

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

Complaint no. :	5996 of 2024
Date of decision:	01.08.2025

**Ashwani Kumar****Address:** - S-321, SF, GK-2, New Delhi**Kanchan Sethi****Address:** - 328, FF, Block B, Sec-8, Dwarka,  
New Delhi**Complainants**

Versus

**M/s. Identity Buildtech Pvt. Ltd.****Address:** - 110, indraprakash, 21, barakhamba road,  
New Delhi-110001**M/s Ansal Housing Limited**  
**(Formerly known as Ansal Housing &  
Construction Ltd.)****Address:** - 2nd Floor, Ansal Plaza, Sector 1, Near  
Vaishali Metro Station Vaishali Ghaziabad, Uttar  
Pradesh-201010**Respondents****CORAM:**

Shri Arun Kumar

**Chairman****APPEARANCE:**

Shri Gaurav Rawat

Shri Amandeep Kadyan

Advocate for the complainants

Advocate for the respondents

**ORDER**

1. The present complaint dated 05.12.2024 has been filed by the complainants under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it

is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.

**A. Project and unit related details**

2. The particulars of the project, the details of sale consideration, the amount paid by the 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	Ansal Highland Park, sector- 103
2.	Project area	11.7 acres
3.	Nature of the project	Residential
4.	DTCP license no. and other details	32 of 2012 dated 12.04.2012 valid upto 11.04.2020
5.	RERA Registered/ not registered	16 of 2019 dated 01.04.2019 valid upto 30.11.2021
6.	Allotment letter/application form	18.05.2012
7.	Unit no.	KINRS-1001, 3BHK T-3
8.	Unit area	1762 sq. ft.
9.	Builder buyer agreement executed on	14.01.2014
10.	Possession clause	<b>31.</b> The developer shall offer possession of the unit any time, within a period of <b>48</b>

		<i>months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanction and approval necessary for commencement of construction whichever is later.</i>
11.	Due date of possession	14.01.2018 (Due date of possession is calculated from the date of execution of agreement)
12.	Total sale price of the flat	Rs. 75,11,979.11/- on page 45 of the complaint
13.	Amount paid by the complainant	Rs. 71,63,581/-
14.	Occupation certificate	N/A
15.	Offer of possession	N/A

### **B. Facts of the complaint**

3. The complainants have made the following submissions in the complaint:
  - a. That the Respondents had advertised the residential project namely "Ansals Highland Park," being developed by the Developer under Licence No. 32 of 2012 issued by the DTCP and RERA Registration No. RERA-GRG-146-2019, situated at Sector 103, Gurgaon, Haryana.
  - b. That while searching for a residential unit, the Complainants were lured by such advertisements and calls from the brokers of the Respondents for purchasing a unit in the said project. The Respondent company represented to the Complainants the so-called impeccable reputation of the company, made elaborate presentations regarding the above-mentioned project, and assured



that they had successfully delivered several such projects in the National Capital Region. The Respondents handed over a brochure portraying the project as being of exceptional quality, and in every possible way attempted to persuade the Complainants to make the booking and payments.

- c. That relying on various representations and assurances given by the Respondents, and believing such assurances to be true, the Complainants booked a unit in the project by paying the booking amount towards Unit No. KINRS-1001, situated in Sector 103, Gurugram, having a super area of 1,762 sq. ft., on 18.05.2012. The Respondents duly acknowledged the same.
- d. That at the time of booking, the Complainants were assured that the project would be completed within 48 months and that the Apartment Buyer's Agreement would be executed within two months. However, the agreement was executed after a lapse of more than one year, and a copy of the same was provided only after repeated requests and reminders.
- e. That after repeated reminders and follow-ups, the Respondents eventually provided copies of the payment receipts and the allotment letter. It is pertinent to note that the Complainants made all payments promptly as demanded, yet the Respondents delayed execution of the agreement by almost five months.
- f. That the Respondents confirmed the booking of the said unit to the Complainants, providing details of the project and allotting Unit No. KINRS-1001, measuring 1,762 sq. ft. (super built-up area), in the said project for a total sale consideration of ₹75,11,979/-, inclusive of



basic price, car parking charges, development charges, PLC, IFMS, IBRF, club membership charges, and other charges. The Respondents also provided the payment schedule for the subsequent instalments.

- g. That the Respondents allotted Unit No. KINRS-1001 to the Complainants and executed the Apartment Buyer's Agreement on 14.01.2014 for the project "Ansals Highland Park" in Sector 103, Gurugram. As per Clause 31 of the Agreement, the Respondents were to complete the construction within 48 months from the date of the agreement, making the due date for possession 14.01.2018.
- h. That the Complainants have paid a total amount of ₹71,63,581/- against the total sale consideration of ₹75,11,979/-, meaning that the Respondents have received more than 100% of the amounts payable at the respective construction stages.
- i. That during this period, the Complainants visited the office of the Respondents several times, requesting permission to visit the site, but were consistently denied on the pretext that buyers were not permitted to visit during the construction phase. On one occasion, when the Complainants attempted to visit the site, they were refused entry.
- j. That the Complainants contacted the Respondents on numerous occasions and remained in regular communication. However, the Respondents failed to provide any satisfactory update on the construction status and were unable to give a definite date for delivery of possession.



- k. That despite repeated visits to the Respondents' office and inquiries as to why construction progress was slow, the Complainants were only given vague reasons such as a shortage of labour, without any concrete timelines.
- l. That the Respondents not only failed to comply with the terms and conditions of the booking but also extracted money from the Complainants on the basis of false promises and misrepresentations.
- m. That by making false assurances regarding timely delivery of possession, the Complainants have been subjected to unfair trade practices and harassment. Such conduct on the part of the Respondents amounts to gross deficiency in service, causing immense mental agony and financial loss to the Complainants.
- n. That as per the BBA, the Respondents were required to complete construction within four years, making the due date of possession 14.01.2018. However, the project has been abandoned since 2018 and remains incomplete to date. That the Complainants approached the Respondents several times to know the reason for the inordinate delay, but the Respondents failed to reply or to provide any tentative date for completion of the project. That the Complainants sent various reminders to the Respondents, stating that they had already paid the demanded amounts and were willing to pay further as per the terms, and requesting the status of construction and copies of statutory approvals, such as environment clearance. No satisfactory response was received.
- o. That despite the reminders, the project remains abandoned, and no construction or development work has been carried out. That

instead of completing the project and handing over possession, the Respondents sent a demand letter dated 29.07.2023 to the Complainants for payment on account of labour cess, VAT, penal interest, service tax, etc., which the Complainants are not liable to pay under the Buyer's Agreement and the payment plan.

- p. That the Complainants, with the dream of owning their own home in the NCR, signed the booking application in the hope of timely delivery. However, their dream has been shattered due to the dishonest and unethical conduct of the Respondents. That the payment plan was structured in such a way as to extract maximum amounts from the buyers before completion of essential works. Payments were demanded without adequate justification, leaving large parts of the project incomplete. That despite repeated representations and commitments made to the Complainants, the Respondents have deliberately failed to fulfil their obligations, thereby causing severe prejudice to the Complainants.

**C. The complainants are seeking the following relief:**

4. The complainants have sought following relief(s):
- a. Direct the respondents to hand over possession of the said unit, complete in all respects, along with all promised amenities and specifications, without any further delay, and without withholding delivery of possession for reasons beyond the scope of the Buyer's Agreement.
  - b. Direct the Respondents to execute and register the Conveyance Deed in respect of the said unit in favour of the Complainant.

- c. Direct the Respondents to pay interest on the total amount paid by the Complainant, at the prescribed rate as per RERA, from the due date of possession until the actual handing over of possession.
- d. Quash the illegal demand raised by the Respondents, including any claim for penal interest, as being contrary to the Buyer's Agreement and law.

**D. Reply filed by respondents**

5. The respondent had contested the complaint on the following grounds:
- a. That the Respondent is a developer and has constructed multiple residential and commercial buildings within Delhi/NCR, enjoying a well-established reputation earned over years of consistent customer satisfaction.
  - b. The Complainants approached the answering Respondent for booking Unit No. KINRS-1001 in the upcoming project "Ansals Highland Park," Sector 103, Gurugram. Upon the Complainants' satisfaction after inspecting the site, title documents, location plans, etc., a Builder Buyer Agreement ("BBA") dated 14.01.2014 was duly executed between the parties.
  - c. The present dispute cannot be governed by the provisions of the RERA Act, 2016, as the Builder Buyer Agreement was executed in the year 2014. The regulations applicable at the relevant time would govern the project, and not any subsequent legislation, i.e., the RERA Act, 2016. It is further submitted that Parliament did not make the RERA Act retrospective in operation.
  - d. The complaint itself admits that the Complainants have not paid the necessary dues or the full consideration as agreed under the Builder





Buyer Agreement. It is submitted that a party in default cannot be permitted to take advantage of its own wrong.

- e. Even assuming, without admitting, that the averments and pleadings in the complaint are true, the complaint has been filed belatedly. As per the Complainants' own case, the cause of action arose on 14.01.2018, whereas the complaint has been filed in the year 2024. Hence, the same is barred by limitation and cannot be entertained before the HRERA, Gurugram.
- f. Even if the complaint is presumed to be true, the Builder Buyer Agreement, executed voluntarily in 2014 without any coercion or duress, cannot be questioned at this belated stage. The BBA itself contains provisions for delay in possession. Specifically, Clause 37 stipulates compensation at the rate of ₹5 per sq. ft. per month on the super area for any delay in offering possession, as referred to in Clause 30 of the agreement. The Complainants are bound by this agreed clause and cannot, through the present complaint, seek to alter its terms more than ten years after execution.
- g. The Respondent, in due course, obtained all necessary approvals from the competent authorities. Environmental clearance for the proposed group housing project in Sector 103, Gurugram, Haryana, was granted on 20.02.2015. Approvals for digging the foundation and basement, as well as sanctions from the Department of Mines and Geology, were obtained in 2012. The Respondent has therefore acted promptly and cannot be faulted for delay in handing over possession.

- h. The answering Respondent has already adequately explained the causes for delay, which were beyond its control and fall within the contingencies provided for in the BBA. These include compliance with orders of the Hon'ble High Court of Punjab and Haryana in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, and 21.08.2012, which banned the extraction of groundwater—a key element for construction. Other factors included demonetisation, prohibitor orders of the Hon'ble National Green Tribunal restricting construction in and around Delhi, and the COVID-19 pandemic, all of which stalled construction at crucial stages for extended periods.
  - i. The BBA clearly sets out the rights and obligations of the parties in the event of delayed possession. Clause 32 specifically states that no compensation shall be payable to the Complainants/prospective owners in such an event. In view of Clause 32, the Complainants cannot, by filing the present complaint before the Hon'ble HRERA, Gurugram, seek to alter or override the contractual terms freely agreed upon by both parties.
- 6. 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**

- 7. The authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

**F.I Territorial jurisdiction**

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana 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.

### **F.II Subject-matter jurisdiction**

9. Section 11(4)(a) of the Act 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.*

10. So, in view of the provisions of the Act of 2016 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 complainant at a later stage.

### **F. Findings on the relief sought by the complainants.**



- F.I Direct the respondents to hand over possession of the said unit, complete in all respects, along with all promised amenities and specifications, without any further delay, and without withholding delivery of possession for reasons beyond the scope of the Buyer's Agreement.
- F.II Direct the Respondents to execute and register the Conveyance Deed in respect of the said unit in favour of the Complainant.
- F.III Direct the Respondents to pay interest on the total amount paid by the Complainant, at the prescribed rate as per RERA, from the due date of possession until the actual handing over of possession.
- F.IV Quash the illegal demand raised by the Respondents, including any claim for penal interest, as being contrary to the Buyer's Agreement and law.
11. In the present complaint, the complainants intend 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."*
12. Clause 31 of the buyer's agreement provides for time period for handing over of possession and is reproduced below:
31. *The developer shall offer possession of the unit any time, within a period of 48 months from the date of execution of the agreement or within 48 months from the date of obtaining all the required sanction and approval necessary for commencement of construction whichever is later.*

13. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the prescribed rate. 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.*

14. The legislature in its wisdom in the subordinate legislation under 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.
15. 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., 01.08.2025 is 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%. (In the POD dated 01.08.2025, the rate has been inadvertently stated as 11.10%).
16. **Rate of interest to be paid by the complainant in case of delay in making payments-** 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;"*

17. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.90% by the respondents/promoters which is the same as is being granted to the complainants in case of delayed possession charges.
18. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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 dated 14.01.2018. By virtue of clause 31 of the buyer's agreement executed between the parties on 14.01.2014, the possession of the subject flat was to be delivered within a period of 48 months from the date of execution of agreement. The due date of possession is to be calculated from the date of agreement i.e. 14.01.2014. Therefore, the due date of handing over possession comes out to be



14.01.2018. However, the respondents have failed to handover possession of the subject apartment to the complainants 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.

19. 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., 14.01.2018 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.

**F.II Direct the Respondents to execute and register the Conveyance Deed in respect of the said unit in favour of the Complainant.**

20. The respondent is directed to make a valid offer of possession and handover physical possession of the allotted unit to the complainants after obtaining occupation certificate from the competent authority. Further, the complainants are seeking relief of execution of conveyance deed. A reference to the provisions of sec. 17 (1) and proviso is also must and which provides as under:

***"Section 17: - Transfer of title***

*17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association*

*of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.*

21. The respondent is under an obligation as per section 17 of Act to get the conveyance deed executed in favour of the complainants. The said relief can only be given after obtaining occupation certificate from the competent authority. On successful procurement of it, offer a valid make of possession to the complainants and execute the conveyance deed within 3 months from the date of obtaining the occupation certificate.

**G. Directions of the authority**

22. 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 promoter as per the functions entrusted to the authority under section 34(f) of the Act:
- The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.90% p.a. for every month of delay from the due date of possession i.e., 14.01.2018 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.
  - The arrears of such interest accrued from 14.01.2018 till the date of order by the authority shall be paid by the promoter to the



allottee(s) 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(s) before 10<sup>th</sup> of the subsequent month as per rule 16(2) of the rules.

- c. The complainant(s) are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
  - d. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the builder buyers' agreement.
  - e. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% by the respondents/promoters which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
23. Complaint as well as applications, if any, stands disposed off accordingly.
24. File be consigned to registry.



**(Arun Kumar)**  
**Chairman**

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 01.08.2025