

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

Complaint no. : 6289 of 2024
Date of complaint : 24.12.2024
Date of order : 08.08.2025

Mr. Kanwar Dhoom Singh &
Mrs. Rachna Rajput
R/O House No 519, Sector 10, Gurugram, Haryana.

Complainants

Versus

M/s Ramprastha Promoters & Developers Pvt. Ltd.
Registered office at: C-10, C Block Market,
Vasant Vihar, New Delhi-110057.
Corp Off. 114 Sector 44 Gurgaon - 122002.

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Ravi Rao (Advocate)
Rajan Gupta (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

| S. No. | Particulars | Details |
|--------|-------------------------------------|--|
| 1. | Project Name and Location | "Ramprastha City", Sector- 37C, 37D, Gurugram, Haryana. |
| 2. | Project area | 105.402 acres |
| 3. | Nature of the project | Plotted colony |
| 4. | DTCP license no. and other details | 128 of 2012 dated 28.12.2012 |
| 5. | RERA Registered/ not registered | Not registered |
| 6. | Welcome letter | 25.02.2014 [Page 37 of complaint] |
| 7. | Plot no. | 214, Block-B, 300 sq. yard. [Page 22 of complaint] |
| 8. | Unit area | 300 sq. yds. 250 sq. mtrs. [Page 22 of complaint] |
| 9. | Builder buyer agreement executed on | 02.03.2016 [Page 19 of complaint] |
| 10. | Possession clause | 11. Schedule for possession <i>The company shall endeavor to offer possession of the said plot, within 30 months with another grace period of 6 months from the date of execution of this agreement subject to timely payment by</i> |

| | | |
|-----|---|---|
| | | <i>the intending allottee of total price, stamp duty, registration charges and any other charges due and payable according to the payment plan.</i> |
| 11. | Due date of possession | 02.03.2019 [Due date of possession is calculated from the date of agreement] |
| 12. | The original allottee transfer the said plot in favor of Mr. Kanwar Dhoom Singh and Mrs. Rachna Rajput on | 22.04.2021 |
| 13. | Total sale price | Rs.48,30,000/- [Page 35 of complaint] |
| 14. | Amount paid by the complainant | Rs. 41,40,000 /- [Page 42 of the complaint] |
| 15. | Occupation certificate | Not obtained |
| 16. | Offer of possession | Not offered |

B. Facts of the complaint

3. The complainants have made the following submissions: -

- I. That the Respondents widely advertised their upcoming project, namely "THE RAMPRASTHA CITY", situated at Sector 37C and 37D, Gurgaon, in various leading newspapers. These advertisements promised world-class amenities, timely execution, and possession of units. Relying upon these representations and promises, the Complainant booked a plot measuring 300 sq. yards in the said project, for a total sale consideration of ₹48,30,000/-.

- II. The Complainant made payments amounting to ₹41,40,000/- to the Respondents through various cheques issued on different dates. A detailed chart of the payments made is annexed herewith for ready reference. A Flat Buyer's Agreement (BBA) was executed on 02.03.2016, wherein the Respondents allotted plot No. B-214, admeasuring 300 sq. yards, to the Complainant. As per Clause 11 of the Agreement, the Respondents undertook to deliver possession within 30 months from the date of execution of the BBA, along with a grace period of 6 months, thereby setting the outer timeline for possession as 02.09.2019.
- III. That from time to time, the Complainant contacted the Respondents telephonically to inquire about the progress of the project. Each time, the Respondents misrepresented that construction was proceeding in full swing and accordingly demanded further payments. Relying on such assurances, the Complainant made timely payments. However, upon personal visits to the site, the Complainant was shocked to find that construction work was not in progress and no representatives were present at the site to respond to queries.
- IV. It appears that the Respondents deliberately misled the Complainant, with the fraudulent intention of collecting money without carrying out the promised construction and delivery of possession. The acts of the Respondents are malicious, dishonest, and fraudulent in nature. Despite receiving approximately 95% of the total consideration, the Respondents failed to deliver possession within the stipulated timeframe. Repeated reminders through phone calls and personal visits were of no avail. The Respondents have wilfully defaulted in delivering possession and failed to honor their contractual obligations.

- V. The promised date of possession was 02.09.2019, but till date, the block where the Complainant's plot is situated remains incomplete. The reasons for the delay are best known to the Respondents and have never been communicated transparently.
- VI. As per Clause 11(c) of the Agreement, the Respondents undertook to pay ₹90/- per sq. yd. per month as compensation in the event of delay. However, this clause is highly unfair, one-sided, and arbitrary, especially when compared to the 24% p.a. interest the Respondents charge for delayed payments from the buyer. The said compensation amounts to merely 2% per annum, which is grossly inadequate and disproportionate to the actual loss suffered. The Complainant submits that this clause is exploitative and does not absolve the Respondents of their liability.
- VII. The Complainant has made numerous requests—both verbally and through personal visits—to the Respondents to deliver the possession along with applicable compensation/interest. However, the Respondents have flatly refused, thereby wilfully and fraudulently causing wrongful loss to the Complainant and unlawful gain to themselves.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- I. Direct the respondent to handover possession of the unit and to pay delay possession charges.
 - II. Direct the respondent to execute conveyance deed for the said unit.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been

committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent.

6. The respondent has contested the complaint on the following grounds:

- i. That upon examination of the zoning plans issued by the Government in early 2014, several discrepancies were identified that required correction. These discrepancies directly impacted the layout of the proposed residential plotted colony. The issues, as evidenced in the letter dated 07.04.2014, are outlined as follows:
 - a. There exists an HSIIDC Nala passing through the land adjacent to the HUDA Nala in Village Gadauli Kalan.
 - b. The boundary lines of Villages Basai and Gadauli Kalan are incorrect and not in accordance with the *sizra* plans.
 - c. The positioning of the *khasra* numbers was found to be inaccurate.
 - d. A new High Tension (HT) Line was installed by Dakshin Haryana Bijli Vitran Nigam, which passes through the colony. This affects several plots and necessitates the creation of a green corridor on both sides of the HT line.
- ii. It is submitted that the revision of zoning plans in any development area is a complex process that is under the exclusive domain of the State authorities, and the Respondents have no control over it. The Respondents duly informed the authorities of the discrepancies and required corrections in the zonal plans, which impacted the layout of the plotted colony. By September 2014, it had become apparent that fresh zoning would be necessary, which would require considerable time. This was specifically communicated to all allottees.
- iii. The list of time-consuming discrepancies is as follows:

- a. Incorrect Depiction of Village Boundary Lines.
 - b. The boundaries of Villages Gadauli Kalan and Basai are shown incorrectly in the sectoral plan compared to the actual physical site conditions. The plan depicts a straight boundary, whereas the physical layout differs significantly
 - c. Due to inadequate emphasis on the actual village boundaries, a substantial deviation of approximately 15-20 meters in the boundary line of Gadauli Kalan significantly affects the layout.
 - d. This deviation extends from the railway line and runs along the boundary between Villages Gadauli Kalan and Basai, which is a major deviation impacting the plotted project.
 - e. The said deviation has adversely affected the alignment of the 24-meter internal sector road, causing a shift of approximately 20-30 meters.
- iv. HSIIDC NALA
- a. The presence of the HSIIDC Nala, which was not reflected in the government-approved sectoral plan, has adversely impacted the development of EWS (Economically Weaker Section) plots. The relocation of EWS plots, which cannot be reduced as per established policies, would require revision of the layout plan.
- v. Deviation in Roads
- a. Non-Development of Community Centre: The deviation in road alignment has impacted the community centre planned near the HSIIDC Nala. The community centre's area cannot be reduced; relocation would necessitate revising the layout plan.

- b. Impact on School Development:** Due to the boundary deviations, the High School and Primary School sites have also been affected. These sites are essential for the holistic development of the township and cannot be compromised or reduced, only relocated with revised plans.
- c. Impact on Basic Amenities:** The nursing home and other essential sites have also been impacted. These facilities are crucial for the well-being of the township residents and cannot be reduced—only relocated, which again requires layout plan revision.

vi. **HT Lines**

At the time of applying for layout plan approval, no HT lines existed in the area. However, DHBVN subsequently installed HT lines across several approved plots, requiring a green corridor of 18 meters. This affects approximately 7–8 acres of the licensed project area.

- vii. **Quantum of Impact on Developed Plots**
It is submitted that approximately **144 plots** have been directly impacted. Around **60–70%** of the plots in the project have been adversely affected, as any single change in the layout triggers further changes throughout the entire layout—impacting plots, roads, and amenities.

- viii. Without prejudice to the above, it is further submitted that delays in obtaining approvals were entirely due to regulatory processes under the jurisdiction of the Town and Country Planning Department. The complaint is liable to be rejected as it indirectly challenges the delay in zoning plan approvals—an issue outside the purview of the RERA Authority. Hence, the reliefs sought in the complaint fall beyond the jurisdiction of this Authority.

- ix. It is submitted that when the Complainants approached the Respondents, it was made unequivocally clear that no specific plot could be earmarked from the undeveloped, agricultural land unless the zoning plans were approved and RERA registration obtained. The Respondents never committed to handing over any specific plot within a fixed timeframe. Specific plot allotment is only feasible once zoning plans applicable to the villages of Basai and Gadauli Kalan are released by the Government.
- x. That the present Complaint has been preferred by the subsequent purchaser (date of transfer is 22.04.2021) seeking possession of the Plot with a delay of more than three years. Assuming without admitting that the date of handover of possession was 30 plus 6 months from the date of execution of Builder Buyer Agreement, the limitation for filing present complaint has expired way back in 2022 and the present Complaint is clearly barred by limitation. Therefore, the present Complaint is liable to be dismissed on this ground alone.
7. 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

8. 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

9. 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

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

11. 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. I. Objections Regarding the Circumstances being 'Force Majeure'

12. The Respondent has contended that the delay in the project was due to force majeure circumstances, such as delays by government authorities in granting approvals, installation of an HT line passing over the layout, road deviations, and errors in the depiction of village boundaries—factors allegedly beyond their control. However, all such contentions are devoid of merit.

13. Firstly, the possession of the plot measuring 300 sq. yards was contractually due by 02.03.2019. Delays in obtaining governmental clearances cannot be considered valid grounds for delay, as they are a foreseeable part of the development process and must be factored in by any prudent developer prior to launching the project. Moreover, several of the events cited by the Respondent is routine in nature, occurring regularly and known to developers engaged in real estate projects. The promoter is expected to anticipate such events and plan the project timeline accordingly.
14. Therefore, the Respondent cannot be permitted to take advantage of their own wrong, and their objection that the delay was due to force majeure circumstances is hereby rejected.

G. Findings on the relief sought by the complainants.

G.1 Direct the respondent to handover possession and to pay delay possession charges.

15. In the present complaint, the original allottee was allotted a unit vide allotment letter/ builder buyers' agreement dated 02.03.2016 and thereafter the original allottee sold the subject unit to the subsequent allottees on 22.04.2021. Therefore, the complainants stepped into the shoes of original allottee on 22.04.2021. In light of the said transfer, all rights, entitlements, and obligations arising out of the Buyer's Agreement and/or from the Respondent's failure to deliver possession in a timely manner shall now stand vested in the subsequent allottees—Mr. Kanwar Dhoom Singh and Mrs. Rachna Rajput—with effect from the date of transfer, i.e., 22.04.2021. However, from 22.04.2021 onwards, the subsequent allottees are entitled to claim delay possession charges

for the delay in possession and any associated relief, in accordance with the terms and conditions of the Buyer's Agreement.

16. 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."

17. Clause 11 of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

11. *The company shall endeavour to offer possession of the said plot, **within 30 months with another grace period of 6 months from the date of execution of this agreement** subject to timely payment by the intending allottee of total price, stamp duty, registration charges and any other charges due and payable according to the payment plan.*

18. **Due date of handing over possession and admissibility of grace period:** The promoter has proposed to hand over the possession of the apartment within 30 months with another grace period of 6 months from the date of execution of this agreement subject to timely payment by the intending allottee of total price, stamp duty, registration charges and any other charges due and payable according to the payment plan. A grace period of six (6) months has been contractually allowed to the

promoter, which is unconditional in nature. Hence, the due date of handing over possession comes out to be 02.03.2019.

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., 08.08.2025 is 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%.

22. 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;"*

23. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.90% by the respondent /promoter which is the same as is being granted to the complainants in case of delayed possession charges.
24. 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 11 of the apartment buyer's agreement executed between the original allottee and the respondent on 02.03.2016, the possession of the subject apartment was to be delivered by 02.03.2019. Thereafter the original allottee sold the subject unit to the subsequent allottees on 22.04.2021.

25. The complainants stepped into the shoes of original allottee on 22.04.2021 i.e., after the due date. It simply means that the complainants were well aware about the fact that the construction of the tower where the subject unit is situated has not been completed and occupation certificate qua that part of project is yet to be obtained. However, they still chosen to proceed with execution of the agreement voluntarily which means that the complainants had accepted the factum of the delay. Moreover, they have not suffered any delay as the subsequent allottee/complainants herein came into picture only on 22.04.2021 when the subject unit was endorsed in his favour. Hence, in such an eventuality and in the interest of natural justice, delay possession charges can only be granted to the complainants from the date of transfer 22.04.2021 i.e., date on which the complainants stepped into the shoes of the original allottee. The Authority is of considered view that there is delay on the part of the respondent/promoter to offer of possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement dated 02.03.2016. 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.
26. Moreover, the Authority observes that the Respondent has not obtained the Occupation Certificate (OC) till date. Hence, this project is to be

treated as on-going project, and the provisions of the Act shall be applicable equally to the builder as well as allottee.

27. 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 allottees shall be paid, by the promoter, interest for every month of delay from the date of complainant's step into the shoe of original allottee i.e., 22.04.2021 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. Further, the promoter is directed to handover the physical possession of the subject unit complete in all respect as per specifications mentioned in BBA and as per provisions of section 17 of the Act on making due payment by the allottee, if any, and thereafter, the complainants are obligated to take the possession within 2 months as per Section 19 (10) of the Act, 2016.

H. Directions of the Authority

28. 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/promoter is directed to pay interest to the complainants against the paid-up amount at the prescribed rate of

10.90% p.a. for every month of delay from the date the complainants step into the shoe of original allottee i.e., 22.04.2021 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 22.04.2021 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 is directed to handover physical possession of the subject unit to the complainants within 60 days on receipt of occupation certificate of the project from the competent authority.
- iv. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- v. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% 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.

- vi. The respondent/promoter shall not charge anything from the complainants which is not the part of the buyer's agreement.
29. The complaint and application, if any, stands disposed of.
30. File be consigned to registry.

Dated: 08.08.2025



(Arun Kumar)

Chairman
Haryana Real Estate Regulatory
Authority, Gurugram

HARERA