

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
 GURUGRAM**
**Date of decision: 12.08.2025**

NAME OF THE BUILDER		ANSAL HOUSING LIMITED SAMYAK PROJECTS PVT. LTD.	
PROJECT NAME		ANSAL HUB 83 BOULEVARD	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/455/2025	Kapil Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
2.	CR/456/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
3.	CR/460/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
4.	CR/467/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
5.	CR/471/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
6.	CR/472/2025	Kapil Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
7.	CR/476/2025	Kapil Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
8.	CR/477/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
9.	CR/479/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
10.	CR/481/2025	Kapil Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia

			Sh. Amandeep Kadyan
11.	CR/483/2025	Gautam Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
12.	CR/484/2025	Kapil Kalra V/s Ansal Housing Ltd.	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
13.	CR/488/2025	Kapil Kalra V/s Ansal Housing Ltd	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
14.	CR/489/2025	Gautam Kalra V/s Ansal Housing Ltd	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
15.	CR/491/2025	Kapil Kalra V/s Ansal Housing Ltd	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan
16.	CR/492/2025	Gautam Kalra V/s Ansal Housing Ltd	Sh. Meghraj Singh Sisodia Sh. Amandeep Kadyan

**CORAM:**

Shri. Arun Kumar

Shri Ashok Sangwan

**Chairperson****Member****ORDER**

1. This order shall dispose of all the 16 complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Ansal Town Walk" (group housing colony) being developed by the same respondent/promoter i.e., M/s Ansal Housing Limited. The terms and conditions of the buyer's agreements, fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of refund along with interest.
3. The details of the complaints, reply to status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location		"ANSAL TOWN WALK" Sector-104, Gurugram.				
<b>Possession Clause:</b> <i>"Clause 30</i> <i>The developer shall offer of the unit any time, within a period of 42 months from the date of execution of shop/ office buyer agreement or within 42 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all the dues by buyer and subject to force-majeure circumstances as described in clause 3. Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 42 months as above in offering the possession of the unit."</i> <b>(Emphasis supplied)</b>						
<b>Occupation certificate: - Not obtained</b>						
<b>Offer of possession: Not offered</b>						
CR No.	Unit	BBA	Due date	Sale consideration	Amount paid	
CR/455/2025	503 ad. 493 sq. ft.	24.02.2014	24.02.2018	₹22,18,500/-	₹17,87,600/-	03.04.2024
CR/456/2025	507 ad. 615 sq. ft.	11.02.2014	11.02.2018	₹27,67,500/-	₹10,05,100/-	03.04.2024
CR/460/2025	509 ad. 469 sq. ft.	24.02.2014	24.02.2018	₹21,10,500/-	₹13,50,041/-	03.04.2024

CR/467/202 5	510 ad. 469 sq. ft.	24.02.2014	24.02.2018	₹21,10,500/ -	₹12,90,017/-	03.04.2024
CR/471/202 5	511 ad. 469 sq. ft.	24.02.2014	24.02.2018	₹21,10,500/-	₹10,05,100/-	03.04.2024
CR/472/202 5	504 ad. 498 sq. ft.	24.02.2014	24.02.2018	₹22,18,500/ -	₹19,64,996/-	03.04.2024
CR/476/202 5	505 ad. 463 sq. ft.	24.02.2014	24.02.2018	₹22,18,500/ -	₹9,94,000/-	03.04.2024
CR/477/202 5	512 ad. 469 sq. ft.	21.11.2014	21.11.2018	₹23,45,000/ -	₹7,25,100/-	03.04.2024
CR/479/202 5	513 ad. 469 sq. ft.	21.01.2014	21.01.2018	₹23,45,000/ -	₹7,25,100/-	03.04.2024
CR/481/202 5	506 ad. 629 sq. ft.	11.02.2014	11.02.2018	₹28,30,500/ -	₹9,96,000/-	03.04.2024
CR/483/202 5	514 ad. 469 sq. ft.	21.01.2014	21.01.2018	₹23,45,000/ -	₹11,59,183/-	03.04.2024
CR/484/202 5	517 ad. 469 sq. ft.	21.11.2014	21.11.2018	₹24,78,665/ -	₹8,94,000/-	03.04.2024
CR/488/202 5	518 ad. 492 sq. ft.	21.11.2014	21.11.2018	₹24,60,665/ -	₹9,44,000/-	03.04.2024
CR/489/202 5	515 ad. 469 sq. ft.	21.11.2014	21.11.2018	₹23,45,000/ -	₹10,91,016/-	03.04.2024
CR/491/202 5	519 ad. 509 sq. ft.	21.11.2014	21.11.2018	₹25,45,000/ -	₹9,44,000/-	03.04.2024

CR/492/202 5	516 ad. 469 sq. ft.	21.11.2014	21.11.2018	₹23,45,000/-	₹7,25,100/-	03.04.2024
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4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of said unit for not handing over the possession by the due date, seeking award of refund along with interest.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/455/2025 Kapil Kalra V/s Ansal Housing Ltd.** Are being taken into consideration for determining the rights of the allottee(s) qua delay possession charges along with interest and compensation.

**A. Project and unit related details**

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

**CR/455/2025 Kapil Kalra V/s Ansal Housing Ltd.**

S.N.	Particulars	Details
1.	Name of the project	Ansal Town Walk
2.	Project location	Sector 104, Gurugram
3.	Nature of project	High Street retail cum Corporate Spaces
4.	RERA registered/not registered	Not registered
5.	DTPC License no.	103 of 2012 dated 01.10.2012
	Validity status	30.09.2016
	Name of licensee	Jagrati Realtors Pvt. Ltd. & 1 Anr.



6.	Unit no.	503 (Page no. 22 of complaint)
7.	Unit measuring	493 sq. ft. super area (Page no. 22 of complaint)
8.	Date of execution of Builder developer agreement (duly signed by both the parties)	24.02.2014 (Page 19 of complaint)
9.	Possession clause	30. The developer shall offer of the unit any time, <b>within a period of 42 months from the date of execution of shop/ office buyer agreement</b> or within <b>42 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever is later</b> subject to timely payment of all the dues by buyer and subject to force-majeure circumstances as described in clause 31. <b>Further, there shall be a grace period of 6 months allowed to the developer over and above the period of 42 months as above in offering the possession of the unit.</b>
10.	Due date of possession	24.02.2018 (calculated from the date of execution of buyer agreement)
11.	Basic price	Rs.22,18,500/-
12.	Total amount paid by the complainant	Rs.17,87,660/- (As alleged by the complainant at pg.6 of the complaint)
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered
15.	Cancellation letter	03.04.2024 (page 61 of complaint)
16.	Legal notice	27.08.2024 (page 68-70 of complaint)

**B. Facts of the complaint**

8. The complainant has made the following submissions in the complaint: -

- a. That it is submitted that believing upon such representation, promises and assurances, complainant decided to purchase office unit bearing number 503 at the said project with intent to establish his business at Gurgaon

(Gurugram) for betterment of his business and expansion of same. It is further submitted that in regard to the aforementioned office unit, complainant and the respondent entered into buyer's agreement on 24.02.2014.

- b. It was agreed between the respondent and complainant as per the said Buyer Agreement's clause 30 the respondent was to deliver the possession of the unit within a period of 42 months from the date of execution of Shop/Office Buyer Agreement. That it is submitted that complainant had made the initial payments in regard to the aforementioned unit, thereafter complainant had also made necessary, demanded and agreed payments in regard to aforementioned unit to the respondent.
- c. That the complainant is an honest buyer and had made regular payments in regard to the aforementioned unit to the respondent. It is stated that till date complainant had made a total payment of amount Rs. 17,87,660.11/- to the respondent which has been duly accepted by the respondent (regarding aforementioned unit). The complainant had made several payments to the respondent, some of which were documented with receipts, while others were made subsequently without formal receipts as the same was not provided by the respondent. And the complainant asked for the same but the respondent assured the complainant that these subsequent payments would be adjusted across all ten office units the complainant will purchase. However, the complainant only possesses a ledger account that reflects the total payments made till date. The complainant on several occasion even asked for the statement of account and details regarding the receipts but the respondent did not provide the said documents.
- d. That complainant time to time had enquired about the update in the constructions of the aforementioned unit and the respondent used to assure

complainant that construction is going in well planned and timely manner and promised and agreed unit would be delivered as stated within 42 months from the date of execution of buyer agreement. The Complainant used to believe upon such assurance and promises. That the expiry of the promised time for giving the possession of Office Unit Bearing No. 503 was on 24.08.2017.

- e. That complainant enquired about the possession of the aforementioned unit which he had purchased from the respondent to which the respondent used to state that due to some financial constraints and technical issues there is delay in construction of the project and assured that the respondent is working on the issues and will deliver the possession to complainant within 5-6 months. Upon such assurance and promises complainant believed upon the respondent and waited for the possession of aforementioned unit. That again after a period of 6-7 months, when complainant made inquiries regarding the possession and updates on the aforementioned office unit, no reply was received from respondent.
- f. That due to the respondent's dereliction of the duties, complainant was left aghast and dismayed to discover that despite being prudent, the respondent has allegedly defrauded complainant. That complainant feeling forsaken, attempted to reach out to the respondent via e-mails and telephone calls to inquire about the possession of the office unit and other relevant queries but the respondent failed to respond in any satisfactory manner.
- g. That complainant rightfully asked the respondent about the possession of the office unit, as complainant has invested substantial amount of money in the project, with the expectation of using these office unit to run their business. Concerned, complainant also sought details/status of the HRERA License granted by the Authority, as well as the Completion Certificate/Occupancy Certificate obtained from the competent authority.



However, the respondent did not provide any response. That complainant has contacted the respondent on several occasions, but the respondent has failed to respond despite the passage of a considerable amount of time.

- h. That it is pertinent to note that complainant is still paying interest on the amount invested in the project. It is submitted that complainant has not received any letter/communication regarding the construction plan from the respondent to date. The respondent has also failed to provide the account statement of Mr. Kapil Kalra against the booking of the aforementioned office unit. Further, also incurred damage as due to the failure of the respondent to provide the said unit timely, complainant was unable to establish his business at Gurgaon and possibly expand his business in the said region.
- i. That upon personally visiting the site of the aforementioned office unit, complainant was appalled to find that no construction work was ongoing and no concerned authority was present at the site.
- j. That respondent with dishonest and malicious intent had issued letters dated 03.04.2024, unlawfully asserting that the cancellation process has been initiated against the aforementioned office unit booked by complainant. These letters also unlawfully impose an excessive and usurious rate of interest amount on complainant. Furthermore, the respondent has threatened that, should complainant fail to remit the demanded additional funds, the cancellation of the said office unit will proceed. This conduct appears to be a deliberate attempt to coerce additional payments from complainant and to perpetuate an injustice. This ultimatum constitutes an egregious abuse of respondent position of advantage. It is alleged that respondent is employing an unethical modus operandi to unlawfully extract additional funds.

- k. That it is hereby submitted that complainant had already paid in excess of 50% of the total amount due, though there is no feasible future that the said project/purchased unit to be completed and be ready for possession and transferred to complainant in complete and promised manner. Faced with the prospect of further financial losses and difficulties, complainant, in the exercise of prudence and fiduciary responsibility, refused to provide any additional funds, as doing so would have resulted in further pecuniary harm and detriment. Further, it is the respondent who are in continuous breach and default to the terms of respected agreements.
- l. That it is hereby stated that a legal notice dated 27.08.2024 was duly sent to the respondent; however, no response or action has been received from the respondent to date.

**C. Relief sought by the complainant:**

9. The complainant has sought following relief(s)
- a. Direct the respondent to refund the entire amount paid by the complainant along with interest.
10. 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**

11. The respondent has contested the complaint on the following grounds:
- a. That the complainant had approached the answering Respondent for booking an Office unit No.503 in an upcoming project Ansal Townwalk, Sector 104, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. an agreement to sell dated 24.02.2014 was signed between the parties. That the current dispute cannot be governed by the RERA Act, 2016 because the builder buyer agreement signed between the complainant and the answering Respondent

was in the year 2014. It is submitted that the regulations at the concerned time would regulate the project and not a subsequent legislation i.e. RERA Act, 2016. It is further submitted that Parliament would not make the operation of a statute retrospective in effect.

- b. That the complaint specifically admits to not paying necessary dues or the full payment as agreed upon under the builder buyer agreement. It is submitted that the complainant cannot be allowed to take advantage of his own wrong. That even if for the sake of argument, the averments and the pleadings in the complaint are taken to be true, the said complaint has been preferred by the complainant belatedly. The complainant has admittedly filed the complaint in the year 2025 and the cause of action accrue on 24.08.2017 as per the complaint itself. Therefore, it is submitted that the complaint cannot be filed before the HRERA Gurugram as the same is barred by limitation.
- c. That even if the complaint is admitted being true and correct, the agreement which was signed in the year 2014 without coercion or any duress cannot be called in question today. It is submitted that the builder buyer agreement provides for a penalty in the event of a delay in giving possession. It is submitted that clause 36 of the said agreement provides for Rs. 5/ sq foot per month on super area for any delay in offering possession of the unit as mentioned in Clause 30 of the agreement. Therefore, the complainant will be entitled to invoke the said clause and is barred from approaching the Hon'ble Commission to alter the penalty clause by virtue of this complaint more than 10 years after it was agreed upon by both parties.
- d. That the Respondent had in due course of time obtained all necessary approvals from the concerned authorities. It is submitted that the permit for environmental clearances for proposed group housing project for Sector 103, Gurugram, Haryana on 20.02.2015. Similarly, the approval for digging

foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the Respondents have in a timely and prompt manner ensured that the requisite compliances be obtained and cannot be faulted on giving delayed possession to the Complainant.

- e. That the answering Respondent has adequately explained the delay. It is submitted that the delay has been occasioned on account of things beyond the control of the answering Respondent. It is further submitted that the builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The Respondent ought to have complied with the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process. Similarly, the complaint itself reveals that the correspondence from the Answering Respondent specifies force majeure, demonetization and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID -19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.
- f. That the answering respondent and the complainant admittedly have entered into a builder buyer agreement which provides for the event of delayed possession. It is submitted that clause 31 of the builder buyer agreement is clear that there is no compensation to be sought by the complainant/prospective owner in the event of delay in possession. That the answering Respondent has clearly provided in clause 34 the consequences that follow from delayed possession. It is submitted that the Complainant cannot alter the terms of the contract by preferring a complaint before the Hon'ble HRERA Gurugram.

12. 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 these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

13. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**F. I Territorial jurisdiction**

14. 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.

**F. II Subject matter jurisdiction**

15. 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.*

16. 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 complainants at a later stage.

**F. Findings on the relief sought by the complainants.**

**G.I. Direct the respondent to refund the entire amount paid by the complainant along with interest.**

17. In the present matter the complainant was allotted unit bearing no. 503, admeasuring 493 sq. ft. in the project "Ansal Town Walk" Sector 104 by the respondent-builder. A buyer's agreement was executed between the complainant and respondent on 24.02.2014. As per clause 30 of the BBA, respondent was obligated to complete the construction of the project and hand over the possession of the subject unit within 42 months from obtaining all the required sanctions and approval sanctions and approval necessary for commencement of construction, whichever is later. The occupation certificate for the project has not yet been obtained from the competent authority.
18. The Respondent, vide letter dated 03.04.2024, intimated that the cancellation of the unit in question would be initiated without any further notice. However, the respondent fails to disclose in its reply that the unit had already been cancelled. Instead, it merely provides justifications for the delay in development of the project. It is also pertinent to observe that, as repeatedly stated by the Complainant in their pleadings, the construction of the subject project remains incomplete to date. Furthermore, it is an undisputed fact that the Respondent has not yet obtained the Occupation Certificate from the competent authority for the said project.
19. It is also significant to note that the Complainant has already remitted a substantial portion of the total sale consideration. The Complainant ceased further payments only because the corresponding construction milestones, which are prerequisites under the construction-linked payment plan agreed

upon in the Builder Buyer Agreement (BBA) executed between the parties, had not been achieved by the Respondent.

20. In view of the foregoing facts and circumstances, the purported cancellation letter dated 03.04.2024 issued by the Respondent stands quashed and is hereby set aside by this Authority.
21. Given the situation the allottee cannot be asked to wait endlessly for the project to be completed even after the lapse of almost 7 years from the due date of possession. In the present matter the complainant intends to withdraw from the project and is seeking refund of the amount paid along with interest on the amount paid. Section 18 is produced below for the ready reference:

*"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. -*

*in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*

*due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

*he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

*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)*

22. Clause 30 of the builder buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

*"30. The Developer shall offer possession of the Unit within 42 months from the obtaining all the required sanctions and approval sanctions and approval necessary for commencement of construction, whichever is later subject to timely payment of all dues by the Buyer and subject to force majeure circumstances as described in clause 31. Further there shall be a grace period of 6 months allowed to developer over and above the period of 42 months as above in offering the possession of the unit."*

23. **Due date of possession and admissibility of grace period:** As per clause 30 of the agreement, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 42 months from obtaining all required sanctions and approvals necessary for commencement of construction, whichever is later. Further, grace period of 6 months is sought. The date of start of construction is not known. Therefore, the due date is calculated from date of execution of builder buyer agreement i.e., 24.02.2014. The period of 42 months ends on 24.08.2017. As far as grace period of 6 months is concerned the same is allowed being unqualified. Accordingly, the due date of possession comes out to be 24.02.2018.
24. **Admissibility of refund along with prescribed rate of interest:** The complainants are seeking refund the amount paid by them along with interest prescribed rate of interest. However, the allottee intend to withdraw from the project and are seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided 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]  
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."*
25. 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.
26. 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., 12.08.2025 is

08.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%.

27. The definition of term 'interest' as defined under section 2(za) 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. The relevant section is reproduced below:

*"(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—  
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;  
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;"*

28. 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 i.e., 24.02.2018.
29. It is pertinent to mention over here that even after a passage of more than 7 years neither the occupation certificate is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoter. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. Further, the authority observes that till date the respondent has not obtained occupation certificate/part occupation certificate from the competent authority. In view of



the above-mentioned facts, the allottee intends to withdraw from the project and are well within the right to do the same in view of section 18(1) of the Act, 2016.

30. Moreover, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondents /promoter. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the allotted unit and for which he has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021.

*".... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

31. Further, the Hon'ble Supreme Court of India in the cases of Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra) reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022. observed as under:

*"25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed"*

32. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or is unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date



specified therein. Accordingly, the promoter is liable to the allottee, as he wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

33. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to refund of the entire amount paid by them at the prescribed rate of interest i.e., @10.90% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

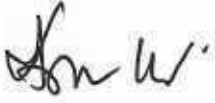
**G. Directions of the authority:**

34. 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):
- a. The respondent is directed to refund the amount paid by the complainants along with prescribed rate of interest @ 10.90% p.a. as prescribed under rule 15 of the rules from the date of each payment till the date of refund of the deposited amount.
  - b. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.
  - c. The respondent is further directed not to create any third-party rights against the subject unit before the full realization of paid-up amount along with interest thereon to the complainants, and even if, any transfer is

initiated with respect to subject unit, the receivable shall be first utilized for clearing dues of allottee-complainants.

35. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
36. The complaints stand disposed of.
37. Files be consigned to registry.

  
**(Ashok Sangwan)**  
Member

  
**(Arun Kumar)**  
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 12.08.2025**

