

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

Complaint no.:	1787 of 2024
Date of complaint:	26.04.2024
Date of order:	27.08.2025

Neeraj Chaturvedi and Dhanashree Sowani Sowani,
Both R/o: - PPM 121, 12th Floor, Tower M,
The Park Place Apartments, DLF City Phase 5,
Golf Course Road, Sector 54, Gurugram-122009.

Complainants

Versus

Parsvnath Developers Limited.
Having Regd. Office at: Parsvnath Tower,
Near Shahdara Metro Station, Shahdara, Delhi-110032.

Respondent**CORAM:**

Ashok Sangwan

Member**APPEARANCE:**

Rishabh Jain (Advocate)
Nitish Harsh Gupta (Advocate)

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 as provided under the provision 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.N.	Particulars	Details
1.	Name and location of the project	"Parsvnath Exotica", Sector-54, Gurgaon
2.	Nature of the project	Group Housing
3.	DTCP license no.	69 to 74 of 1996 dated 30.05.1996 valid up to 02.05.2019 (area 33.51 acre) 52 to 57 of 1997 dated 14.11.1997 valid up to 13.11.2024 (area 4.61 acre)
4.	RERA Registered/ not registered	Not registered
5.	Unit no.	D6-304, 3 rd Floor, Tower- D6 [page no. 46 of complaint]
6.	Unit admeasuring area	2810 sq. ft. [page no. 46 of complaint] Increase in area- 2895 sq.ft. (page 74 of complaint)
8.	Allotment letter	Not provided
9.	Date of builder buyer agreement	07.06.2005 [page 44 of complaint]
10.	Possession clause	10 (a) : "Construction of the flat is likely to be completed within a period of thirty six (36) months of commencement of construction of the particular block in which the flat is located, with a grace period of 6 months, on receipt of sanction of building plans/revised building plans and approvals of all concerned authorities including the Fire Service Department, Civil Aviation Department, Traffic Department, Pollution Control Department as may be required for commencing and carrying on

		<i>construction subject to force majeure....."</i>
11.	Payment plan	Construction linked
12.	Date of commencement of construction	15.04.2006 (as per annexure-10 at page 78 of complaint read with Annexure-I of BBA at page 58 of complaint)
13.	Due date of possession	15.10.2009 [Calculated as 36 months from the date of commencement of construction i.e. 15.04.2006 + grace period of 6 months is allowed being unqualified]
14.	Agreement to sell between original allottee and complainants	10.10.2011 (page 64 of complaint)
15.	Application for transfer of unit in favour of complainants	14.10.2011 (page 69 of complainant)
16.	Endorsement in favour of the complainant	11.01.2012 (as submitted by the complainants at page 23 of complaint)
17.	Basic sale price	Rs.77,27,500/- [as per BBA on page 46 of complaint]
18.	Total amount paid by the complainant	Rs.1,03,62,424/- (as per CRA on page 40 of complaint)
19.	Occupation certificate	30.11.2022 (as per DTCP website)
20.	Offer for fit outs	02.05.2015 [page no. 73 of complaint]
21.	Possession certificate	09.10.2016 (page 77 of complaint)
22.	Offer of possession	31.12.2022 (Page 81 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions: -

- I. That the original allottee was approached by the sale representatives of the respondent who made tall claims about the project 'Parsvnath

Exotica' as the world class project. The original allottee was invited to the sales office and was lavishly entertained and promises were made to him that the possession of the flat would be handed over in time including that of parking, club and other common areas.

- II. That the original allottee was impressed by their oral statements and representations and ultimately booked a flat in the project 'Parsvnath Exotica' situated at Sector 53, Gurugram, Haryana vide application form dated 03.10.2004, by paying his hard-earned money amounting Rs.6,75,000/- vide cheque no. 641607 dated 05.10.2004 as booking amount to the respondent.
- III. That the flat buyer agreement was executed on 07.06.2005 between the respondent and the original allottee for purchase of flat No. D6-304 at 3rd Floor in Block D6 measuring 2810 square feet of super area in the said project. The basic sale consideration of the flat is Rs.77,27,500/- calculated at the rate of Rs.2,750/- per square feet, as per clause 2(a), page-3 of the agreement. The original allottee opted for construction linked payment plan.
- IV. That as per clause 10(a) of the agreement, the respondent promised to complete the construction of the flat within a period of thirty-six (36) months from the commencement of construction of the block in which the flat is located and offer possession to the original allottee. As per the construction linked payment schedule given at page 15 of the agreement, the start of construction is considered as the date of start of foundation. Before the start of foundation, as per the payment schedule, the respondent had demanded and collected twenty five percent (25%) of the sale consideration plus car parking charges from the original allottee amounting Rs.21,31,875/- upto 19.04.2005, i.e., Rs.6,75,000/-

on 05.10.2004, Rs.4,84,125/- on 08.03.2005 and Rs.9,72,750/- on 19.04.2005. The receipt of Rs.21,31,875/- was also acknowledged by the respondent in clause 4(a) of the agreement. Thereafter, the respondent raised a demand Rs.5,40,925/- (7% of sale consideration) on 15.04.2006 at the time of start of foundation as per the payment schedule, which was paid by the original allottee in advance to the respondent on 06.04.2006. Thus, the due date of possession of the flat comes out to be 15.04.2009, calculated thirty-six (36) months from the date when the demand was raised for start of foundation, i.e., 15.04.2006.

- V. That the complainants purchased the said flat from the original allottee and an agreement to sell dated 10.10.2011 was executed between them.
- VI. That the original allottee submitted a form with the respondent on 14.10.2011 for 'change of right to purchase the Flat No. D6-304 measuring 2810 square feet at Parsvnath Exotica at Sector 53, Gurugram, Haryana' in favour of the complainants and transfer the total paid amount of Rs.75,41,125/- for the said flat in name of the complainants. On receipt of the request from the original allottee to transfer the allotment of said flat to the complainants, the respondent got endorsed the flat No. D6-304 in favour of the complainants on 11.01.2012.
- VII. That the respondent failed to complete the construction of the flat within timeline as per the agreement. The complainants, time and again, enquired about the status of the flat from the respondent but to no avail. the construction activities at the project site were going on at snail's speed.

- VIII. That the respondent issued an offer for fit outs dated 02.05.2015 along with the final demand letter to the complainants for the flat, but even after causing long delay in possession, the flat was also incomplete and lacked finishing and interior works. The respondent also informed the complainants that the area of their flat has been increased by 85 square feet, i.e., from 2810 square feet to 2895 square feet and additionally charged Rs.2,33,750/- for increase in area of the flat in the said offer for fit outs. It came as a shock that the respondent has not conceded any amount towards immense delay caused in the delivery of the flat in the said offer for fit outs and to add fuel to the fire till then the promoter has failed to obtain occupation certificate for the said project.
- IX. That in the offer for fit outs dated 02.05.2005, the respondent offered to the complainants to carry out finishing works in the flat at their own and granted a rebate of Rs.6,25,000/- on account of cost involved for final finishing work in the flat as the respondent failed to provide a furnished flat. The respondent issued a letter dated 07.10.2016 and gave authorization for carrying out interior works in the flat. Subsequently, the respondent handed over the possession of the flat on 09.10.2016 for the limited purposes of fit outs.
- X. That the complainants always abided by the payment schedule and made payments as and when demanded by the respondent in timely manner. The complainants in total, paid a sum of Rs.87,49,114/- towards sale consideration of the flat to the respondent, as and when the demand was raised.
- XI. That the complainants being aggrieved, requested to respondent on various occasions to complete the development works of their flat and issue offer of possession after obtaining occupation certificate.

- XII. That the respondent obtained occupation certificate (OC) of the Tower/Block in which the flat of the complainants is located, from the competent authorities in 2022 and offered the possession of the flat No. D6-304 to the complainants on 31.12.2022. Along with the offer of possession, the respondent demanded Rs.51,200/- for registration fee & computer fee, Rs.20,000/- for professional/incidental expenses for registration of sale deed, and Rs.15,63,300/- for stamp duty charges, from the complainants.
- XIII. That the complainants immediately paid Rs.50,010/- for registration fee on 16.01.2023 and Rs.15,63,300/- for stamp duty charges on 19.01.2023, in order to get the conveyance deed of the flat executed in their favour. Thus, the total amount paid by the complainants for the allotted flat is Rs.1,03,62,424/- including registration fee and stamp duty charges.
- XIV. That in the government records of the Municipal Corporation of Gurugram (MCG) the ownership of the said flat vests in the name of Puri Construction Private Limited. Whereas the complainants are the lawful owners and have been paying the MCG tax, yet for change in ownership in the government records, the execution of the conveyance deed is a mandatory condition.
- XV. That the complainants being aggrieved, had approached the National Consumer Disputes Redressal Commission, New Delhi and filed complaint No. CC/1780/2019 against the respondent on 04.09.2019 which was admitted on 09.09.2019. The complaint was withdrawn by the complainants by filing an application before the Hon'ble Court with liberty to avail alternate remedy in accordance with law and have decided to avail remedy under the Provisions of the Real Estate

(Regulation and Development) Act, 2016. The complaint was dismissed as withdrawn vide order dated 19.03.2024.

- XVI. That the complainants have been time and again approaching the respondent for completion of the project in all respect as per the agreement and obtain completion certificate. The complainants had also paid the stamp duty charges in January, 2023 in the hope to get their conveyance deed executed, but the respondent had failed to get the conveyance deed executed in their favour till date.
- XVII. That the complainants do not intend to withdraw from the project. As per the obligations on the respondent/promoter under Section 17 & 18 of the Act, 2016 read with Rules 15 and 16 of the Rules, 2017, the promoter has an obligation to pay interest on the delayed possession on the amount deposited by the complainants at the rate prescribed. The respondent/promoter has neglected its part of obligations by failing to offer a legitimate and rightful possession of the flat in time. The complainants reserve their right to seek compensation from the promoter for which the complainants may make a separate application to the Adjudicating Officer, in case it is required.

C. Relief sought by the complainants:

4. The complainants have sought following reliefs:
 - a. Direct the respondent to pay delay possession charges and to execute conveyance deed.
 - b. Direct the respondent to pay legal expenses.
5. On the date of hearing, the Authority explained to the respondents/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.

6. The respondent put in appearance through Advocate and marked attendance on 07.08.2024, 18.09.2024, 23.10.2024, 04.12.2024 and 23.07.2025. Despite specific directions for filing of reply, it failed to comply with the orders of the Authority. It shows that the respondent was intentionally delaying the procedure of the court by avoiding filing of written reply. Therefore, in view of above, vide proceedings dated 23.07.2025, the defence of the respondent was struck off. However, in the interest of justice, vide proceedings dated 23.07.2025, the respondent was given a liberty to file written submissions within a period of two weeks, but the same has not been filed by it till date.
7. Copies of all the documents have been filed and placed on record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents as well as submissions made by the complainant.

D. 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.

D.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.

D.II. Subject matter jurisdiction

10. 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.

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.

E. Findings on the relief sought by the complainant.**E.I. Direct the respondent to pay delay possession charges and to execute conveyance deed.**

12. 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."

13. Clause 10(a) of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

"10(a). Construction of the flat is likely to be completed within a period of thirty six (36) months of commencement of construction of the particular block in which the flat is located, with a grace period of 6 months; on receipt of sanction of building plans/revised building plans and approvals of all concerned authorities including the Fire Service Department, Civil Aviation Department, Traffic Department, Pollution Control Department as may be required for commencing and carrying on construction subject to force majeure.....".

14. **Due date of possession and admissibility of grace period:** As per clause 10(a) of the agreement dated 07.06.2005, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months of commencement of construction of the particular block in which the flat is located plus 6 months of grace period. As per customer ledger at page 78 of the complaint read with payment plan available at page 58 of complaint, the date of commencement of construction was 15.04.2006. Given the fact that the grace period was unqualified, the same is allowed. Accordingly, in the present case, the due date of possession comes out to be 15.10.2009.

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

16. 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.
17. 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., 27.08.2025 is **8.85%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.85%**.
18. 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;"*
19. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **10.85%** by the respondent/promoter which is the same as is being granted to them in case of delay possession charges.

20. The original allottee i.e., Rakesh Gupta was allotted a unit bearing no. D6-304, admeasuring 2810 sq. ft. on the 3rd floor, Tower D6 in project of the respondent named "Parsvnath Exotica" at Sector-53, Gurugram vide flat buyer's agreement dated 07.06.2005. Thereafter, the original allottee sold the flat to complainants an agreement to sell was executed between them on 10.10.2011. The original allottee submitted a form with the respondent on 14.10.2011 for 'change of right to purchase the Flat No. D6-304 measuring 2810 square feet at Parsvnath Exotica at Sector 53, Gurugram, Haryana' in favour of the complainants and transfer the total paid amount of Rs.75,41,125/- for the said flat in name of the complainants. On receipt of the request from the original allottee to transfer the allotment of said flat to the complainants, the respondent got endorsed the said flat in favour of the complainants on 11.01.2012. The complainants continued to pay all the demands raised by the respondent as per the payment plan and paid Rs.1,03,62,424/- till Jan 2023. On 02.05.2015, the respondent issued a letter of offer of possession for fit-outs and a rebate of Rs.6,25,000/- was offered to the complainants for carrying out the remaining unfinished work at their own. The said offer was accepted by the complainants and the respondent vide certificate of possession dated 09.10.2016, handed over the possession of the unit for completing the said unfinished work. Thereafter, on receipt of Occupation Certificate of the Tower in question from the competent authority on 30.11.2022, the possession of the unit was offered to the complainants on 31.12.2022. The complainants vide present complaint are seeking delay possession charges and direction for execution of conveyance deed in their favour.

21. Considering the above-mentioned facts, 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 10(a) of the buyer's agreement, the possession of the subject apartment was to be delivered within stipulated time i.e., by 15.10.2009. However, the complainants herein are the subsequent allottees who had purchased the apartment from the original allottee on 11.01.2012 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, but 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 11.01.2012 when the subject unit was endorsed in their 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 endorsement dated 11.01.2012 i.e., date on which the complainants stepped into the shoes of the original allottee. As per the DTCP website, the occupation certificate was obtained by the respondent on 30.11.2022 and thereafter, the possession of the subject unit was offered to the complainants vide offer of possession letter dated 31.12.2022. Copies of the same have been placed on record. Thus, 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 07.06.2005. 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.

22. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent/promoter is established. As such, the allottees shall be paid by the promoter interest for every month of delay, from the date on which the complainants stepped into the shoes of the original allottee (date of endorsement) i.e., 11.01.2012 till the expiry of 2 months from the date of valid offer of possession (31.12.2022) which comes out to be 03.03.2023 at the prescribed rate i.e. 10.85% p.a. as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act.
23. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the respondent is under an obligation to get the conveyance deed executed in favour of the complainants/allottees. Whereas, as per section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question.
24. The possession of the subject unit has already been offered to the complainants after obtaining occupation certificate on 30.11.2022. Therefore, the respondent is directed to handover possession of the unit and to get the conveyance deed of the allotted unit executed in favour of the complainants in terms of Section 17(1) of the Act of 2016 within three months from the date of this order.

E.II. Direct the respondent to pay litigation charges.

25. 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 complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

F. Directions of the authority

26. 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 on the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the date of endorsement i.e., 11.01.2012 till the expiry of 2 months from the date of valid offer of possession (31.12.2022) which comes out to be 03.03.2023 as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act.
- ii. The arrears of such interest accrued from 11.01.2012 till the date of order by the Authority shall be paid by the respondent to the complainants 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 allottees before 10th of the subsequent month as per rule 16(2) of the Rules.

- iii. The respondent is directed to handover possession of the unit in question and execute conveyance deed in favour of the complainants in terms of Section 17(1) of the Act of 2016, within a period of three months.
 - iv. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement dated 07.06.2005.
 - v. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged 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 the allottees, in case of default i.e., the delay possession charges as per Section 2(z a) of the Act.
27. Complaint stands disposed of.
28. File be consigned to registry.



(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 27.08.2025