

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

Complaint no.	3498 of 2024
Date of filing complaint	14.08.2024
First date of hearing	04.12.2024
Date of decision	06.08.2025

Mr. Vikas Panwar and Mrs. Sarvesh

R/o: House no. 334, Ward no. 5, Gali no. 6, Rajiv
Nagar, Gurugram, Haryana

Complainants

Versus

Signature Global Homes Private Limited

Registered office: 1309, 13th floor, Dr. Gopal Das
Bhawan, 28 Barakhamba Road, New Delhi- 110001

Correspondence Address: Ground floor, Tower-A,
Signature Towers, South City-I, Gurugram, Haryana

Respondent

CORAM:

Shri Ashok Sangwan

Member

APPEARANCE:

Shri Vijay Pal Chauhan (Advocate)

Complainants

Shri Mintu Kumar (AR of the company)

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 thereunder or to the allottee as per the agreement for sale executed *inter se*.

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:

Sr. No.	Particulars	Details
1.	Name of the project	"Signum Plaza IV", Sector 36, Sohna, Gurugram
	Project Area	11.0625 acres
2.	Nature of the project	Affordable Plotted Colony under DDJAY
3.	DTCP license no.	39 of 2019 dated 01.03.2019 valid upto 29.02.2024
	Name of licensee	Signature Global Homes Pvt. Ltd.
4.	RERA Registered/ not registered	Registered 43 of 2019 dated 01.08.2019 upto 30.06.2021
5.	Unit no.	UGF-06 (As per BBA at page 31 of complaint)
6.	Unit admeasuring area	157.04 sq. ft. (Carpet Area) 282.67 sq. ft. (Super Area) (As per BBA at page 31 of complaint)
7.	Date of builder buyer agreement	11.01.2021 (As per stamp paper annexed to BBA on page 20 of complaint)
	Possession clause as per builder buyer agreement	7. Possession of the Residential Independent Floor <i>"7.1 The Promoter assures to handover possession as per agreed term and conditions by 30th July, 2022 unless there is delay due to "force majeure", Court orders, Government policy/guidelines, decisions, etc. affecting the regular development of the real estate project....."</i> (Emphasis supplied) (As per BBA at page 39 of complaint)
10.	Due date of possession	30.07.2022
11.	Total sale consideration	Rs.26,32,816

12.	Total amount paid by the complainant	(As per BBA at page 32 of complaint) Rs. 17,25,048/- (As pleaded by the complainant, No SOA annexed by either of the parties)
13.	Occupation certificate	To be ascertained
14.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainants have made the following submissions by filing of present complaint dated 14.08.2024: -

- a) That Being impressed by the advertisement shown by the respondent through various mode of communication including but not limited to newspapers and pamphlets the complainant's came to know that the respondent is developing Independent Floors under "DDJAY", notified by the Government of Haryana vide notification number PF-27A/6521 dated 01.04.2016 and amendments there to vide Licence No. 117 of 2019 dated 12.09.2019 from DTCP, Haryana and developing project under the name and style of Signature Global Park IV in Village Hariyahera, Sector 36 Sohna, Tehsil Sohna and District Gurugram under the Affordable Plotted Housing Policy, 2013 issued by the Government of Haryana. The respondent also informed that they are also developing a commercial space in the name and style "Signum Plaza IV" in the "said project."
- b) That the believing the representations made by the respondent, the complainant's applied for allotment of a commercial shop with the respondent along with necessary documents and booking amount Rs. 21000/- vide cheque No./ RTGS no. 026442951769 drawn on SBI Dated 20.09.2020. Complainants also paid Rs. 1,89, 000/- vide cheque no 47766 on 21.09.2020 and Rs. 7,07,590,- vide cheque no.477671 on 22.10.2020 the payment was duly acknowledged by respondent. Thereafter, the Respondent confirmed the allotment vide Welcome

Letter cum Provisional Allotment letter dated 27.11.2020. That the complainants were allotted a commercial shop in the said project. The allotment of the unit was made against total sale consideration Rs.26,32,816/-. The total sale consideration was to be paid as per plan which was PLP payment plan.

- c) That a one-sided Agreement for Sale was executed between the parties on 11.01.2021. The terms and conditions of the Agreement were totally one sided in favor of the respondent and against the complainants.
- d) That as per the Clause 7.1 of the Agreement the possession of the retail unit was to be delivered by 30.07.2022 subject to force majeure.
- e) That pursuant to the terms and conditions of the agreement, the complainants have been continuously and regularly paying the amount pursuant to the demand letters issued by the respondent and as per the schedule of payment. Till the date of filing the complaint in hand the complainants have already paid an amount of Rs.17,25,048/- with applicable taxes to the respondent. The amount received by the respondent has been further confirmed by the First-Demand Pre Intimation letter dated 19.09.2022. It is not out of place to mention here that the respondent has charged interest for delayed payment from the complainants.
- f) That the construction of the unit in question was not completed on time as per the agreement and whenever the complainants visited the office of the respondent, they sent back on verbal assurance that her grievance would soon be redressed.
- g) That as the respondent failed to live up of its commitment and failed to deliver the possession of the Apartment to the complainants by due date, the complainants asked the respondent for delay penalty on the

amount paid by them along with compensation, but her grievance of the complainants has not been redressed by the respondent.

- h) That the complainant's does want to withdraw from the project as they are ready to take the possession of the unit in question. The respondent has not fulfilled its obligations provided under the RERA Act, 2016 and therefore the respondent is obligated to pay interest at the prescribed rate for every month of delay till the handing over of the possession.
- i) That the present complaint has not been filed by the complainants for seeking compensation, without prejudice, complainants reserve the right to file a complaint for grant of compensation with the Adjudicating Officer.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- I. Direct the respondent to pay delayed possession compensation/interest at the prescribed rates from the due date of possession in terms of agreement.
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 contested the complaint on the following grounds vide its reply dated 05.12.2024:
- a) That the complainant had made detailed and elaborated enquiries with regard to the location of the project, sanctions accorded by the concerned statutory authorities, specifications of the project as well as capacity, competence and capability of the respondent to successfully undertake

the conceptualization, promotion, construction, development and implementation of the project. Only after being fully satisfied in all respects, the complainants and other allottees proceed to submit their applications for obtaining allotment of apartments in the Affordable Group Housing Project. This has also been recorded in BBA dated 11.01.2021 at recital "H."

- b) That the complainant cannot be made to rely on selected covenants/clauses of the buyer's agreement. The covenants incorporated in the agreement are to be cumulatively considered in their entirety to determine the rights and obligations of the parties.
- c) That the proposed period of delivery of physical possession was subject to force majeure circumstances, intervention of statutory Authorities, receipt of occupation certificate and allottee having complied with all obligations of allotment in a timely manner and further subject to completion of formalities/documentation as prescribed by the respondent and not being in default of any clause of the agreement.
- d) That the respondent was supposed to offer the possession of the shop in question upto 30.07.2022. However, the said period would have been applicable provided no disturbance/hindrane had been caused either due to force majeure circumstances or on account of intervention by statutory Authorities etc.
- e) That prior to the expiry of said period the deadly and contagious Covid-19 pandemic had struck. The same had resulted in unavoidable delay in delivery of physical possession of the apartment. In fact, Covid-19 pandemic was an admitted force majeure event which was beyond the power and control of the respondent.
- f) That almost the entire world had struggled in its grapple with the Coronavirus menace. The Novel Coronavirus had been declared as a

pandemic by World Health Organization. On 14.03.2020 the Central Government had declared the pandemic as a "notified disaster" under the Disaster Management Act, 2005. The same had been recognized as a disaster threatening the country, leading to the invocation of The Disaster Management Act, 2005 for the first time on a national level. The 21-day national lockdown imposed by the Central Government to combat the spread of first wave of Covid-19.

- g) That in the first wave of Covid as many as 32 states and Union Territories had enforced lockdowns with some ordering a curfew as well. The lockdown meant that all rail and air services stood completely suspended.
- h) That in order to prevent the outbreak and spread of the Novel Coronavirus The Haryana Epidemic Disease, COVID-19 Regulations, 2020, had been brought into operation. The Department of Expenditure, Procurement Policy Division, Ministry of Finance had issued an Office Memorandum on 19th of February, 2020, in relation to the Government's 'Manual for Procurement of Goods, 2017', which serves as a guideline for procurement by the Government. The Office Memorandum effectively stated that the Covid-19 outbreak could be covered by a force majeure clause on the basis that it was a 'natural calamity'.
- i) That for all Real Estate Projects registered under Real Estate Regulation and Development Act, where completion date, revised completion date or extended completion date was to expire on or after 15th of March, 2020, the period of validity for registration of such projects had been ordered to be extended by Haryana Real Estate Regulatory Authority vide order dated 27th of March, 2020. The Haryana Real Estate Regulatory Authority, Gurugram had issued order/direction dated 26th of May, 2020 whereby the Hon'ble Authority had been pleased to extend the

registration and completion date of Real Estate Projects by 6 months, due to outbreak of Covid-19 (Corona Virus).

- j) However, even before the expiry of said extended period, it is very much in public domain and had also been widely reported that second wave of Covid-19 had also hit the country badly 'like a tsunami' and Haryana was no exception thereof. Copy of a news as published saying "Not A Wave, It's A Tsunami: Delhi High Court On Covid-19 Surge".
- k) That thereafter, during the second wave of Covid also the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula had issued order/direction dated 2nd of August 2021 wherein it was specifically observed that taking into reckoning the second wave of Covid 19 had decided to grant extension of 3 months from 1st of April 2021 to 30th of June 2021 considering the same as a force majeure event.
- l) That it was further specifically observed in the direction/order dated 02.08.2021 that the aforesaid period of 3 months would be treated as zero period and compliance of various provisions of Real Estate Regulation and Development Act and Rules and Regulations framed thereunder would stand extended without even there being a requirement of filing of formal application. It needs to be highlighted that Haryana Government had imposed lockdown for different periods even after January 2021 terming it as "Mahamari Alert/Surkshit Haryana (Epidemic Alert/Safe Haryana) resulting in virtual stoppage of all activity within the state of Haryana.
- m) That, therefore, it is manifest that both the first wave and second wave of Covid had been recognized by this Hon'ble Authority and the Hon'ble Haryana Real Estate Regulatory Authority, Panchkula to be Force Majeure events being calamities caused by nature which had adversely affected regular development of real estate projects. All these facts have been

mentioned hereinabove to highlight the devastating impact of Covid-19 on businesses all over the globe.

- n) Moreover, the Agreement of sale notified under the Haryana Real Estate (Regulation and Development) Rules, 2017 categorically excludes any delay due to "force majeure", Court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. That in addition to the aforesaid period of 9 months, the following period also deserves to be excluded for the purpose of computation of period available to the Respondent to deliver physical possession of the apartment to the Complainants as permitted under the Haryana Real Estate (Regulation and Development) Rules, 2017.
- o) That the period of 83 days was consumed on account of circumstances beyond the power and control of the respondent owing to passing of orders by statutory authorities affecting the regular development of the real estate project. Since, the respondent was prevented for the reasons stated above from undertaking construction activity within the periods of time already indicated hereinbefore, the said period ought to be excluded, while computing the period availed by the Respondent for the purpose of raising construction and delivering possession.
- p) hit all the activities not only in Haryana but also in India and rest of the world.
- q) That under clause 4.6 of the builder buyer's agreement, upon delay of payment by the allottees, the respondent can charge 15 % simple interest per annum. As per clause 6.2 (ii), the respondent is equally liable to pay to complainant, interest at the rate of 15% per annum for every month of delay till the handing over of the possession of the said flat within 45 days of becoming due.
7. All other averments made in the complaint were denied in toto.

8. 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 based on those undisputed documents and oral as well as written submissions made by the parties.

E. Findings on objections raised by the respondent:

E.I Objection regarding delay due to force majeure circumstances.

9. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as lockdown due to outbreak of Covid-19 pandemic. But all the pleas advanced in this regard are devoid of merit. The authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit by 30.07.2022. Further, quoting HARERA notification no. 9/3-2020 dated 26.05.2020, the respondent requested for an extension of 6 months in lieu of Covid-19. However, it is observed by the Authority that the allotment letter had been issued by the respondent in favour of the complainants on 27.11.2020 and buyer's agreement was executed between the parties on 11.01.2021, which is after the effect of Covid and hence, no further grace period is allowed to the respondent.

F. Jurisdiction of the authority

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

F.I Territorial jurisdiction

11. 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 the complete territorial jurisdiction to deal with the present complaint.

F.II Subject matter jurisdiction

12. 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."

13. 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.

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to pay delayed possession compensation/interest at the prescribed rates from the due date of possession in terms of agreement.

14. The factual matrix of the case reveals that the complainants were allotted unit no. UGF06 in the respondent's project at the sale consideration of Rs. 26,32,816/-. A buyer's agreement was executed between the parties on 11.01.2021. The possession of the unit was to be offered by 30.07.2022 in terms of clause 7.1 of the buyer's agreement executed between the parties. Therefore, the due date of handing over possession comes out to be 30.07.2022. The complainant paid a sum of Rs. Rs.17,25,048/- towards

the subject unit, and is ready and willing to retain the allotted unit in question.

15. The complainants herein intend to continue with the project and are seeking delay possession charges as provided under the proviso to Section 18(1) of the Act. Section 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."

16. **Due date of handing over possession:** As per clause 7.1 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit by 30.07.2022. Accordingly, the due date of possession was 20.12.2023. Further, the respondent requested for allowing 6 months grace period in lieu of Covid-19. However, it is observed that the allotment letter had been issued by the respondent in favour of the complainant on 27.11.2020 and buyer's agreement was executed between the parties on 11.01.2021, which is much after the effect of Covid and hence, no further grace period is allowed to the respondent.

17. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges and proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoters, 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, *ibid*. 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, ibid 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., 06.08.2025 is 9.10%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 11.10%.

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. 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—

- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

21. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 11.10% by the respondent 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, 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 dated 11.01.2020. By virtue of clause 7.1 of the buyer's agreement executed between the parties, the possession of the subject unit was to be delivered by 30.07.2022. However, it is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period.
23. 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 complainants are entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 30.07.2022 till the date of offer of possession plus two months or actual handing over of possession, whichever is earlier as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
24. The authority further observes that Section 17 of the Act obligates the promoter to handover the physical possession of the subject unit complete in all respect as per specifications mentioned in BBA and thereafter, the complainant-allottees are obligated to take the possession within 2 months as per provisions of Section 19(10) of the Act.

I. 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 possession charges at the prescribed rate i.e., 11.10% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e., 30.07.2022 till the date of offer of possession plus two or actual handing over of possession, whichever is earlier as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- II. The respondent is directed to handover the possession of the allotted unit as per specification of the buyer's agreement entered into between the parties, after obtaining of occupation certificate from the competent authority in terms of Section 11(4)(b) read with Section 17 of the Act, 2016.
- III. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges within a period of 30 days from the date of this order. The complainants are directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 30 days.
- IV. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 11.10% 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(za) of the Act.
- V. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months upon obtaining occupation

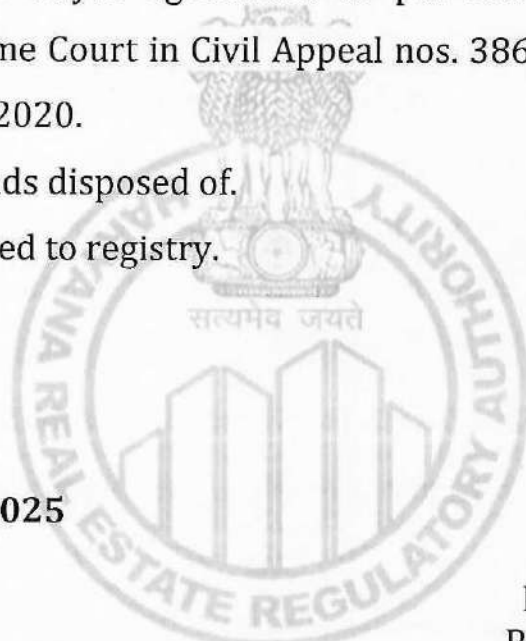
certificate from the competent authority, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.

- VI. The respondent is directed not to claim holding charges from complainants at any point of time even after being part of the builder buyer agreement as per law settled by the Hon'ble Supreme Court in Civil Appeal nos. 3864-3899/2020 decided on 14.12.2020.

26. Complaint stands disposed of.

27. File be consigned to registry.

Dated:06.08.2025



HARERA
GURUGRAM

Ashok Sangwan
(Member)

Haryana Real Estate
Regulatory Authority,
Gurugram