	Due date of possession	22.01.2020 (Note: Due date of possession calculated from the date of environmental clearance dated 22.01.2016, being later)
14.	Total sale consideration	Rs.19,98,000/- (As per page no. 22 of the complaint)
15.	Amount paid by the complainant	Rs.20,94,953/- (As per details of payment showing in bank statement provided by complainant)
16.	Application for grant of occupation certificate	22.12.2022 (As per page no. 44 of the reply)
17.	Occupation certificate	Not yet obtained
18.	Offer of possession	Not offered

B. Facts of the complaint:

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

- I. That as per section 2(d) of the Real Estate (Regulation and Development) Act, 2016, complainant falls under the category of "Allottee" and are bound by the duties and obligations mentioned in the said act and are under the territorial jurisdiction of this Authority.
- II. That the Respondent is a company incorporated under the Companies Act, 1956 having Registered office at Plot No-12, Sector-4, Faridabad

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Haryana-121004, Haryana and as per Sec 2(zk) of the Real Estate (Regulation and Development) Act, 2016., respondent falls under the category of "Promoter" and is bound by the duties and obligations mentioned in the said act and is under the territorial jurisdiction of this Authority.

- III. That DTCP Haryana has issued a licence no. 86 of 2014 to respondent to develop an affordable housing project as per the guidelines mentioned under Affordable Housing Policy 2013, issued by Government of Haryana, vide Town and Country Planning Department's Notification dated 19.08.2013.
- IV. That the project in question is known as "Riddhi Siddhi" situated at Sector 99, Gurugram, Haryana which is a project under Affordable Housing Policy 2013, issued by Government of Haryana.
- V. That in year 2015, complainant got information about an advertisement in a local newspaper about the affordable housing project "Riddhi Siddhi" at Sector 99, Gurugram, Haryana. When they called on the phone number provided in the newspaper, The marketing staff of the respondent showed a rosy picture of the project and allure with proposed specifications and invited for site visit. That the complainant visited the project site and met with the local staff of the respondent. Local staff of the respondent gave an application form and assured that possession would be delivered within 36 months as they were told that it is a govt. project having a fixed payment instalment every 6 months and on the last instalment, the possession will be delivered.
- VI. That the respondent allotted unit/ flat no. T4-103, admeasuring 487 sq. ft. and 100 Sq. ft. balcony as well as allotment of 1 two-wheeler parking site admeasuring approximately 0.8m x 2.5m in "Riddhi Siddhi" at Sector



99, Gurugram, Haryana. The flat was purchased under the time link payment plan as per the mandate under affordable housing policy 2013 for basic sale consideration of Rs.19,98,000/-.

- VII. That on date 10.02.2016, A flat buyer agreement for allotted unit/ flat no. T4-103 was executed between respondent and complainant. That as per clause 8.1, the respondent had to complete the construction of the flat and handover the possession within 4 years from the date of grant of sanction of building plans for the project or the date of receipt of all the environmental clearances, whichever is later. This was as per Rule 1.(iv) under the Affordable Housing Policy 2013, Notified by DTCP, Govt. of Haryana on 19/08/2013 in the Haryana Government Gazette. That the environmental clearance was granted on 22.01.2016. Therefore, the due date of possession becomes on or before 22.01.2020.
- VIII. That till date complainant had paid Rs.21,12,465/- (Including of Taxes & VAT) and Rs.19,98,000/- (Excluding Taxes & VAT) of money called, but when complainant observed that there is no progress in construction of subject flat for a long time, he raised their grievance to respondent.
- IX. That the main grievance of the complainant in the present complaint is that in spite of the complainant having paid 100% of the actual amount of flat, the respondent has failed to deliver the possession of flat which was a core promise of the Affordable Housing Policy, 2013.
- X. That as per section 18 of the RERA Act. 2016, the promoter is liable to refund the amount or pay interest at the prescribed rate of interest and compensation to the allottees of an apartment, building or project for a delay or failure in handing over such possession as per the terms and agreement of the sale.

- XI. That the complainant had purchased the flat with the intention that after purchase, his family would use the flat for their personal use. That the respondent at the time of receiving payment for the flat that the possession of fully constructed flat as shown in newspaper at the time of sale, would be handed over to the complainant on and after the payment of last and final instalment, that these instalment becomes accrue on every 6 months after the commencement of construction work, and the respondent was under obligation to deliver the project complete in all respect as and when the respondent takes the last instalment or by maximum till 22.01.2020.
- XII. That the facts and circumstances as enumerated above would lead to the only conclusion that there is a deficiency of service on the part of the respondent and as such they are liable to be punished and compensate the complainant. That due to above acts of the respondent and of the terms and conditions of the apartment buyer agreement, and of Affordable Housing Policy 2013, the complainant have been unnecessarily harassed mentally as well as financially, therefore the respondent is liable to compensate the complainant on account of the aforesaid act of unfair trade practice.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- i. Direct the respondent to pay interest at the prevailing rate on delayed possession from the due date of possession i.e., 22.01.2020 till date of actual legal possession on paid-up amount;
 - ii. Direct the respondent to obtain approvals from concerned department w.r.t water, sewerage, electricity and environmental etc. before handing over of possession;
 - iii. Any other relief which the Authority deems fit and proper in the facts & circumstances of the present complaint.

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

D. Reply by the respondent:

6. The respondent has contested the complaint on the following grounds:
- a. That the present complaint in the present form is not maintainable as the same is contrary to the provision of the Real Estate (Regulation and Development) Act, 2016 and Haryana Real Estate (Regulation and Development) Rules, 2017 and therefore, the present complaint is liable to be dismissed in limine.
 - b. That this Authority does not have the jurisdiction and adjudicate the present complaint. Therefore, the present complaint is liable to be dismissed.
 - c. That the respondent was granted a license bearing no. 86 of 2014 dated 09.08.2014 for the development of an affordable group housing residential colony on the land admeasuring area of 6.19375 acres situated in the revenue state of village Kherki-Marja Dhankot, Sector-99, Gurugram. The respondent thereafter, obtained all the relevant approvals and sanctions to commence the construction of the project. The respondent obtained the approvals of the building plans on 17.10.2014 and also obtained the environmental clearance on 22.01.2016.
 - d. That the respondent further obtained the registration under RERA Act and the respondent was granted the registration no. 236 of 2017. The said RERA registration was valid till 08.08.2019 which was extended by this Hon'ble Authority till 31.08.2020.
 - e. That it is clearly evident from the aforesaid approvals granted by the various authorities, the respondent was entitled to complete and build

the project till 22.01.2020. However, due to the outbreak of the pandemic Covid-19 in March, 2020, a national lockdown was imposed as a result of which all the construction works were severely hampered. Keeping in view of the difficulties in completing the project by real estate developers, the Hon'ble Authority granted 6 months extension to all the under-construction projects vide order dated 26.05.2020. Thereafter due to the second covid-19 wave from January to May 2021 once again the construction activities came to a standstill. The pandemic led to severe shortage of labour which resulted in the delay in completing the construction of the project for which the time of 6 months granted by the Hon'ble Authority was not sufficient as the effect of labour shortage continued well beyond for more than 12 months after the covid-19 lockdown. Furthermore, the pandemic lockdown caused stagnation and sluggishness in the real estate sector and had put the respondent in a financial crunch, which was beyond the control of the respondent.

- f. That the construction of the project had been stopped/obstructed due to the stoppage of construction activities several times during this period with effect from 2016 as a result of the various orders and directions passed by Hon'ble National Green Tribunal, Environment Pollution (Control and Prevention) Authority, National Capital Region, Haryana State Pollution Control Board, Panchkula and various other authorities from time to time. The stoppage of construction activities abruptly had led to slowing down of the construction activities for months which also contributed in the delay in completing the project within the specified time period.
- g. That the delivery of the flat by the respondent within the agreed period of 4 years from the date of grant of building approvals or from the date of



grant of environmental clearance whichever is later, was incumbent upon the complainants making timely payments. The complainants, in the present matter, have failed to make timely payments and there were substantial delays in making the payments of the due instalments as is evident from the demand letter.

- h. That the present project is an affordable group housing project being developed in accordance with the provision of the Affordable Housing Policy, 2013. The allotment price of the unit was fixed by the Government of Haryana and in terms of the policy, the respondent was paid the allotment price in instalments. Though, the allotment price was fixed by the Government of Haryana in the year 2013 but the same was not revised till date. Although the construction cost has increased the manifolds but the Government of Haryana had failed to increase the allotment price. The Government of Haryana had failed to take into account the increase in the construction cost since the policy in the year 2013. If by conservative estimates the construction cost is deemed to have increased by 10% every year then till date the construction costs have got doubled since the date of promulgation of Affordable Housing Policy, 2013. The license for the project was granted on 11.08.2014 and the respondent was permitted to sell the units at the allotment price of Rs.4000/- per sq. ft., the project is being constructed by the respondent and is near completion. The photographs of the project are attached herein which clearly proves that the project is ready to be handed over and the formalities of obtaining occupation certificate remains pending. The respondent has applied for grant of occupation certificate vide application dated 22.12.2022 and the same is expected soon.



- i. That the project Riddhi Siddhi, Sector-99, Gurugram is an affordable group housing project being developed in accordance with the provisions of the Affordable Housing Policy, 2013, wherein the Government of Haryana has set a razor thin margin to make housing available for all. Thus, the grant of interest at the prescribed rate as per Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 as applicable to other normal group housing real estate projects is wholly unreasonable and unjust, will impose unnecessary financial burden on the respondent and it shall have a cascading effect in the development and construction works of the project and in obtaining all other relevant approvals.
 - j. That since the said project is located at a prime location near the Dwarka Expressway, Gurugram and there is huge premium in the open market on the flats situated in said project which would compensate the allottees of the project in more than adequate manner including any compensation for the delay in delivery of the project. This is further to note here that the respondent is not seeking any enhancement of price or payment other than what has been prescribed under the Affordable Housing Policy, 2013.
7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

8. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of 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.I Territorial jurisdiction

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

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

Section 11.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

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

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

12. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as certain orders/restrictions of the NGT and other authorities in NCR region, increase in cost of construction material and shortage of labour, demonetization and implementation of GST and outbreak of Covid-19 pandemic, etc. All the pleas advanced in this regard are devoid of merit. Firstly, the events taking place such as orders of NGT in NCR region on account of the environmental conditions are for short duration, and thus, cannot be said to impact the respondent leading to such an inordinate delay in the completion. Secondly, the events of demonetization and the implementation of GST are in accordance with government policy and guidelines. Therefore, the respondent cannot categorize them as force majeure events. Thus, the same is devoid of merits and Lastly, the respondent is claiming benefit of lockdown in lieu of Covid-19, which came into effect on 23.03.2020 whereas the due date of completion was prior to the event of outbreak of Covid-19 pandemic. Therefore, the authority is of the view that outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself. Therefore, it is nothing but obvious that the project of the respondent was already delayed as the possession of the unit in question was to be offered by 22.01.2020, and no extension can be given to the respondent in lieu of Covid-19, which is after the due date of completion. Thus, the promoter/respondent cannot be given any leniency based on aforesaid reasons, the plea advanced in this regard is untenable and it is well settled principle that a person cannot take benefit of its own wrong.

G. Findings on the relief sought by the complainant:

- G.I Direct the respondent to pay interest at the prevailing rate on delayed possession from the due date of possession i.e., 22.01.2020 till date of actual legal possession on paid-up amount.
- G.II Direct the respondent to obtain approvals from concerned department w.r.t water, sewerage, electricity and environmental etc. before handing over of possession.
- G.III Any other relief which the Authority deems fit and proper in the facts & circumstances of the present complaint.
13. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
14. In the present complaint, the complainant intends to continue with the project and are 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.

(Emphasis supplied)

15. Clause 8.1 of the apartment buyer's agreement dated 10.02.2016 provides for handing over of possession and is reproduced below for ready reference:

8. Handing over of possession***8.1 Expected Time for Handing over Possession***

"Except where any delay is caused on account of reasons expressly provided for under this agreement and other situations beyond the reasonable control of the company and subject to the company having obtained the occupation/completion certificate from the competent authority(ies), the company shall endeavor to complete the construction and handover the possession of the said apartment within a period of 4 years from the date of grant of sanction of building plans for the project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later, subject to timely payment by the allottee of all the amounts payable under this agreement and performance by the allottee of all other obligations hereunder."

(Emphasis supplied)

16. The due date of possession of the apartment as per clause 8.1 of the apartment buyer's agreement is to be calculated as 4 years from the date of environmental clearance i.e., 22.01.2016 being later. Therefore, the due date of possession comes out to be 22.01.2020.

17. Admissibility of delay possession charges at prescribed rate of interest:

The complainants are seeking delay possession charges at the prescribed rate as per the Act of 2016. Section 18 provides that where an allottee does not intend to withdraw from the project, she 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., 18.09.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

20. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent /promoter



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

21. The Authorized representative of the respondent during proceedings of the day dated 18.09.2025 stated that the construction is completed and an application for the grant of occupation certificate has already been made to the concerned authority on 22.12.2022 but occupation certificate is yet to be obtained.
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. By virtue of clause 8.1 of the buyer's agreement, the due date of handing over of possession of the unit in question is 22.01.2020 (calculated from the date of environmental clearance, being later). A document is placed on record by the respondent which shows that an application for grant of occupation certificate was made on 22.12.2022 which is yet to be approved by the competent authority. Therefore, the respondent has failed to handover possession of the subject apartment till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The authority is of the considered view that there is delay on the part of the respondent to offer the possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement dated 10.02.2016 executed between the parties.
23. 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

respondent is established. As such the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 22.01.2020 till offer of possession of the said unit after obtaining the occupancy certificate from the concerned authority plus two months or actual handing over of possession, whichever is earlier, at prescribed rate i.e., 10.85% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

24. During proceedings dated 18.09.2025, the authorized representative of respondent-promoter submitted that the respondent had already applied for occupation certificate on 22.12.2022 after obtaining pre-requisite approvals from the concerned departments. It is evident that even after the lapse of more than 5 years from the due date of possession, the respondent has not obtained OC from the competent authority. Thus, the respondent-promoter is duty bound to obtain OC and hand over possession only after obtaining OC.

H. Directions of the Authority:

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

- i. The respondent is directed to pay delay interest on the paid-up amount of Rs.20,94,953/- by the complainant at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 22.01.2020 till offer of possession of the said unit after obtaining the occupancy certificate from the competent authority plus two months or actual handing over of possession, whichever is earlier.
- ii. The arrears of such interest accrued from 22.01.2020 till the date of order by the authority shall be paid by the promoter to the allottee(s)



within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.

- iii. The respondent is directed to issue a revised account statement after adjustment of delayed possession charges within 30 days and complainant are directed to pay outstanding dues, if any remains after adjustment of interest for the delayed period, the respondent shall handover the possession of the allotted unit after obtaining of occupation certificate.
- iv. The respondent shall not charge anything from the complainant which is not the part of the builder buyer's agreement.
- v. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(z) of the Act.

26. Complaint stands disposed of.

27. File be consigned to registry.


(Vijay Kumar Goyal)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 18.09.2025