

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

Complaint no. : 187 of 2025
Date of complaint : 20.01.2025
Date of order : 20.08.2025

Sandeep Bhasin,
R/o: - 16/331-C, Khajoor Road,
Karol Bagh, New Delhi-110005.

Complainant

Versus

M/s Neo Developers Pvt. Ltd.
Regd. Office at: - 32B, Pusa Road,
Delhi-110005.

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Dhruv Kapoor (Advocate)
Dushyant (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee 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 allottees 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, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. N.	Particulars	Details
1.	Name of the project	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	Unit no.	Unit no.-816, 8 th floor (As on page no. 78 of complaint)
5.	Unit area admeasuring	1000.8400 sq.ft. (As on page no. 78 of complaint)
6.	Date of execution of apartment buyer's agreement	03.11.2012 (As on page no. 35 of complaint)
7.	Possession clause	<p>5.2 "That the company shall complete the construction of the said building/complex within which the said space is located within 36 months from the date of execution of this agreement or from the start of construction whichever is later and apply for grant of completion/occupancy certificate. The company on grant of occupancy/completion certificate shall issue final letters to the allottee who shall within 30 days, thereof remit all dues."</p> <p>5.4 That the allottee hereby also grants an additional period of 6 months after the completion date as grace period to the company after the expiry of the aforesaid period."</p> <p>(As on page no. 43 of complaint)</p>
8.	Date of start of construction	The Authority has decided the date of start of construction as 15.12.2015 which was agreed to be taken as date of start of construction for the same project in other matters. In CR/1329/2019 it was admitted by the respondent in his reply

		that the construction was started in the month of December 2015.
9.	Due date of possession	15.06.2019 (Calculated from date of start of construction i.e. 15.12.2015 being later + Grace period of 6 months is allowed being unqualified)
10.	Total sale consideration	Rs.88,09,783/- (As per SOA on page no. 79 of complaint)
11.	Amount paid by the complainant	Rs.95,44,620/- (As per SOA on page no. 79 and 95 of complaint)
12.	Occupation certificate	14.08.2024 (as per DTCP website)
13.	Fit-out offer	10.04.2024 (page 76 of complaint)
14.	Offer of possession	22.10.2024 (page 78 of complaint)
15.	Reminders	22.11.2024, 21.12.2021 (page 80-82 of complaint)

B. Facts of the complaint

8. The complainant vide complaint as well as written submission dated 30.07.2025 has made the following submissions: -
 - I. That the respondent has been developing a project namely Neo Square in Sector-109, Gurugram, Haryana, where the complainant applied for allotment of a unit in the year 2011. The total sale consideration of the unit was Rs.72,20,101.27/- and the complainant opted for Construction Linked Plan.
 - II. That the complainant paid an amount of Rs.2,00,000/- on 08.09.2011 vide for the allotment of unit. An amount of Rs.6,46,243/- was paid on 12.10.2011 and an amount of Rs.9,03,788/- was further paid on 28.12.2011. As such, the complainant paid an amount of Rs.17,50,032/- in total even before the execution of builder buyer agreement.
 - III. That a unit bearing no. 717, 7th Floor, Neo Square, Sector 109, Gurugram,

Haryana, was allotted in favour of the complainant by the respondent, vide allotment letter dated 21.05.2012.

- IV. That a builder buyer's agreement in respect of the aforesaid unit was executed on 03.11.2012 between the complainant and the respondent. It has been acknowledged in the agreement that the complainant had paid an amount of Rs.17,50,032/- prior to execution of the BBA, which is much more than 10% of the total price of the unit and as such there has been clear violation of Section 13 of RERA.
- V. That as per the buyer's agreement, the respondent was obligated to complete the project by November 2015 and hand over the possession. However, the Respondent failed to complete the project and hand over the possession by November 2015 and in fact the Respondent failed to complete the project and handover the possession even after a grace period of 6 months i.e. till April 2016. There has been a delay of more than 8 years by the respondent in handing over the possession.
- VI. That there has been no default on part of the complainant and the complainant has always paid the amount towards the cost of unit as and when demanded by the respondent. In fact, the complainant has paid way more amount than the total cost of the unit and as of date there is no due or outstanding amount that is to be paid by the complainant.
- VII. That vide letter dated 24.10.2017, the complainant requested the respondent to provide the updated ledger and to waive off the interest charges. The respondent waived the interest charges subject to clearance of payments due till date.
- VIII. That when the complainant visited the office of the respondent in the month of November, 2023, he was informed that unit allotted to him was changed from 717 to 816, without any prior intimation. The complainant was shocked to know that his unit had been changed unilaterally, without

his consent and prior intimation. The complainant was not agreeable to the same and objected to the change of the unit allotted to him, however, the respondent did not pay any heed to the objections of the complainant and the complainant had no other option but to accept the same, as the complainant had paid almost the entire amount towards the unit.

- IX. That after a period of more than 8 years from the agreed date of handing over the possession, the respondent sent a demand letter and offer for fit-out on 10.04.2024.
- X. That vide email dated 26.04.2024, the complainant sought clarifications from the respondent regarding the demands made by the respondent in contravention of the BBA and hike in price of the unit. The complainant also sought clarification on change of unit by the respondent unilaterally from 717 to 816 on 8th Floor without the consent of the complainant. It is pertinent to mention that no response was received from the respondent to the email of the complainant.
- XI. That the respondent, after a delay of more than 8 years, sent a letter for demand notice and offer of possession dated 22.10.2024, informing that OC for the project in question has been received. The respondent asked the complainant to pay an amount of Rs.21,30,838/- which included balance amount of Rs.13,96,001/- and interest of Rs.7,34,837/-. The complainant was shocked to see the amount demanded by the respondent which was much more than the cost of the unit and furthermore, the amount demand by the respondent towards the interest was unjustified and without any basis, when the complainant had made all the payments timely without any delay and further when the respondent had agreed to waive off the interest, as stated hereinabove. The complainant sought clarification from the respondent in this behalf, however, instead of providing any clarifications, the respondent issued

reminder letter dated 22.11.2024. Under such circumstances, the complainant was constrained to issue a legal notice dated 14.12.2024 to the respondent, calling upon the respondent to withdraw the illegal demand and offer of possession letter dated 22.10.2024 and the reminder letter dated 22.11.2024. Instead of replying to the legal notice of the complainant, the respondent again issued a reminder letter dated 21.12.2024 to the complainant for making payment of the amount of Rs.21,30,838/-. It is stated without prejudice that though the complainant was not liable to make the payment of the amount illegally demanded by the respondent, the complainant still made payment of Rs.21,30,838/- on 01.01.2025, through RTGS, under protest, disputing the said amount, which included an alleged due amount of Rs.13,96,001/- and interest of Rs.7,34,837/-. The complainant vide email dated 01.01.2025 informed the respondent that he was making the payment of the said amount under protest and without prejudice to his rights to claim delay compensation and refund of the amount illegally demanded by the respondent. The complainant has admittedly paid a total amount of Rs.95,44,620/-, which is much more than the total cost of the unit.

XII. That the complainant has invested his hard-earned money for buying the unit in the project of the respondent, with the hope and belief that the possession of the same shall be handed over to the complainant, within the time period as agreed and stipulated under the buyer's agreement. However, there has been a delay of more than 8 years in handing over the possession of the unit by the respondent, despite the fact that the complainant has made payment of entire amount as demanded by the respondent from time to time.

XIII. That the complainant has been suffering a lot on account of default committed by the respondent and as such the complainant has been

constrained to approach this this Authority, seeking reliefs, as detailed in the present complaint.

C. Relief sought by the complainant:

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

- i. Direct the respondent to handover possession, execute conveyance deed and to pay delay possession charges.
- ii. Direct the respondent to refund the wrongly claimed interest received by it from the complainant under protest.

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.

11. The respondent has put in appearance through its Advocate and marked attendance on 23.04.2025 and 16.07.2025. Despite specific directions for filing of reply, the respondent has failed to comply with the orders of the Authority. It shows that the respondent was intentionally delaying the procedure of the court by avoiding filing of reply in the matter. Therefore, in view of above, the defence of the respondent was struck off vide proceedings dated 16.07.2025.

12. 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 complainant.

E. Jurisdiction of the authority

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

E. I Territorial jurisdiction

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

purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

16. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainant

F.I Direct the respondent to handover possession, execute conveyance deed and to pay delay possession charges.

F.II Direct the respondent to refund the wrongly claimed interest received by it from the complainant under protest.

17. In the present complaint, the complainant intends to continue with the project and is 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."

18. **Due date of possession:** As per clause 5.2 and clause 5.4 of the buyer's agreement dated 03.11.2012, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months from the date of execution of buyer's agreement or commencement of construction i.e., 15.12.2015 (as per order dated 05.09.2019 in complaint bearing no. CC/1329/2019) whichever is later plus 6 months of grace period. Therefore, the due date has been calculated as 36 months from the date commencement of construction. Further a grace period of 6 months is allowed to the respondent being unqualified. Thus, the due date of possession come out to be 15.06.2019.

19. **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.

20. 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.
21. 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%**.
22. 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 to the allottee, in case of default. The relevant section is reproduced below:
- "(z) "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;"
23. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., **10.85%** by the respondent/promoter which is the same as is being granted to him in case of delay possession charges.
24. After considering the documents available on record as well as submissions made by the parties, the Authority is satisfied that the respondent is in

contravention of the provisions of the Act. By virtue of clause 5.2 and clause 5.4 of the agreement dated 03.11.2012, the possession of the subject unit was to be delivered by 15.06.2019. The occupation certificate was granted by the concerned authority on 14.08.2024 and thereafter, the possession of the subject unit was offered to the complainant vide offer of possession letter dated 22.10.2024. Copies of the same have been placed on record. 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 03.11.2012 to hand over the possession within the stipulated period.

25. Further, 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. In the present complaint, the occupation certificate was granted by the competent authority on 14.08.2024. The respondent offered the possession of the unit in question to the complainant only on 22.10.2024, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months time from the date of offer of possession. These 2 months of reasonable time is ought to be given to the complainant keeping in mind that even after intimation of possession practically she 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 till the expiry of 2 months from the date of offer of possession (22.10.2024) which comes out to be 22.12.2024.

26. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of interest i.e., 10.85% p.a. w.e.f. 15.06.2019 till the expiry of 2 months from the date of offer of possession (22.10.2024) which comes out to be 22.12.2024 as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act.
27. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the respondent is under an 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.
28. The possession of the subject unit has already been offered to the complainant after obtaining occupation certificate on 14.08.2024. Therefore, the respondent is directed to handover possession of the unit 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 within three months from the date of this order.

G. Directions of the authority

29. Hence, the authority hereby passes this order and issue 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):
- The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 15.06.2019

till the expiry of 2 months from the date of offer of possession (22.10.2024) i.e., upto 22.12.2024 only.

- ii. The respondent is directed to handover possession of the unit 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 within three months from the date of this order.
 - iii. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement dated 03.11.2012.
 - iv. The rate of interest chargeable from the complainant by the respondent, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent which is the same rate of interest which the respondent shall be liable to pay the complainant, in case of default i.e., the delay possession charges as per Section 2(za) of the Act. Further, if the respondent has recovered any excess amount from the complainant by levying interest at a rate higher than the prescribed rate on delayed payments, the excess amount so collected shall be refunded to the complainant.
 - v. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow
30. The complaint stand disposed of.
31. Files be consigned to registry.

(Ashok Sangwan)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 20.08.2025