

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

Complaint no. : 519 of 2025
Date of filing of
complaint: 07.02.2025
Date of decision : 15.07.2025

Chander Vijay Singh Rana
R/o: Flat no. 901, Tower- B1, Shree Vardhman
Floors, Near NTH-90, Sector 90, Gurugram.

Complainant

Versus

M/s Renuka Traders Private Limited.
Regd. Address: B-2/3, KH No 8/8, Second Floor,
Chhattarpur Ext. New Delhi-110074.

Respondent

CORAM:		
Shri Arun Kumar		Chairman
Shri Ashok Sangwan		Member
APPEARANCE:		
Sh. Rishabh Jain		Advocate for the complainant
Sh. Shubham Mishra		Advocate for the respondent

ORDER

1. The present complaint dated 07.02.2025 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 provision of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Project and unit related details

2. 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:

S.No.	Heads	Information
1.	Project name and location	"Aashiyara", Sector- 37C, Gurugram.
2.	Project area	5 acres
3.	Nature of the project	Affordable Group Housing Project
4.	DTCP license no and validity status	15 of 2018 dated 13.02.2018 valid upto 12.02.2023
5.	Name of licensee	Renuka Traders Private Limited
6.	RERA Registered/ not registered	Registered vide no. 26 of 2018 dated 28.11.2018
7.	RERA registration valid up to	31.01.2023
8.	Unit no.	704, 7 th floor, tower/block: T51 [Page no. 39 of complaint]
9.	Unit measuring	548.921 sq. ft. [page 39 of complaint]
10.	Date of execution of buyer's agreement	10.07.2020 (page 35 of complaint)
11.	Possession clause 7.1	<i>Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023. The Promoter agrees and</i>

	<p>understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the</p>
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		Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement.
12.	Due date of possession	31.07.2023 (as per possession clause page 46 of complaint including grace period of 6 months in lieu of 6 months)
13.	Payment plan	Time linked payment Plan [Page no. 62 of complaint]
14.	Total consideration	Rs.22,34,014/- [page no. 62 of complaint]
15.	Total amount paid by the complainant	Rs.23,45,717/- [page 29 of complaint]
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint

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

- The grievance of the complainant relates to breach of contract, false promises, gross unfair trade practices and deficiencies in the services committed by the respondent in regard to the **Flat No. 704, 7th floor, Tower No. T5, 2 BHK Type B** (hereinafter referred to as '**Flat**') measuring 548.921 square feet of carpet area and 76.66 square feet of balcony area along with parking space in the project '**Aashiyara**' (hereinafter referred to as '**Project**') situated in the revenue estate of Village Gadauli Khurd, Sector - 37-C, Gurugram, Haryana, bought by the complainant paying his hard-earned money.

4. That in the agreement for sale dated 10th July, 2020 it is stated that the respondent is the absolute and lawful owner of the land admeasuring 5 acres situated in the revenue estate of Village Gadauli Khurd, Sector - 37-C, Gurugram, Haryana. The Director, Town and Country Planning, Haryana vide licence bearing no. 15 of 2018 dated 13th February, 2018 had granted permission for construction and development of an affordable group housing colony to be known as 'Aashiyara'.
5. That after the grant of the licence, the respondent collected a huge amount from gullible and naïve buyers including the complainant from 2019 onwards and kept on promising the complainant for the delivery of possession of his flat on time, as per the agreement and the Haryana Affordable Housing Policy.
6. That as per clause 7.1 of the agreement for sale, the possession of the allotted flat is to be handed over on or before 31st January, 2023. After including the extension of 6 months, granted by Hon'ble Authority vide notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic, **the due date for handing over of possession comes out to be 31st July, 2023.**
7. That the complainant paid all payable amounts, as and when demanded by the respondent, a total of Rs. 23,45,717/- till September, 2022 for the Flat. Still the Respondent failed to timely handover the physical possession of the Flat to the complainant till date, even after a delay of more than One year and six months.
8. That the respondent has failed to fulfil its obligations as per the agreement and deliver legitimate and lawful possession of the flat in timely manner. Thus, the respondent is liable to pay interest on the amount deposited by the complainant due to delay in delivery of possession.

C. Relief sought by the complainant: -

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

- I. Direct the respondent to pay delay possession charge alongwith prescribed rate of interest.
- II. Direct the respondent to handover the legal and rightful physical possession of the flat to the complainant, after receiving all required approvals from the competent authorities.
- III. Direct the respondent to complete the development of the flat along with all facilities and amenities like water, electricity, roads, green belt, etc. immediately.
- IV. Direct the respondent to not charge anything which is not mentioned in the agreement for sale.
- V. Direct the respondent to execute the conveyance deed in favour of the complainant.
- VI. Direct the respondent to pay legal expenses of Rs. 1,00,000/- incurred by the complainant along with other charges.
- VII. Direct the respondent to refund/return Rs.1,11,703/- taken from the complainant illegally, unlawfully and fraudulently, which was extra to the total cost of the unit.

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.

- I. That the complaint is prima facie not maintainable and must be dismissed for being vexatious to law. The complainant has approached the Authority with

malice and has tried to mislead the Authority by placing on record concocted facts and making incorrect and false averments, and by stating untrue and/or incomplete facts. As such, the complainant is guilty of *suppressio veri, suggestio falsi*. The complainant has suppressed and/or misstated the facts and, thus, the complaint, apart from being wholly misconceived, is also an abuse of the process of law. on this short ground alone, the complaint is liable to be dismissed.

- II. That the project "Aashiyara" is being developed under the strict compliance of the Haryana Affordable Housing Policy, 2013, notified by the Government of Haryana vide gazette dated 19.08.2013.
- III. That the complainant, desiring to purchase a house, approached the respondent and after being fully aware of the nature, category, and regulatory regime governing the project, submitted an application form dated 11.07.2019, seeking allotment of a residential flat in the said project. In the said application, the complainant expressly acknowledged that they had independently confirmed the respondent's statutory permissions, including HARERA registration no. 26 of 2018 dated 28.11.2018 and license no. 15 dated 13.02.2018 issued by the Director General, Town and Country Planning, Haryana, vide endorsement no. lc-3014-pa(b)-2018/5969-80 dated 15.02.2018.
- IV. That furthermore, along with the application form, the complainant also submitted a duly sworn affidavit declaring that they do not own any other unit, flat, or plot in any colony developed by the Haryana Urban Development Authority (HUDA), as per the eligibility conditions stipulated under the Affordable Housing Policy, thereby affirming their qualification and eligibility under the said policy. Thus, the complainant knowingly and voluntarily opted

for a unit in the project after full disclosure and without any coercion or misrepresentation.

- V. That in pursuance to the application, the complainant was allotted a unit in T-5, Unit – 704, and were informed about the same vide letter dated 30.12.2019, wherein it was mentioned that the complainant has been allotted the unit having area 548.921 sq. ft. for a total sale consideration amount of Rs.23,45,712/-.
- VI. That the respondent in compliance with the applicable provisions of RERA and the Affordable Housing Policy, 2013, made consistent efforts to ensure the timely execution of the agreement to sale. Consequently, the said agreement was duly executed between the parties on 10.07.2020. Clause 1.2 of the agreement stipulates that the total price of the unit is Rs.22,34,014/- (exclusive of service tax). The complainant has paid a total sum of Rs.23,45,717/- which includes the applicable service tax. Therefore, the complainant's allegation that he has paid an amount exceeding the total sale consideration is not only incorrect but also amounts to a deliberate concealment of material facts.
- VII. That the respondent, acting in absolute good faith and in full compliance with the terms of the agreement, issued multiple reminders and demand notices to the complainant due to his repeated delays in making payments as per the agreed payment plan. The first set of reminders was issued on 17.01.2020 and 10.02.2020. Thereafter, a demand was raised on 01.06.2020, which necessitated repeated follow-ups through reminders dated 24.06.2020 and 13.07.2020. Subsequently, another demand was raised on 01.12.2020, followed by a reminder dated 12.01.2021 due to continued non-compliance. Lastly, a final demand was issued on 27.05.2022, which also remained

unaddressed and required further follow-ups through letters dated 03.08.2022 and 22.09.2022. These communications were duly served upon the complainant. That payments were made by the complainant only after considerable delay and repeated reminders, including final notices in certain instances, reflecting a consistent pattern of non-compliance with the agreed payment schedule.

- VIII. That the respondent has scrupulously complied with all statutory conditions and has obtained all requisite approvals for the project. These include approval for building plans under license no. 15 of 2018 dated 13.02.2018, environment clearance from the state environment impact assessment authority, Haryana, vide memo no. SEIAA/HR/2018/1105 dated 20.08.2018, and a fire safety certificate for the residential towers exceeding 15 meters in height, issued by the fire services department, Haryana, vide memo no. FS/2024/1033 dated 26.09.2024.
- IX. That moreover, the respondent has also filed an application for occupancy certificate for towers 1 to 11 on 11.09.2024, duly acknowledged under seal by the Director, Town & Country Planning Department, Haryana, dated 16.09.2024, demonstrating the respondent's sincere efforts to achieve project completion in a lawful manner.
- X. That, instead of complying with his own obligations i.e., timely payment, execution of the agreement, and conclusion of registry, the complainant has filed the present complaint before the Authority, raising speculative and baseless demands, including unjustified claims for interest and arbitrary requests for structural modifications that are wholly alien to the agreement and the affordable housing framework. The complaint is a clear attempt to

mislead the authority and to pressurize the respondent into granting concessions that are not contractually or legally owed to them.

- XI. That the respondent, being a responsible and compliant promoter under the Affordable Housing Policy, 2013, has acted with complete transparency, financial discipline, and adherence to regulatory norms, and continues to remain willing to hand over possession upon the complainant's full compliance. the present complaint, however, is not a *bonafide* grievance but a calculated litigation designed to bypass contractual obligations and to misuse the remedial jurisdiction of the Authority.
- XII. That the complainant has repeatedly defaulted in making timely payments as per the agreed payment schedule. While the complainant has selectively referred to the '**targeted time-frame**' for project completion in the complaint, she has conveniently failed to disclose her own consistent delays in fulfilling financial obligations. The respondent raised multiple demands *vide* letters dated 01.06.2020, 01.12.2020, 01.06.2021, 23.11.2021, and 27.05.2022 at different intervals, followed by reminders. However, the complainant chose to ignore the said demands and failed to make timely payments even after the demands.
- XIII. That the complainants themselves have failed to adhere to the timely payment schedule as stipulated under the agreement. the agreement between the parties is premised on a mutually enforceable understanding that timely disbursement of payments by the allottees is crucial for the uninterrupted and scheduled progress of construction activities. Even a short delay of a few months in payment by multiple allottees can severely affect the fund-flow necessary for the execution of an affordable housing project. such projects are typically executed on a "no profit, no loss" or minimal margin basis, with

financial planning intricately dependent on scheduled inflows from the allottees. Thus, any deviation from the agreed payment schedule causes a ripple effect on the working capital cycle and construction schedule of the entire project. In the present case, not only has the complainant defaulted in making timely payments, but a number of other allottees have also failed to fulfill their respective financial obligations. These cumulative defaults have directly resulted in disruptions in the planned construction activities and have, from time to time, necessitated adjustments in the timelines originally envisaged. Therefore, in light of the foregoing, that attributing the entirety of the delay in project completion solely to the respondent company is both factually erroneous and ethically untenable. The delays, in significant part, have been occasioned due to the complainants' and other allottees' own defaults, which materially affected the respondent's ability to execute the project in accordance with the pre-determined schedule.

- XIV. That despite this extensive trail of communication, the complainant remained non-compliant, and now seek to deflect the consequences of his conduct by conjuring a narrative of timely payments. This is not merely a distortion of fact it is a calculated attempt to subvert the binding terms of contract.
- XV. That even after multiple requests and opportunities extended by the respondent, the complainant, in sheer disregard of their contractual obligations, chose to make extremely delayed payments towards the sale consideration, that too in fragments, and only after sustained follow-up by the respondent. However, what is most egregious is that the complainant, despite these delays, has not discharged his liability towards the interest accrued due to such defaults. The agreement and accompanying correspondences have time and again made it amply clear that delays in payment shall attract simple

interest at the rate of MCLR + 2% per annum, which the complainant was fully aware of. Yet, he now falsely and blatantly contends that he has paid the full consideration amount. The delays in payment have been chronic and sustained, with multiple demand and reminder letters issued in the interim. despite this, as on 10.06.2025, an amount of Rs.12,569/- remains due and payable by the complainant due to delayed payments. the computation of interest on delay in payments.

- XVI. That the complainant's allegation that the respondent failed to deliver possession by the stipulated date of 31.01.2023 and failed to execute the agreement in a timely manner is not only misleading but deliberately selective. He has relied on clause 7.1 of the agreement to suggest a rigid possession deadline, while consciously omitting the second half of the same clause, which expressly qualifies the timeline with reference to force majeure conditions.
- XVII. That during the construction period, the respondent was confronted with two overlapping and unavoidable force majeure conditions, both of which directly impeded development. The announcement of the nationwide lockdown in march 2020, all construction activities across the country were brought to a complete standstill. labourers returned to their native places, supply chains were disrupted, and project sites were sealed due to epidemic restrictions. The real estate sector was rippled due to the advent of covid-19. while numerous real estate projects have suffered inordinate delay in the construction activity being evidently caused due to the prevailing orders of the hon'ble supreme court and the National Green Tribunal, Delhi imposing frequent bans on the construction.
- XVIII. That the respondent, in good faith and in accordance with the terms of the allotment, issued multiple formal reminders inviting the complainant to come

forward for execution and registration of the agreement for sale. These communications, issued over a prolonged period, categorically required the complainant to clear his outstanding dues and execute the agreement within the prescribed timelines. Despite having full knowledge of these requirements and despite the clear stipulation in the letter dated 30.12.2019 that "it is only upon realization of the aforesaid amount and on execution of the agreement for sale... the allotment shall become final and binding upon the company", the complainant deliberately chose not to respond or act. The respondent cannot unilaterally execute or register the agreement without the physical presence and cooperation of the allottees, which the complainant persistently failed to provide. His conduct demonstrates complete indifference toward his obligations, and his current attempt to shift the blame is nothing more than a smokescreen to conceal his own continued default. At no point did he approach the respondent with a request to execute the agreement; rather, he waited years without communication or payment and now seek to falsely allege non-performance on the part of the developer.

- XIX. That the respondent had proposed the provision of an additional 0.5 equivalent car space in accordance with the applicable norms under the affordable housing policy. In this regard, the respondent communicated the proposal to all allottees via email, seeking their acceptance and agreement, as the policy requires consent from at least two-thirds of the allottees prior to submission of such an application to the competent authority. However, the requisite majority consent was not received. Accordingly, the respondent has duly respected the will of the allottees, and has not pursued the proposal further.

XX. The respondent has already applied for the occupancy certificate for towers 1 to 11 on 11.09.2024, and the same stands duly acknowledged under seal by the Director, Town and Country Planning Department, Haryana, on 16.09.2024. The respondent is proceeding towards lawful handover and has fulfilled its end of the bargain to the extent permitted by law and physical progress, despite the force majeure events and chronic payment default by the complainant.

12. All other averments made in the complaint were denied in toto.

13. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

14. 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

15. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

16. 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.

17. 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 objection raised by respondent

F.I Objection regarding force majeure conditions:

18. The respondent-promoter has raised the contention that the construction of the project was delayed due to reasons beyond the control of the respondent such as COVID-19 outbreak, lockdown due to outbreak of such pandemic and shortage of labour on this account. The authority has gone through the possession clause of the agreement and observed that the promoter has proposed to hand over the possession of the subject unit on or before 31.01.2023. Therefore, the due date of possession comes out to be 31.01.2023. As per HARERA notification no. 9/3-2020 dated 26.05.2020, an

extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As such the due date for handing over of possession comes out to 31.07.2023.

G. Findings on the relief sought by the complainant

- I. **Direct the respondent to pay delay possession charge alongwith prescribed rate of interest.**
- II. **Direct the respondent to handover the legal and rightful physical possession of the flat to the complainant, after receiving all required approvals from the competent authorities**
- III. **Direct the respondent to complete the development of the flat along with all facilities and amenities like water, electricity, roads, green belt, etc. immediately**

19. The above mentioned reliefs no. G.I, G.II & G.III as sought by the complainant is being taken together and these reliefs are interconnected.

20. In the present complaint, the complainants intend 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)

21. Clause 7.1 of the agreement for sale dated 08.01.2021 provides for handing over of possession and is reproduced below:

“Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023. The Promoter agrees and understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement.”

22. **Due date of handing over possession:** In the present case, the promoter has proposed to hand over the possession of the subject unit on or before 31.01.2023. Therefore, the due date of possession comes out to be 31.07.2023 including grace period of 6 months in lieu of COVID.

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

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

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

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

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

24. 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.

25. 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., 15.07.2025 is **9.10%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **11.10%**.

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

27. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 11.10% by the respondent /promoter which is the same as is being granted to the complainants in case of delayed possession charges.

28. 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. By virtue of clause 7.1 of the agreement for sale executed between the parties on 08.01.2021, the possession of the subject unit was to be delivered by 31.07.2023 including grace period of 6 months in lieu of Covid. It is important to note that till date respondent-promoter has not obtained occupation certificate from the competent Authority. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 10.07.2020 to hand over the possession within the stipulated period.

29. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. This 2 months' of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically he has to arrange a lot of

logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 31.07.2023 till valid offer of possession after obtaining occupation certificate from the competent Authority plus 2 months or actual handing over of possession whichever is earlier.

30. 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. 31.07.2023 till offer of possession plus 2 months or actual handing over of possession after obtaining completion certificate/part completion certificate from the competent authority or, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

G.IV Direct the respondent not to charge anything which is not mentioned in the agreement for sale.

31. The complainant states that the respondent builder charged illegal fees, which are not part of the buyer agreement. In contrast, the respondent asserts that the charges were made in accordance with the terms and conditions of the buyer agreement. After considering all the facts and circumstances, the authority concludes that the respondent builder is directed not to charge any amount that is not explicitly mentioned in the buyer agreement.

G.V Direct the Respondent to get the Conveyance Deed executed without raising illegal demands from the Complainant.

32. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

G.VI Direct the respondent to refund/return Rs. 1,11,703/- taken from the complainant illegally.

33. As per the provisions of the Real Estate (Regulation and Development) Act, 2016, the respondent is entitled to demand and collect amounts only in accordance with the terms and conditions specified in the agreement for sale executed with the allottee. Any collection of money beyond the scope of the said agreement or without adherence to the prescribed milestones and payment schedules constitutes a violation of the Act. Therefore, if the respondent has collected any amount in contravention of the agreement or the provisions of RERA, he is liable to refund the same along with applicable interest as mandated under Section 18(1) of the Act.

G.VII Litigation cost

34. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of

compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation.

H. Directions of the authority.

35. 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 interest to the complainants against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession i.e., 31.07.2023 till offer of possession plus 2 months or actual handing over of possession after obtaining completion certificate/part completion certificate from the competent authority or, whichever is earlier.
- ii. The arrears of such interest accrued from 31.07.2023 till the date of order by the authority shall be paid by the respondent/promoter to the complainant 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 allottees before 10th of the subsequent month as per rule 16(2) of the rules
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- 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 allottees, in case of default i.e., the delayed possession charges as per section 2(zb) of the Act.

- v. The respondent is directed to handover the possession of the unit on payment of outstanding dues if any, within 30 days to the complainant/allottees and to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.
- vi. The respondent shall not charge anything from the complainants which is not part of the agreement for sale, if the respondent has collected any amount in contravention of the agreement or the provisions of RERA, he is liable to refund the same along with applicable interest as mandated under Section 18(1) of the Act.

36. The complaints stand disposed of.

37. Files be consigned to registry.



Ashok Sangwan
Member



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 15.07.2025