

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

Order pronounced on: 20.08.2025

Name of the Promoter		M/s Kashish Developers Limited	
Project Name		Manor One	
S.No.	Complaint No.	Complaint title	Attendance
1.	CR/5858/2024	Sushil Mrig and Ganesh Chandra Mrig V/s M/s Kashish Developers Limited	Tom Joseph (Complainants) Om Prakash Singh (Respondent)
2.	CR/5859/2024	Ganesh Chandra Mrig and Sushil Mrig V/s M/s Kashish Developers Limited	Tom Joseph (Complainants) Om Prakash Singh (Respondent)

CORAM:

Ashok Sangwan

Member

ORDER

- This order shall dispose of both the complaints titled as above filed before this authority in form CRA under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of Section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
- The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, Manor One being developed by the same respondent/promoter i.e., M/s Kashish Developers Limited.

The terms and conditions of the builder buyer's agreements fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of possession and delayed possession charges.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project: Manor One, Sector- 111, Gurugram

3. Possession

(a) Offer of Possession

*"That subject to terms of this clause and subject to the apartment allottee having complied with all the terms and conditions of this agreement and not being in default under any of the provision of this agreement and further subject to compliance with all the provisions, formalities, registration of sale deed, documentation, payment of all amount due and payable to the developers by the apartment allottee(s) under this agreement, as prescribed by the Developer, the Developer proposes to hand over the possession of said apartment **within a period of thirty (36) months (excluding a grace period of 6 months) from the date of execution of this agreement.** It is however understood between the parties that the possession of various Block/Towers comprised in the complex and also the various common facilities planned therein shall be ready and completed in phases wise and will be handed over to the allottees of different Blocks/Tower as and when the same will be completed and in a phased manner."*

Due date of handing over of possession- 22.11.2018

[as per possession clause + grace period of 6 months is allowed being unqualified]

Occupation certificate- Not yet obtained

DTCP License no. 110 of 2011 dated 16.12.2011, valid upto 13.12.2019. M/s Vinman Construction Pvt. Ltd. and 4 others are the licensees for the project as mentioned in land schedule of the project.

RERA registration – Registered vide no. 58 of 2019 dated 24.09.2019, valid upto 30.06.2027.



Sr.	Complaint no./title/ date of filing of complaint	Reply status	Unit No. and area admeasuring	Date of execution of apartment buyer's agreement	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant	Relief Sought
1.	CR/5858/2024 Sushil Mrig and Ganesh Chandra Mrig V/s M/s Kashish Developers Limited DOF- 09.12.2024	Reply received on 11.04.2025	A-9H, 9 TH Floor, Tower/Block-A, Unit measuring 895 sq. ft. (Page 28 of complaint)	22.05.2015 (Page 24 of complaint)	22.11.2018 [Calculated as per possession clause + grace period of 6 months is allowed being unqualified] Offer of possession- Not offered	TSC: Rs.81,38,770/- (As per page 63 of complaint) AP: Rs.80,15,393/- (As per page 8 of complaint)	DPC and Possession
2.	CR/5859/2024 Ganesh Chandra Mrig and Sushil Mrig V/s M/s Kashish Developers Limited DOF- 09.12.2024	Reply received on 11.04.2025	A-10H, 10 TH Floor, Tower/Block-A, Unit measuring 895 sq. ft. (Page 28 of complaint)	22.05.2015 (Page 24 of complaint)	22.11.2018 [Calculated as per possession clause + grace period of 6 months is allowed being unqualified] Offer of possession- Not offered	TSC: Rs.81,38,770/- (As per page 63 of complaint) AP: Rs.80,15,393/- (As per page 8 of complaint)	DPC and Possession

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOF- Date of filing complaint

TSC- Total Sale Consideration

AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the builder buyer's agreement executed between the parties

inter se in respect of said unit for seeking award of possession and delayed possession charges.

5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoters/respondent in terms of Section 34(f) of the Act which mandates the Authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/5858/2024 titled as Sushil Mrig and Ganesh Chandra Mrig V/s M/s Kashish Developers Limited** are being taken into consideration for determining the rights of the allottee(s) qua possession and delayed possession charges.
- A. Project and unit related details**
7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/5858/2024 titled as Sushil Mrig and Ganesh Chandra Mrig V/s M/s Kashish Developers Limited

S. N.	Particulars	Details
1.	Name and location of the project	"Manor One" situated at Sector-111 Gurgaon.
2.	Nature of the project	Group Housing Colony
3.	Project area	14.843 acres
4.	DTCP license no. and validity status	110 of 2011 dated 16.12.2011 valid upto 13.12.2019
5.	Name of licensee	M/s Vinman Construction Pvt. Ltd. and 4 others
6.	Rera registered or not	Registered Vide 58 of 2019 dated 24.09.2019 Valid Upto 31.12.2021
7.	Allotment Letter	03.01.2015 (page no. 22 of complaint)



8.	Date of apartment buyers' agreement	22.05.2015 (Page 24 of complaint)
9.	Unit No.	A-9H, 9 TH Floor, Tower/Block -A (Page 28 of complaint)
10.	Unit area admeasuring	895 sq. ft. (page no. 28 of complaint)
11.	Possession clause	<p>3(a) Possession</p> <p><i>That subject to terms of this clause and subject to the apartment allottee having complied with all the terms and conditions of this agreement and not being in default under any of the provision of this agreement and further subject to compliance with all the provisions, formalities, registration of sale deed, documentation, payment of all amount due and payable to the developers by the apartment allottee(s) under this agreement, as prescribed by the Developer, the Developer proposes to hand over the possession of said apartment within a period of thirty (36) months (excluding a grace period of 6 months) from the date of execution of this agreement. It is however understood between the parties that the possession of various Block/Towers comprised in the complex and also the various common facilities planned therein shall be ready and completed in phases wise and will be handed over to the allottees of different Blocks/Tower as and when the same will be completed and in a phased manner.</i></p>
12.	Due date of possession	22.11.2018 [Calculated as per possession clause + grace period of 6 months is allowed being unqualified]

13.	Total sale consideration	Rs.81,38,770/- (As per page 63 of complaint)
14.	Amount paid by the complainants	Rs.80,15,393/- (As per page 8 of complaint)
15.	Completion certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

8. The complainants have made the following submissions: -
- I. That the complainants on 22.05.2015, decided to buy the apartment bearing No. A-10H, on the 10th floor, Block/Tower A having a super area of 895 sq. ft. (approx.) and apartments No. A-9H, on the 9th floor, Block/Tower A having a super area of 895 sq. ft. (approx.) in the project of the respondent named "Manor One" at Sector 111, Gurgaon for a consideration amount of Rs.81,38,825/- for each apartment and an advance amount of Rs.5 lakhs was paid as provisional booking amount/earnest money. The respondent developer issued separate welcome letter dated 05.04.2014 acknowledging the receipt of the cheque amount in respect of the apartment.
 - II. That on 03.01.2015, letter of allotment was issued in favour of the complainants in respect of the aforesaid A-9H apartment. The allotment letter was also accompanied by a schedule of payment.
 - III. That an agreement to sell/apartment buyer's agreement were executed between the complainants and the respondent for the aforesaid A-9H wherein the contract price for the apartment was shown as Rs.81,38,770/-.
 - IV. That at the time of execution of the Agreement to sell/apartment buyer's agreement, a sum of Rs.30,80,010/- each was paid separately for the apartments. Further, as per Clause 3 (a) therein, it has been specifically agreed that the developer proposes to hand over the possession of the

said apartment within a period of 36 months (excluding the grace period of 6 months) from the date of execution of the agreement. Clause 3 (vi) of the Agreements to Sell/Apartment Buyer's Agreement provided that the Developer shall be liable to pay compensation calculated @Rs.10/- per sq. feet per month of the super area of the said apartment beyond the period indicated in Clause 3 a, save and except for reasons beyond the reasonable control of the developer as mentioned in the said agreement.

- V. That the complainants had been making up-to-date and non-delayed payment against the demand letters issued by the respondent.
- VI. That after payment of each and every demand letter, the complainants were in hope that they will get possession of their flats soon, but the dreams of the complainants got shattered and scattered as the respondent left no stone unturned to cheat the complainants and extricate money from their pocket falsely projecting that flat is complete and shall be ready to be handed over soon for possession. It is very unfortunate that the complainants had become helpless and has to run from pillar to post for the possession of the apartment, despite having made payment of sale consideration in accordance with the demands raised by the respondent.
- VII. That having no other option, the complainants had to inquire about the status of the flat and date of possession of the flat but surprisingly the respondents and their agents started again making lame and moon shine excuses and promised that delivery of possession of flat would be at the earliest but the complainants were deprived of the completion and possession. The complainant lost his hope of getting possession of flat and his hard-earned money as the agents of the respondent company is not sure about the date of the possession. Hence this present complaint has been preferred for payment of delay compensation.

VIII. That on 10.06.2024, the complainants issued a letter to the respondent company seeking compensation for the delay in possession as agreed by the agreement to sale dated 22.05.2015. That after much delay and no response to the complainants repeated letters and emails, respondent demanded Rs.39,19,641.59/- vide email dated 28.10.2024.

IX. That despite being stranded for long by the respondent, the complainants made the payment of the remaining amount with the sliver of hope and anticipation of residing in their new home on 04.11.2024 vide Cheque No.717643 drawn on ICICI Bank, Gurgaon Branch.

X. That further to the payment, to the utter shock and dismay of the complainants, 1% of the payment made on 04.11.2024 i.e. Rs.39,196.42/- got deducted from the complainant as holding tax vide Challan Receipt No. 24110800057948SBIN, further adding to the financial burden on the complainant and the same was communicated to the respondent on the same date to which the respondent paid no heed to.

XI. That on losing all the hope from the respondent company and having shattered and scattered dreams of flat and also losing considerable amount of Rs.80,15,393/-, the complainants are constrained to approach this Authority for redressal of their grievances.

C. Relief sought by the complainants:

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

i. Direct the respondent to handover possession along with interest on the amount paid @18% per annum from the date of payment till its realization.

ii. Direct the respondent to pay compensation and litigation charges.

10. On the date of hearing, the Authority explained to the respondent/promoter about the contravention 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 respondent launched a residential group housing project in the name and style of "Manor One, situated at Sector-111, Gurugram, Haryana, having RERA registration no. 58 of 2019 DATED 24.09.2019.
 - ii. That the complainants approached the respondent and booked the unit no. A-9H in Tower A, in the project "Manor" situated at Sector-111 Gurugram.
 - iii. That the complainants had paid a total sum of Rs.40,95,751/- till 22.08.2015 against the total sale consideration of Rs.81,38,770/-. (balance is without interest on delay payments). That the agreement to sell was executed between the parties on 22.05.2015. It is submitted that the complainants deliberately kept on using dilly dallying techniques and did not agree to pay any payment to the respondent. The complainants kept on finding one or other reasons in an attempt to not make any further payments to the respondent which clearly shows their malafide intentions.
 - iv. That from the overall conduct of the complainants, it is clearly evident that they never had any intentions of making any further payments and the respondent rigorously tried for more than 9 years to retain the complainants as valuable allottees, however, they did nothing but exploited the respondent without paying a single penny for more than 9 years (last payment being made on 22.08.2015). Despite the several demands of the respondent, did not pay anything till 2024, company again and again and again try to follow the complainant, but no result found at the end company issue a final demand letter to the complainant dated 14.03.2024. Still complainant did not respond to the respondent.
 - v. That according to the payment plan, the payment pending from 20.07.2018 to 26.10.2024 amounting to Rs.40,95,750/-, the respondent issues several demand letters during the period. The latest demand letter is 10 May

2024 and 26 October 2024 attached. Now the complainant demanding the interest from the company. Complainants have already delayed payment interest need to pay before demanding any relief from the Authority.

- vi. That even after that, the complainant stayed on asleep for another 9 years and has now come up before this Authority claiming that they were ready to make the payments but were waiting for an offer of possession from the respondent. It is submitted that had the complainant had any intentions whatsoever, to make any payments, they would have made the due payments when it was actually demanded by the respondent, however, they deliberately and intentionally did not make any payment for the reasons best known to themselves.
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 submissions made by the parties.

E. Jurisdiction of the authority

13. The Authority has complete territorial and 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, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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.

G. Findings on the relief sought by the complainants.

G.I Direct the respondent to handover possession along with interest on the amount paid @18% per annum from the date of payment till its realization.

17. 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."

18. Clause 3(a) of the buyer's agreement provides the time period of handing over possession and the same is reproduced below:

"3(a) Possession

That subject to terms of this clause and subject to the apartment allottee having complied with all the terms and conditions of this agreement and not being in default under any of the provision of this agreement and further subject to compliance with all the provisions, formalities, registration of sale deed, documentation, payment of all amount due and payable to the developers by the apartment allottee(s) under this agreement, as prescribed by the Developer, the Developer proposes to hand over the possession of said apartment within a period of thirty (36) months (excluding a grace period of 6 months) from the date of execution of this agreement. It is however understood between the parties that the possession of various

Block/Towers comprised in the complex and also the various common facilities planned therein shall be ready and completed in phases wise and will be handed over to the allottees of different Blocks/Tower as and when the same will be completed and in a phased manner."

19. **Due date of possession and admissibility of grace period:** As per the above possession clause, the respondent was obligated to complete the construction of the project within a period of 3 years from the date of execution of buyer's agreement plus 6 months of grace period. The apartment buyer's agreement was executed between the parties on 22.05.2015. Further a grace period of 6 months is allowed to the respondent being unqualified. Therefore, the due date for handing over of possession comes out to be 22.11.2018.
20. **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.
21. 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.
22. 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% per annum.

23. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- (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;"*

24. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% p.a. by the respondent/promoter which is the same as is being granted to the complainants in case of delay possession charges.
25. On consideration of the documents available on record and submissions made by 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 buyer's agreement executed between the parties. By virtue of clause 3(a) of the agreement dated 22.05.2015, the possession of the subject unit was to be delivered by 22.11.2018. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. 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 the stipulated period. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the promoter as well as allottees.

26. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 22.11.2018 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

27. The respondent is further directed to handover possession of the subject unit allotted to the complainants in terms of Section 17(1) of the Act of 2016 after obtaining occupation certificate from the competent authority.

G.II Direct the respondent to pay compensation and litigation charges.

28. The complainants are seeking above mentioned relief w.r.t compensation. *Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.* has held that an allottee is entitled to 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 regard 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 is advised to approach the Adjudicating Officer for seeking the relief of compensation and litigation expenses.

H. Directions of the Authority

29. 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 10.85% p.a. for every month of



- delay from the due date of possession i.e., 22.11.2018 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.
- ii. The arrears of such interest accrued from 22.11.2018 till the date of order by the authority shall be paid by the promoter to the allottee 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 allottee before 10th of the subsequent month as per Rule 16(2) of the Rules.
 - iii. The respondent handover possession of the subject unit allotted to the complainants in terms of Section 17(1) of the Act of 2016 after obtaining occupation certificate from the competent authority.
 - iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be 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 to the allottee, in case of default i.e., the delay possession charges as per section 2(za) of the Act.
 - v. The respondent shall not charge anything from the complainants, which is not the part of the buyer's agreement.
30. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
 31. Complaints stand disposed of.
 32. File be consigned to registry.

Dated: 20.08.2025

(Ashok Sangwan)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram