

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

Complaint no.: 493 of 2023
Date of complaint: 06.02.2023
Date of order: 15.07.2025

1. Bimal Rajendrakumar Panchal

2. Eetishree Panchal

R/o: - H-716, Jalvayu Towers,
Sector 56, Gurugram, Haryana.

Complainants

Versus

Godrej Developers and Properties LLP

Regd. Office at: - 5th floor, Godrej

One, Pirojshanagar, Eastern

Express Highway, Vikhroli (East),

Mumbai - 400079, Maharashtra

Respondent

CORAM:

Shri Arun Kumar

Shri Ashok Sangwan

**Chairman
Member**

APPEARANCE:

Shri Abhay Jain

Shri Rohan Malik

Complainants

Respondent

ORDER

1. The present complaint has been filed by the complainant/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 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. Unit and project related details.

2. The particulars of unit details, 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.No.	Particulars	Details
1.	Name and location of the project	"Godrej AIR", Phase-3, Sector-85, Gurugram
2.	Nature of the project	Residential Group Housing
3.	RERA Registered/ not registered	34 of 2018 dated 07.12.2018 valid up to 30.09.2023
4.	Unit no.	A1-2402, 23 rd floor, Tower-A1 (As per page no. 47 of reply)
5.	Unit area admeasuring	127.87 sq. mtr. (As per page no. 35 of the complaint)
6.	Allotment letter	16.02.2019 (As per page no. 47 of reply)
7.	Date of execution of flat buyer's agreement	Not executed
8.	Possession clause	NA
9.	Due date of possession	cannot be ascertained
10.	Total sale consideration	Rs.1,26,19,076/- (As per page 47 of reply)
11.	Amount paid by the complainant	Rs.12,51,390/- (As per SOA 16.04.2019 on page no. 46 of the reply)
12.	Surrender/withdrawal request made by the complainant	16.04.2019, 16.05.2019 (page no.58 of reply and 44 of complaint)
13.	Cancellation acceptance form dated 13.06.2022 sent via email	14.06.2022 (page no. 46 of complaint)
14.	Occupation Certificate/ completion certificate	Not obtained
15.	Offer of possession	Not offered

B. Facts of the complaint:

3. The complainants have made the following submissions: -

- I. That the complainants were approached by the sale representatives of the respondent, who made tall claims about the project 'Godrej Air' describing it as the world class project. The complainants were invited to the sale office and were lavishly entertained and promises were made to them that the project would be finished in time, complete with parking, horticulture, parks, club, and other common area facilities. The complainants were impressed by their statements, oral representations and promises and ultimately lured to book a 3 BHK Residential apartment in the project 'Godrej Air' on 30.12.2018 by paying Rs.50,000/- via credit card transaction on 30.12.2018 to the respondent for booking the apartment in the project.
- II. That the respondent issued Welcome Letter via email dated 29.01.2019 to the complainants for booking the 3 BHK residential apartment and allotted apartment no. A1-2402 in Tower A1 having a carpet area of 107.87 square meter and exclusive area of 20 square meter, thus a total area of 127.87 square meter, in the project 'Godrej Air'. The total consideration of the apartment is Rs.1,26,19,075/- inclusive of EDC and IDC charges amounting Rs.7,42,296/-, Goods and Services Tax (GST) amounting Rs.13,49,061/-, Interest Free Maintenance Security (IFMS) amounting Rs.9,279/- and Other Charges amounting Rs.14,47,477/-.
- III. That till February, 2019, the complainants paid all payable amounts, as and when demanded by the respondent, a total sum of Rs.12,51,390/- for the apartment to the respondent.
- IV. That the complainants started facing financial issues and decided to withdraw from the project. The complainants requested the respondent vide email dated 16.04.2019 to cancel their allotted apartment and refund/return the deposited amount of Rs.12,51,390/- paid till date for the apartment, as the said money could be used to meet their family requirements in their hard time.

- V. That the respondent didn't bother to respond to the cancellation request made by the complainants whereas the respondent raised further demand from the complainants vide email dated 15.05.2019 and demanded Rs.13,36,065/- for the apartment from the complainants. The complainants again requested the respondent vide email dated 16.05.2019 to cancel the allotment of their apartment and refund the deposited amount.
- VI. That the respondent again sent an email dated 01.09.2020 to the complainants, offering interest waiver on the delayed payments of the apartment if the complainants clear the outstanding due before 25.09.2020.
- VII. That for more than three years and two months, the respondent took no action and did not respond to the cancellation request of the complainants and withheld the hard-earned money of the complainants even after repetitive requests. The respondent even did not issue any allotment letter and failed to execute the builder buyer's agreement with the complainants for the said apartment, despite receiving ten percent amount.
- VIII. Then suddenly after three years and two months, the respondent referred to the cancellation request dated 16.04.2019 of the complainants, in its email dated 14.06.2022 and accepted the request for cancellation of the apartment. The respondent sent a cancellation acceptance form dated 13.06.2022 in the email, requesting the complainants to send a signed copy of the said form to the respondent for cancelling the apartment. That till June, 2022, the respondent had neither cancelled the apartment of the complainants and nor had refunded the deposited amount, even after repetitive requests made by the complainants since April, 2019. It means that till June, 2022, the apartment of the complainants was alive and was still in the name of the complainants.
- IX. That the complainants approached the respondent on various occasions and requested for refund of their deposited amount of Rs.12,51,390/- but to no avail. The complainants being aggrieved by the actions of the respondent and



tired of waiting for refund of their deposited amount for more than three years and seven months, the complainants decided to retain the apartment in the project and requested the respondent to reinstate the apartment of the complainants. The respondent vide email dated 24.11.2022 informed the complainants to submit a formal request for restoration of the apartment.

- X. That the complainants confirmed their decision for restoration of the apartment no. A1-2402 and raised a formal request vide email dated 30.11.2022. The complainants also agreed to pay the legitimate charges for restoration. The respondent accepted the restoration request of the complainants and demanded outstanding dues of the apartment from the complainants along with accrued interest amounting Rs.2,00,038/- and reinstatement charges amounting Rs.1,05,277/- vide email dated 14.12.2022. The complainants agreed to pay the demanded amount vide email dated 16.12.2022 and requested to restore the apartment at the earliest.
- XI. However, all of a sudden on 12.01.2023, the respondent declined and disapproved the restoration request of the apartment of the complainants without any justified reason via email and stated as under-

“ ...

We regret to inform you that the restoration request against your unit was not approved by the management.”

- XII. That the complainants were in utter shock and felt disturbed by the casual and non-serious approach of the respondent towards the complainants and their requests. The respondent kept harassing the complainants by retaining their hard-earned money since April, 2019 and later, when the complainants decided to retain the apartment, the respondent initially agreed to restore the apartment by demanding payment along with reinstatement charges and then all of a sudden on 12.01.2023, disapproved the restoration request of the complainants. The respondent left the complainants high and dry on their own

fate. The respondent neither refunded the deposited amount paid by the complainants for the apartment nor restored their apartment in the project till date.

- XIII. That the complainants regret believing the representations made by the respondent and agreeing to continue with the project. The intention of the respondent was to cheat and befool the complainants, and, that was why, the respondent refused to reinstate the apartment on 12.01.2023. Thus, the complainants have no faith left in the respondent and that is why, the complainants now seek refund of the entire deposited amount of Rs.12,51,390/- with interest from dates of deposit, from the respondent or alternatively, if the respondent is ready to restore the apartment no. A1-2402 of the complainants, the complainants are ready to pay the legitimate and lawful demands for the apartment along with reinstatement charges to the respondent towards the said apartment.
- XIV. Thus, the complainants are depositing a photocopy of cheque of Rs.28,29,130.52/- of ICICI Bank, cheque no. 102508 drawn in the favour of the respondent in the name of 'Godrej Air III' with the Authority, Gurugram to stress upon their intention to pay the legitimate dues of the apartment if the respondent restores the apartment no. A1-2402 of the complainants.
- XV. That the complainants approached the respondent many times and pleaded for refund of their deposited amount with interest since April, 2020, but to no avail. The respondent has, in an unfair manner, withheld the hard-earned money of the complainants which was given for booking the apartment in the project, without any legally binding agreement between them.
- XVI. That the complainants have lost confidence and in fact has got no trust left in the respondent as the respondent has deliberately and wilfully indulged in undue enrichment, by cheating the complainants beside being guilty of indulging in unfair trade practices and deficiency in services in not refunding

the deposited amount of Rs.12,51,390/- with interest and then remaining non responsive to the requisitions of the complainants.

XVII. That the complainants are willing to pay the legitimate demands to the respondent for the said apartment if the respondent is ready to restore the apartment no. A1-2402 in Tower A1, or alternatively, the complainants seek refund of the entire deposited money of Rs.12,51,390/- with prescribed rate of interest from various dates of payment till its realisation from the respondent. The complainants reserve their right to seek compensation before the appropriate forum and in accordance with law.

C. Relief sought by the complainants:

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

I. Direct the respondent to refund the entire deposited amount of Rs.12,51,390/- with interest, from the various dates of deposit till the entire amount is returned to the Complainants, at the rate prescribed by the Act, 2016.

Or alternatively,

II. Direct the respondent to restore the apartment no. A1-2402 in Tower A1 of the complainants in the project.

III. Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainants for filing and pursuing the instant case

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 the complaint is not maintainable in view of the settled principle of law "*commodum ex injuria sua nemo habere debet*", i.e., that the complainants cannot be allowed to take advantage of their own wrongs. The complainants have failed to discharged their obligations under the contract, wherein they were required to make the payment towards the agreed total sale consideration of the unit in question. After payment of booking amount, the

complainants realising their incapability to pay for the agreed consideration sought unilaterally cancellation (without the default of Developer) of the allotment in question. In addition, the complainants, despite multiple reminders, failed to execute the builder buyer agreement, thereby defeating the objective of the opted payment plan.

- ii. That the complainants vide application form dated 23.12.2018 applied for allotment of a residential unit bearing no. A1-2402 in the Phase - III of the project for a total sale consideration of Rs.1,26,19,075/-. As per the opted payment plan selected by the complainants themselves, i.e. attached to the application form, they were required to make the following payments:

"OPTED PAYMENT PLAN"

Milestone	Description
Token Amount (T.A) (Forms part of Booking Amount)	5 lakhs
Within 30 Days from Booking (Forms part of Booking Amount)	10% of Cost of Property – T.A
Within 75 Days from Booking (Forms part of Boking Amount)	10% of Cost of Property
Within 180 Days from Booking	10% of Cost of Property
Completion of Super Structure & Internal Painting	40% of Cost of Property
On Application of OC	20% of Cost of Property
On Offer of Possession	10% of Cost of Property

- iii. As, per the opted payment plan provided in the application form, the complainants herein paid an amount of Rs.5,00,000/- being part booking amount. Vide Clause 3 of Annexure A of the application form, the complainant agreed and undertook to pay all the amounts due to the respondent in accordance with the opted payment plan provided in the application form on or before the respective due date. Further, vide clause 4 of of the application form, the complainant agreed that the 10% of the cost of property shall be construed as "booking amount", to ensure the performance, compliance, and fulfilment of their obligations. As per the clause 8 the complainant also agreed

that all outstanding payments shall carry interest at the rate of 2% over the then existing SBI MCLR per annum or such other interest higher/lower than 2% as maybe prescribed under the Act from the date they fall due till the day of receipt/realisation of payment from the complainant.

iv. That in terms of Clauses 9 and 10 the complainant agreed that if he fail or neglect to (i) make payments for two consecutive demands made by the developer as per the payment plan opted by the complainants; (ii) comply with the obligations as set out in the application form or allotment letter and fail to rectify the default in the period of 30 days, the respondent shall be entitled to terminate the application form and forfeit the booking amount along with the non-refundable amount. The complainants also agreed that in the event the application form is withdrawn/cancelled by the applicant(s) (complainants herein) for reasons not attributable to developer's default, then the developer shall be entitled to forfeit the booking amount and non-refundable amount.

v. That the terms and conditions agreed in the application form does not prescribe any sort of a remedy on account of default on the part of the complainants. In fact, the application form provides for forfeiture of the booking amount paid by the complainants in case they seek unilateral cancellation of the allotment. Further, even the Act itself does not provide for refund of booking amount in the circumstances where no default is attributable to the developer. Thus, the complainants are bound by the aforesaid terms and the law of the land since they have willingly executed the application form and affixed their signatures to the same thereby consenting to the said application form. Furthermore, the complainants have given their consent to the said application form on their own free will and accord, without any influence or coercion and thus cannot renege from the same.

- vi. In the meantime, and in furtherance of the opted payment plan i.e., “within 30 days from the date of booking”, the respondent raised an invoice for an amount of Rs.7,61,905.52/- on 21.01.2019. The due date for payment of the said invoice was 28.01.2019.
- vii. That pursuant to the aforesaid payment of booking amount, the complainants were allotted the unit vide allotment letter dated 16.02.2019. Subsequently, as the date for execution and registration of builder buyer agreement was already fixed, the respondent vide email dated 07.04.2019, informed the complainants that due to some issue with the registrar’s office, the same could not be processed. Further, vide the said email, the respondent requested the complainants to indicate their availability for execution and registration of the builder buyer agreement. The execution of builder buyer agreement was a mandatory obligation upon the complainants and non-execution of the same would attract provisions of Section 13 of the Act, consequently, defeating the entire payment plan.
- viii. That the respondent raised an invoice dated 16.04.2019 “within 75 days of booking” for Rs.12,61,907/-. The complainants failed to pay the aforesaid invoice and neither indicated a suitable date for execution and registration of the builder buyer agreement as requested vide email dated 07.04.2019. Upon receipt of the aforesaid demand and realising their incapacity to make payments, the complainants vide email dated 16.04.2019, informed the respondent that they are in some financial difficulty and will not be able to arrange funds to meet their financial obligations in terms of the opted payment plan and wants to withdraw from the project (unilateral cancelation was sought).
- ix. That vide email dated 15.05.2019, realising that the complainants are delaying their obligations, the respondent once again requested them to confirm their availability for registration of builder buyer agreement within next 5 days.

Upon receipt of the aforesaid email, the complainants as an attempt to wriggle out of their contractual obligation without any consequences, vide email dated 17.05.2019, again reiterated that they want to withdraw from the project due to financial constraints. Keeping in mind the aforesaid emails by the complainants, the respondent being a customer centric organisation vide email dated 01.09.2020 offered waiver on accrued interest on the outstanding dues in case they chose to clear the outstanding amount before 25.09.2020. Even after interest waiver, the complainants failed to clear the outstanding dues.

- x. The complainants were delaying the execution of the builder buyer agreement and that they had already indicated their incapacity to pay and in view of their request for unilateral cancellation, the respondent vide email dated 14.06.2022 sent a cancellation request form dated 13.06.2022 to the complainants. Instead of executing the cancellation acceptance form, the complainants vide email dated 14.06.2022 again requested the respondent to refund the entire booking amount paid by them. In response thereof, the respondent vide email dated 16.06.2022, drew the attention of the complainants to Clause 9 of the application form executed between the parties.
- xi. However, the complainants remained adamant on the request for cancellation and vide email dated 18.06.2022 they again asked the respondent to refund the booking amount paid by them and to provide high level officials contact details. At this stage, the complainants had been requesting for complete refund, now suddenly, i.e. after a delay/waiting for almost 3 years, the started showing their inclination to continue with the project. Vide email dated 30.11.2022, the complainants submitted their formal request for the restoration of the allotment in question.

- xii. In view of aforesaid request, the respondent vide email dated 14.12.2022 granted one more opportunity to the complainants and indicated the total outstanding dues payable by the complainants. However, the complainants ignored the abovementioned email dated 14.12.2022 and after waiting amply, the respondent vide email dated 12.01.2023 denied the request of the complainant for the restoration of the unit.
- xiii. That after successfully delaying the execution and registration of the builder buyer agreement and consequently evading their payment obligations for over 3 years, the complainants have filed the present complaint. The complainants have miserably failed to place anything on record to even suggest that the complainants were financially incapable or there is default on part of the developer as sought to be alleged in the complaint.
- xiv. That the complainants requested for a unilaterally withdrawal from the project and for the same the respondent is entitled to forfeit the booking amount in terms of the law as well as the documents executed between the parties. Moreover, the respondent has suffered a loss of time and opportunity to sell the said unit to some other person who would have adhered with the terms and conditions of the application form which would not have hindered the progress of the project. In light of the above, the present complaint is liable to be dismissed as baseless and misconceived.
7. All other averments made in the complaint were denied in toto.
8. 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

9. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

10. 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.

11. 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.

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

F. Relief sought by the complainants.

F.I Direct the respondent to refund the entire deposited amount of Rs.12,51,390/- with interest, from the various dates of deposit till the entire amount is returned to the Complainants, at the rate prescribed by the Act, 2016.

Or alternatively,

F.II Direct the respondent to restore the apartment no. A1-2402 in Tower A1 of the complainants in the project.

13. The complainants booked an apartment no. A1-2402 in the respondents' project 'Godrej Air' vide application form dated 23.12.2018, and subsequently deposited

a total amount of Rs.12,51,390/- with the respondent towards the booking. The respondent issued a welcome letter dated 29.01.2019 confirming the allotment and shared details of the total sale consideration i.e. Rs.1,26,19,075/- and payment milestones.

14. The complainants herein contends that by February 2019, the complainants have paid Rs.12,51,390/- towards the subject unit but, due to financial difficulties, requested cancellation and refund via email dated 16.04.2019. The respondent ignored the request and instead raised a demand of Rs.13,36,065/- on 15.05.2019. The complainant again requested to cancel the allotment and refund the deposited amount on 16.05.2019. Despite repeated follow-ups, the respondent neither refunded the amount nor executed the builder buyer agreement, and only offered an interest waiver in September 2020. After over three years of inaction, the respondent finally accepted the cancellation in June 2022 and sent a cancellation form dated 13.06.2022. With no refund issued, the complainants later requested restoration of the subject unit on 30.11.2022 acting on the mail sent by the respondent on 24.11.2022 for restoration, which the respondent initially accepted by raising demands vide email dated 14.12.2022, but suddenly denied restoration on 12.01.2023 without assigning any reason.
15. On contrary the respondent contends that the complainants applied for allotment of subject unit on 23.12.2018 and agreed to a payment plan requiring timely instalments and paid Rs.5,00,000/- as part of booking. The complainants themselves sought cancellation due to financial constraints and never executed the builder buyer agreement. As per the clauses of the application form, the respondent is right in forfeiting the booking amount in case the application form is withdrawn/cancelled by the applicant. The respondent has also offered an interest waiver to the complainant to clear the dues before 25.09.2020, but the complainants failed to do so.

16. On considering the documents available on record as well as submissions made by both the parties, it is evident that the complainants paid only Rs.12,51,390/-, i.e. approx. 10% of the total sale consideration. The complainants, vide emails dated 16.04.2019 and 16.05.2019, requested a refund citing financial constraints. Subsequently, the respondent offered an interest waiver vide email dated 01.09.2020 and asked the complainant to clear dues by 25.09.2020. Later, on 14.06.2022, a cancellation letter was sent for the complainant's signature, which remained unsigned. Further, vide email dated 24.11.2022 the respondent asked the complainant to submit a formal request to restore the unit. The complainant agreed vide email dated 30.11.2022 and expressed willingness to pay the restoration dues. The respondent confirmed the amount on 14.12.2022. The complainant reiterated his willingness to pay on 16.12.2022. However, on 12.01.2023, the respondent unilaterally informed the complainant that the restoration request was not accepted by its management.

17. It is important to note that no payment was made by the complainant after requesting withdrawal from the project. Relevant clauses from the application form are reproduced below for ready reference:

4. *For the purpose of this Application Form, the term booking amount shall mean 10% of the Total Price ("Booking Amount"). The Booking Amount shall be payable by the Applicant as per the Payment Plan and will include the token amount/application amount.*
9. *In the event if the Applicant fails or neglects to (i) make the payment for two consecutive demands made by the Developer as per the Payment Plan annexed hereto, despite having been issued notice in that regard the Applicant shall be liable to pay Interest to the Developer on the unpaid amount, (ii) in case of Default by Applicant under the condition listed above continues for a period beyond the time period as laid down under the Applicable Laws, after notice from the Developer in this regard or the Applicant fails to comply with the obligations as set out herein/Allotment Letter/Agreement for Sale including timely registration of Agreement for Sale, at any point of time, the Developer shall be entitled, without prejudice to other rights and remedies available to the Developer, after giving 30 (Thirty) days prior notice to the Applicant, terminate this transaction and forfeit various amounts paid/due from the Applicant subject to the provisions/limits as prescribed under Applicable Laws. Balance amounts, if any, without any liabilities towards*

costs/damages/interest etc. shall be refunded without Interest upon registration of the deed of cancellation, if applicable, within the time period as laid down under the Applicable Laws. Upon such cancellation, the Applicant shall not have any right, title and/or interest in the Unit and/or car park space and/or the Project and/or the Project Land and the Applicant waives his right to claim and/or dispute against the Developer in any manner whatsoever.

The Applicant acknowledges and agrees that such forfeiture and the refund of the balance amount, if any, to the Applicant shall be deemed to be full and final settlement of the claim and the Developer shall be entitled to sell the Unit to any third party of the Developer's choice without any recourse to the Applicant.

- 10. The Applicant further agrees that in the event this Application Form is withdrawn/cancelled by the Applicant for reasons not attributable to the Developer's default, then the Developer shall be entitled to forfeit various amounts paid/due from the Applicant subject to the provisions/limits as prescribed under Applicable Laws and refund the balance amount as mentioned in clause 9 above.**

(Emphasis supplied)

18. The complainant has paid only Rs.12,51,390/- (approx. 10% of the sale consideration) and sought cancellation due to financial constraints. Under Clauses 4, 9, and 10 of the application form, the respondent is entitled to forfeit the various amounts paid by the complainants where the applicant has withdrawn from the project.
19. However, herein the respondent never issued a formal notice of forfeiture. Instead, the respondent prolonged the matter by initially offering an interest waiver, subsequently proposing cancellation, thereafter seeking restoration, and later denied the request for restoration. Such conduct of the respondent created prolonged uncertainty. Accordingly, the respondent is held liable to refund the entire amount paid by the complainants i.e. Rs.12,51,390/-. However, interest on the said amount, as claimed in the relief, is not being allowed since the cancellation was initiated by the complainants owing to their financial constraints.

F.III Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainants for filing and pursuing the instant case.

20. The complainants are seeking relief w.r.t. litigation expense. Hon'ble Supreme Court of India in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd.*

V/s State of Up & rs. 2021-2022(1) RCR (C), 357 held that an allottee is entitled to claim compensation & 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 & 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 & legal expenses.

G. Directions of the Authority.

21. 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 refund the amount deposited by the complainant without interest within 90 days from the date of this order failing which the respondent shall be liable to pay the interest on the paid-up amount at the prescribed rate of interest i.e., 11.10% p.a. till its realization.
22. Complaint stands disposed of.
23. File be consigned to the registry.

(Ashok Sangwan)
Member

(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 15.07.2025