

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

Complaint no.: 2188 of 2025

Date of decision:- 20.08.2025

1. Pallavi Sharma

2. Vikas Nautiyal

Both R/o: - 169, FF, Right Side,
Sant Nagar, East of Kailash, New Delhi.

Complainants

Versus

M/s. Chintels India Ltd

Regd. office: Chintels Serenity,
GH, Sector-109, Gurugram. .

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Siddharth Karnawat (Advocate)

Complainants

Charu Sangwan (Advocate)

Respondent

ORDER

1. The present complaint dated 24.04.2025 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 as provided under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

| Sr. No. | Particulars | Details |
|---------|---------------------------|--|
| 1. | Name of the project | Chintels Serenity Pocket-B, Phase-II |
| 2. | Location of the project | Sector-109, Gurugram, Haryana. |
| 3. | Nature of the project | Group Housing |
| 4. | DTCP license no. | License no.-250 of 2007 dated 02.11.2007 License no.50 of 2012 dated - 17.05.2012 |
| 5. | Registered/not registered | Registered Vide registration no. GGM/307/39/2019/01 DATED 24.01.2019 |
| 6. | Allotment letter | 19.11.2014 (As on page no. 59 of complaint) |

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|-----|---------------------|---|
| 7. | Unit no. | J-1809, Floor-18 th , Tower-J [Earlier] (As on page no. 68 of complaint) |
| 8. | Area of the unit | 2925 sq.ft (As on page no. 136 of complaint) |
| 9. | Apartment agreement | Buyer's 12.02.2015 (As on page no. 65 of complaint) |
| 10. | Possession clause | <p>Clause-11</p> <p><i>Time of Handing Over Possession</i></p> <p><i>Barring unforeseen circumstances and Force Majeure events as stipulated hereunder, the possession of the said Apartment is proposed to be delivered by the Company to the Allottee within 36 months (three years) with a grace period of six months (hereinafter referred to as "Stipulated Date") from the date of actual start of construction of a particular Tower Building in which the registration for allotment is made, subject always to timely payment of all charges including the Basic Sale Price, Stamp Duty, Registration Fees and Other charges as stipulated herein or as may be demanded by the Company from time to time in this regard. The date</i></p> |

| | | |
|-----|--|--|
| | | <i>of actual start of construction shall be the date on which the foundation of the particular Building in which the said Apartment is allotted shall be laid as per certification by the Company's Architect/Engineer-in-charge of the Complex and the said certification shall be final and binding on the Allottee.</i> |
| 11. | Date of start of construction | 15.10.2013 (As per the details available on the RERA's website] |
| 12. | Due date of possession | 15.10.2016 [Calculated 36 months from date of start of construction] |
| 13. | Sale consideration | Rs.2,42,46,250/- (As on page no. 72 of complaint) |
| 14. | Total amount paid by the complainant | Rs.91,00,377/- (As per customer account statement dated 31.10.2016 on page no. 106 of complaint) |
| 15. | Tri-partite Agreement between complainants, respondent and SBI | 25.03.2015 (As on page no. 100 of complaint) |
| 16. | Occupation certificate | 28.08.2024 |
| 17. | Offer of possession | 04.01.2025 (As per Annexure R-4 on page no. 59) |

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|-----|---|--|
| 18. | Show cause issued by respondent to the complainants , a notice to explain " why your allotment of the said apartment may not be cancelled for non-payment of due amount ". | 29.01.2025 (As per Annexure R-6 on page no. 62) |
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B. Facts of the complaint:

3. The complainants have made the following submissions in the complaint:

- I. That the grievance of the complainants relates to the delay in handing over of possession, unlawful and arbitrary interest levied on the balance demand, unilateral change in the site-plan, gross unfair trade practices and deficiencies in the services committed in regard to the unit purchased by the complainants in the year 2014.
- II. That in 2014, the respondent published an attractive brochure, highlighting the low-density and premium residential group housing colony named as 'Chintels Serenity Phase II' at Sector 109, Gurugram, Haryana. The complainants booked a residential unit in the said project.
- III. Subsequently, the respondent issued a Provisional Allotment Letter dated 19.11.2014 in favour of the complainants, whereby an apartment bearing No. J-1801, situated on the 18th Floor in Tower J, admeasuring a super area of 2925 sq. ft., was provisionally allotted to the complainants.
- IV. Pursuant to an unilateral modification in the sanctioned site plan, the said Tower came to be renamed as T9-1801. The Total Sale Consideration for the said unit was Rs.2,42,46,250/- including charges towards Preferential Location Charges (PLC), External Development

Charges/Internal Development Charges (EDC/IDC), Interest-Free Maintenance Security (IFMS), Club Membership Charges, and covered car parking charges.

- V. That the respondent after collecting an amount of Rs.25,62,642/- from the complainants, and after a lapse of 3 months from the date of the Allotment letter executed an Apartment Buyer's Agreement on 12.02.2015 with the complainants. The complainants at the time of execution of the Agreement were shocked to see the one-sided and arbitrary clauses, however, they were not in a position to negotiate any of the clauses since any disagreement or dispute thereof would have resulted in the cancellation of the allotment and forfeiture of the earnest money by the respondent.
- VI. That the complainants availed the loan facility from the State Bank of India for the ease of timely payments to the respondent. The complainants have availed a loan amount of Rs.1,81,84,000/-from the State Bank of India. Thereafter, a Tripartite Agreement dated 25.03.2015 was also executed between the complainants, the respondent and the SBI, enumerating the terms of the Loan availed for the unit by the complainants.
- VII. As per Clause 11 of the Agreement, the respondent has agreed to complete the construction of the said project within 36 months from the date of the start of construction with further extension/grace period of 6(six) months. It is pertinent to submit that as per the Form REP-I available on the official portal of HA-RERA, Gurugram, submitted by the respondent, the construction of Phase-II of the said project commenced on 15.10.2013. It is a matter of record that the construction of the said project was initiated even prior to the execution of the Apartment

Buyer's Agreement. Nevertheless, assuming, without admitting, that the date of execution of the Agreement is considered as the commencement date of construction, even then the due date for handing over possession of the unit comes out to be 12.08.2018 including grace period.

- VIII. That up to April 2015, the respondent collected an exorbitant and substantial amount of Rs.91,00,377/- from the complainants, as is evidently from the payment receipts and the customer statement issued by the respondent. However, despite the complainants having discharged a significant portion of the Total Sale Consideration, the respondent has egregiously failed to complete the construction of the project within the stipulated period as agreed under the Apartment Buyer's Agreement.
- IX. That the last demand raised by the respondent was duly paid by the complainants in the year 2015, and thereafter, no further demand or payment request was ever raised by the respondent up to the promised date of handing over possession as per the terms of the Agreement, thereby evidencing that the construction of the project was delayed.
- X. That throughout the period from 2015 to 2018, the complainants regularly and repeatedly followed up with the representatives of the respondent and enquired about the status of the project. However, the representatives of the respondent on every occasion made false assurances that the possession of the unit would be delivered as per the schedule and kept on prolonging the matter unjustifiably without any cogent reasons.
- XI. That in the year 2019, the respondent unilaterally and without taking the written consent of the 2/3rd allottees in the project, amended the

site-plan of the project and renamed the unit as T9-1801. It is respectfully submitted that pursuant to the revised site plan, the overall density of the project was increased, while the height of the towers was substantially reduced. As a consequence of the said revision, the unit booked by the complainants in Tower no. 9, which was originally situated two floors below the top floor, has now become the topmost floor in the said tower. The complainants had specifically chosen a unit two floors below the top floor to avoid excessive heat exposure during summers. However, the respondent after having collected substantial consideration from the complainants, unilaterally and arbitrarily altered the site plan.

- XII. That the respondent on 01.04.2019 has issued a letter regarding revised possession of the unit and as such revised the date of possession to 31.12.2023 thereby significantly delaying the possession by 5 years from the actual due date of the possession. On a bare perusal of the said letter, the respondent slyly in order to create a camouflage before the allottees has mentioned "RERA Approval" as the reason for the revision of the date of possession. It is clear that the respondent just in order to play-out their malafide to extract hard-earned monies from the allottees has issued such a letter thereby leaving no option for the allottees.
- XIII. That as per the contents of the said letter, again the respondent has very cleverly mentioned that the allottees of the Phase 2 can switch to Phase 1 of the project and offered similar units. However, the said letter neither mentions about the units available nor consideration of the new unit hence, leaving a room for the respondent to charge additional money from the complainants as per the market rate.

- XIV. After deliberate discussion and inquiry, the complainants found out of the ill-intention of the respondent and were informed orally that Phase-I units would be subject to additional consideration as per the prevailing market rates and therefore, the complainant never explicitly accepted the said offer.
- XV. That after a period of more than 3 years from the actual date of the possession, the complainants received a demand letter dated 24.09.2021 from the respondent asking for the payment of 'completion of super structure' as per the payment plan, however, the respondent malafidely failed to credit the delay penalty interest which was to be compensated by the respondent in accordance with the law for the failure in timely providing handover of the possession to the complainants. It is further submitted that on a bare perusal of the said demand letter shows that the respondent has charged GST.
- XVI. Subsequently, the complainants protested multiple times regarding the arbitrary and unjust demand notice raised by the respondent and raised their objection *qua* the compensation for the delay caused, however, to the same the respondent has continuously evaded themselves to respond to this query. On 18.10.2024, the complainants again requested for the delay compensation, however, all such efforts went in vain as the respondent refused to entertain and pay heed to any of the requests made by the complainants.
- XVII. That the respondent has failed to complete the construction of the project within time, and it is only after a delay of 10 years that in the year 2024, the Respondent Promoter obtained the Occupation Certificate dated 28.08.2024 from the DTCP, Haryana.

- XVIII. That concerning the unilateral change in the site-plan of the project *qua* which the complainants were affected by their choice of the location of the apartment, which was two floors below the topmost floor. Instead of rectifying this prejudice caused to the complainants, the respondent has further aggravated the situation by making a commercially motivated and mala fide offer — proposing to shift the complainants to 16th Floor in the same tower, not as a matter of right or redressal, but at the prevailing market price.
- XIX. That the respondent has forwarded a specimen of an “Addendum to the Apartment Buyer’s Agreement” to the complainants in 2024 whereby, the respondent has offered new unit two floors below the topmost floor i.e., unit no. T9-1601. However, a bare perusal of the said Addendum reveals that the respondent has deliberately and blatantly omitted to mention the consideration amount therein.
- XX. That the complainants never signed and accepted the offer as the conduct on the part of the respondent is not only arbitrary and unconscionable but also constitutes a clear deviation from the agreed contractual framework and is in violation of the principles of transparency and fairness mandated under applicable real estate laws.
- XXI. That the respondent has obtained the Occupation Certificate on 28.08.2024, and thereafter without sending any kind of offer of possession letter to the complainants, has directly issued a demand letter dated 04.01.2025 for the payment stage ‘On Offer of Possession’, and has frivolously attempted to raise the said demand which is per se arbitrary, unjust, and illegal demand. Upon a bare perusal of this demand letter, it is evident that no delay penalty compensation was credited by the respondent. On the contrary, a hefty interest @11% was

levied by the respondent and as such imposed an interest penalty of a huge amount of Rs.38,08,110/- on the complainants.

- XXII. That in continuation of its pre-conceived malafide intention, the respondent has issued a show cause notice dated 29.01.2025 to the complainants which is illegal, unlawful and void. The complainants duly responded to the said notice by way of an email dated 06.03.2025 as well by way of registered speed post sent at their registered address which was received back as denied by the respondent. The complainants booked the unit in the year 2014 and from the onset it is crystal clear that the respondent has failed to deliver possession in a timely manner.
- XXIII. The aforementioned trail of documents clearly proves that the respondent has intentionally failed to abide by the terms and conditions of the allotment which had been made in favour of the complainants. The conduct of the respondent has been deceitful and lacking in bona fides, as the respondent induced the complainants to part with substantial amounts of money despite the construction being at a slow pace, by resorting to coercive tactics, including the issuance of threatening letters.
- XXIV. That the respondent even after receiving a substantial portion of the consideration for the unit have till date failed to complete the construction of the project and deliver possession of the unit. The inordinate delay in handing over the possession to the complainants is a shameful attempt by the respondent to usurp a huge amount of money from the allottees and thereafter not deliver the possession on time.
- XXV. That the respondent has failed to offer possession with the rights, interest and title of the unit to the complainants. Furthermore, the respondent has levied various forms of unwarranted and exorbitant

overhead costs. Hence, it will be appropriate to state that the respondent stand in violation of Section 11(4)(a), Section 17 and various other provisions of the Act.

XXVI. That for the last 11 (Eleven) years from the date of the booking, the complainants have been running from pillar to post seeking accountability of their hard-earned money, but to no avail. The complainants are presently placed in a highly precarious and adverse situation, having availed a loan facility with the bona fide intention of honouring the timely payment demands raised by the respondent. However, the deliberate and unjustifiable delay in the construction of the project, coupled with a series of misleading assurances and representations made by the respondent, has caused grave financial and mental hardship to the complainants.

XXVII. That, on numerous occasions, the complainants made persistent and bona fide efforts to follow up with the respondent through various modes, including personal meetings, telephonic communications, and other means of correspondence, in order to seek clarity on the progress of construction and possession of the allotted unit. However, all such genuine attempts of the complainants were rendered futile, as the respondent failed to provide any satisfactory response or resolution.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):-

- i. Direct the respondent to offer and effect the transfer of allotment of the complainants to a unit situated below the topmost floor, of similar specifications, consideration and layout strictly in accordance with the

rules & provisions of the Act, 2016 and as per the terms and conditions of the Agreement executed between the parties;

OR, IN THE ALTERNATIVE

- ii. In the event no such similar unit below the topmost floor is available, or the same is not acceptable to the complainants, be pleased to direct the respondent to hand over possession of unit to the complainants, complete in all respects, strictly in accordance with the specifications, quality standards, warranties, and amenities promised under the Buyer's Agreement, and at the consideration amount agreed therein, without imposing any additional or arbitrary charges;
- iii. Direct the respondent to execute the conveyance deed and all necessary and required documents in respect of the unit in favor of the complainants.
- iv. Direct the respondent to pay delayed possession charges as per the proviso of section 18 (1) of the Act, at the prevailing rate of interest @MCLR + 2% for every month of delay on the amount paid by the complainants to the respondent from the due date of possession i.e., 12.08.2018 till the date the actual physical possession is handed over by the respondent along with all the necessary documents and common areas and facilities as promised at the time of booking being made by the complainants.
- v. Direct the respondent to waive off the interest charged @11% on the due amount and thereby direct them to reissue valid demand notices as per the agreed payment plan and not to charge any amount which is not part of the Buyer's Agreement.

- vi. Quash the arbitrary clauses of the Buyer's Agreement being null & void as they are inconsistent with the rules and provisions of the RERA Act, 2016.
 - vii. Direct the respondent to not charge anything beyond the charges stipulated in the Apartment Buyer's Agreement.
 - viii. Direct the respondent to pay a sum of Rs.10,00,000/- for the mental agony and harassment.
 - ix. Direct the respondent to pay Rs.1,00,000/- towards the litigation expenses incurred on filing the present complaint.
5. Vide proceedings dated 14.05.2025, the counsel for the respondent sought short adjournment to file reply to application under Section-36 of the Act, 2016 and the same was provided by the counsel for the respondent during the hearing. Thereafter, vide proceedings dated 16.07.2025, the counsel for the respondent was given a liberty to file reply and written submissions within a period of two weeks with an advance copy to the complainant. The counsel for the respondent has not filed the same till date.
6. 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:

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

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E. I Territorial jurisdiction

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

E. II Subject matter jurisdiction

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

Section 11(4)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

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

F. Findings on relief sought by the complainants:

- F.I Direct the respondent to offer and effect the transfer of allotment of the complainants to a unit situated below the topmost floor, of**

similar specifications, consideration and layout strictly in accordance with the rules & provisions of the Act, 2016 and as per the terms and conditions of the Agreement executed between the parties, or in the alternative,

F.II In the event no such similar unit below the topmost floor is available, or the same is not acceptable to the complainants, be pleased to direct the respondent to hand over possession of unit to the complainants, complete in all respects, strictly in accordance with the specifications, quality standards, warranties, and amenities promised under the Buyer's Agreement, and at the consideration amount agreed therein, without imposing any additional or arbitrary charges.

F.III Direct the respondent to pay delayed possession charges as per the proviso of section 18 (1) of the Act, at the prevailing rate of interest @MCLR + 2% for every month of delay on the amount paid by the complainants to the respondent from the due date of possession i.e., 12.08.2018 till the date the actual physical possession is handed over by the respondent along with all the necessary documents and common areas and facilities as promised at the time of booking being made by the complainants.

11. In the present complaint, the complainants booked a unit in the project of the respondent namely "Chintels Serenity Phase-II" located at Sector-109, Gurugram, Haryana. The respondent issued a provisional Allotment Letter in favour of the complainants on 19.11.2014, thereby allotting an apartment bearing no. J-1801 on 18th floor in Tower-J admeasuring a super area of 2925 sq.ft. for a total sale consideration of Rs.2,42,46,250/-. The Apartment Buyer's Agreement was executed between the complainants and the respondent on 12.02.2015. As per clause 11 of the said agreement, the due date of possession was 36 months from the date of start of construction of the tower. As per the details available on the website of the RERA under FORM REP-I, the date of commencement of construction was 15.10.2013. Thus, the due date of possession comes out to be 15.10.2016.

12. Subsequently, the tower was renamed from tower-J to Tower-9, vide email dated 31.01.2022, the respondent informed the complainants about the change in the building plans and said that they have sent an intimation regarding the same by registered post in November 2016 . The said notice was live on the official website of the respondent for a period of one month. The respondent thereby, informed the complainants that there is no change in the tower except the height of the tower has been decreased from S+20 to S=18 , meaning that the floors of the particular tower wherein the complainants unit is located has been decreased from 20 floors to 18 floors. The complainants unit was on 18th floor and the complainants by way of the present complaint have expressed that they have booked the unit as there were two more floors above their unit and now their unit is the topmost unit.
13. In the year 2019, the respondent sent an "Addendum to Apartment Buyer's Agreement" to the complainants, but the same has not been executed till date. In the said Addendum Agreement, it has been mentioned that the apartment no. J-1801 has been renamed as T9-1801 and the other specifications like the floor no., unit remains same. Vide letter dated 01.04.2019, the respondent informed the complainants that possession date of the apartment stands revised and the possession shall be offered to the complainants by 31.12.2023 as per the RERA Approval. The respondent also mentioned that in case the complainants seeks early possession, they can switch their apartment from pahse-2 to an apartment of same size and design in Phase-I as Phase-I of the project consisting of Tower-3, 4 and 5 have been completed and the Occupation Certificate has also been received. The respondent gave a time period of one month from the date of the letter , to inform the respondent in case

the complainants would like to retain the originally allotted unit or opt for a flat in Phase-I. The complainants did not respond to the said letter.

14. In the present complaint, the complainants intends to continue with the project and are seeking possession and delay possession charges along with interest on the amount paid. 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.

"Section 18: - Return of amount and compensation

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

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

15. **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."

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16. 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.
17. 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., 20.08.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
18. The definition of term 'interest' as defined under section 2(z a) 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;"*
19. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.
20. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is

satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 11 of the Apartment Buyer Agreement dated 12.02.2015, the possession of the subject apartment was to be delivered by 15.10.2016. The respondent has obtained the Occupation certificate from the competent authorities on 28.08.2024 and thereafter offered the possession of the subject apartment to the complainants on 04.01.2025, which is delayed beyond the due date for handing over the possession of the unit. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within stipulated period.

21. 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 delayed possession at prescribed rate of interest i.e., 10.85% p.a. from the due date of possession 15.10.2016 till the offer of possession plus 2 months after obtaining the occupation certificate from the competent authorities or actual handover, whichever is earlier, as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act.
22. As regarding the change in the layout of the building plans and decreasing the number of floors from 20th to 18th is concerned, the complainants are entitled to compensation and may claim so before the Adjudicating Officer.

F.IV Direct the respondent to execute the conveyance deed and all necessary and required documents in respect of the unit in favor of the complainants.

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22. The respondent is directed to execute Conveyance Deed in favour of the complainants within 30 days of handing over possession of the unit to the complainants in terms of Section 17 (1) of the Act, 2016.

F.V. Direct the respondent to waive off the interest charged @11% on the due amount and thereby direct them to reissue valid demand notices as per the agreed payment plan and not to charge any amount which is not part of the Buyer's Agreement.

23. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

F.VI Quash the arbitrary clauses of the Buyer's Agreement being null & void as they are inconsistent with the rules and provisions of the RERA Act, 2016.

24. The Authority cannot re-write the agreement that has been executed between the parties before the coming into force of the Act, 2016. Thus, the said relief is hereby declined.

F.VII Direct the respondent to not charge anything beyond the charges stipulated in the Apartment Buyer's Agreement.

25. The respondent is directed to not charge anything from the complainants that is not a part of the Buyer's Agreement executed between the complainants and the respondent.

F.VIII Direct the respondent to pay a sum of Rs.10,00,000/- for the mental agony and harassment.

F.IX Direct the respondent to pay Rs.1,00,000/- towards the litigation expenses incurred on filing the present complaint.

26. The complainants are seeking the above mentioned relief w.r.t. compensation. The Hon'ble Supreme Court of India in Civil Appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Ltd. V/s State of UP & Ors.(supra)* has held that an allottee is entitled to

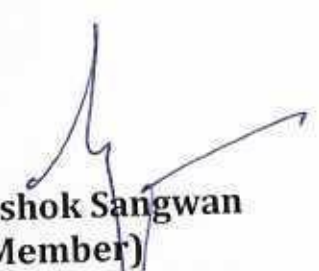
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claim compensation and litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the adjudicating officer as per Section 71 and the quantum of compensation and litigation expense shall be adjudged by the adjudicating officer having due regards to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses. Therefore, the complainant may approach the adjudicating officer for seeking the relief of compensation

G. Directions of the authority

27. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoters as per the functions entrusted to the authority under section 34(f):
- i. The respondent is directed to pay the interest at the prescribed rate i.e., 10.85% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e., 15.10.2016 till offer of possession plus two months or actual handing over of possession after obtaining occupation certificate from the competent authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
 - ii. The respondent is directed to provide a copy of the updated statement of account after adjusting the delay possession charges within a period of 30 days of this order to the complainants.
 - iii. The respondent is directed to handover possession of the unit to the complainants within 30 days thereafter, on payment of outstanding dues, if any.

- iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- v. The respondent is directed to execute conveyance deed in favour of the complainants in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within thirty days after clearing the outstanding dues by the complainants and handing over possession of the unit.
- vi. The respondent shall not charge anything from the complainants which is not a part of the agreement.
28. Complaint stands disposed of.
29. File be consigned to registry.


Ashok Sangwan
(Member)

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 20.08.2025