



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2555 of 2022
Date of filing:	21.09.2022
First date of hearing:	07.02.2023
Date of decision:	04.11.2025

Jasbir Singh S/o Dhara Singh
R/o V&P.O. Malikpur (138),
Jhajjar, Haryana 124106.

...COMPLAINANT

VERSUS

Ruhil Promoters Private Limited
Office at Ruhil Residency,
Sector-3, Village Sarai, Aurangabad,
Bahadurgarh, District Jhajjar, Haryana-124507

.....RESPONDENT

Present :- Adv. Naveen Single, Learned counsel for the Complainant through video conference
Adv. Navneet, Learned counsel for the Respondent through video conference

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaint was listed for hearing on 14.10.2025. However, due to the re-constitution of benches, complaint is taken up today for hearing.

2. Present complaint has been filed by the complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfill all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

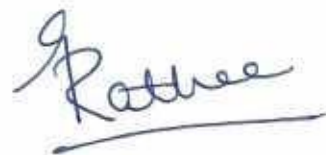
A. UNIT AND PROJECT RELATED DETAILS:

3. The particulars of the project, details of sale consideration, amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

Sr. No.	Particulars	Details
1.	Name of the project	Ruhil Residency, Sector-3, Bahadurgarh
2.	Nature of the project	Residential
3.	RERA Registered/not registered	Registered vide Registration No. 139 of 2017
4.	Details of Unit	Apartment no. D-204, 2 nd Floor,



		Block/Tower D-4 measuring super area of 1708 sq. ft.
5.	Date of allotment	18.01.2013
6.	Date of Builder/ Apartment Buyer Agreement	21.01.2013
7.	Possession clause in BBA (Clause 9.i)	<i>"Subject to force majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs etc., the Developer proposes to complete the construction within a period of 36 months from the date of execution of this agreement with grace period of 180 days under normal circumstances."</i>
8.	Due date of possession	21.07.2016
9.	Total sale consideration	₹51,09,260/-
10.	Amount paid by complainant	₹49,96,500/-
11.	Whether occupation certificate received or not.	Occupation certificate received on 17.03.2022
12.	Date of Handing over possession/Possession certificate	07.10.2024



B. FACTS OF THE PRESENT CASE AS STATED BY THE COMPLAINANT IN THE COMPLAINT:

4. That the Complainant, seeking to purchase a residential unit for personal use, came across various luring advertisements and promotional campaigns floated by the respondent company, projecting itself as a renowned and reputed developer in the region. The respondent's officials and representatives assured the complainant that the proposed project titled "*Ruhil Residency*", situated at Sector-3, Village Sarai Aurangabad, Bahadurgarh, Haryana, would be completed within a period of three to four years.
5. Believing the representations and promises made by the respondent, the complainant applied for provisional allotment of a residential apartment in the said project and, at the time of initial booking, paid an amount of ₹14,50,000/- in cash (₹2,00,000/- on 16.10.2012 and ₹12,50,000/- on 17.10.2012) as booking amount. Subsequently, complainant paid an additional sum of ₹35,46,500/- on 17.01.2013 towards the purchase of the unit. All payments were duly acknowledged and receipts were issued by the Respondent. Copies of all payment receipts are annexed as Annexure P-1 (Colly).
6. That thereafter, on 18.01.2013, the respondent issued an allotment letter in favour of the complainant, allotting Apartment No. D-204, Second Floor, Block/Tower No. D-4, admeasuring approximately 1708 sq. ft. (super area) at a Basic Sale Price (BSP) of ₹2,545/- per sq. ft., plus other charges and ₹100/- per sq.



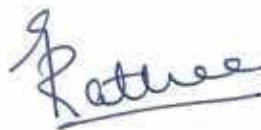
ft. as Preferential Location Charges (PLC), in the project "Ruhil Residency", Sector-3, Bahadurgarh. Copy of the allotment letter is annexed as Annexure P-2.

7. That an apartment buyer agreement was executed between the parties on 21.01.2013 annexed as Annexure P-3. Complainant paid an amount of ₹49,96,500/- against the total sale consideration of ₹51,09,260/- for the unit. The complainant has been prompt in making all payments as per demands raised and has always been ready and willing to pay the small remaining balance as and when possession is genuinely offered. Ledger issued by the respondent is annexed as Annexure P-4. As per clause 9(i) of the agreement, respondent had committed to deliver possession of the unit within 36 months along with a grace period of 180 days i.e., 42 months from the date of execution of the agreement, which comes to 21.07.2016. However, till date, no offer of possession has been made, and there is already a delay of more than six years beyond the stipulated period.

8. That the respondent issued a demand notice dated 16.06.2022, claiming a final demand of ₹80,38,269/-, showing only ₹14,81,666/- as received from the complainant instead of the actual amount of ₹49,96,500/- paid. The said demand was wrongfully enhanced and included unjustified charges such as ₹3,36,000/- towards additional cost of "staircase", which was never mentioned in the agreement. The demand is premature, arbitrary, and illegal since no offer of possession has been made. Demand Notice dated 16.06.2022 is annexed as Annexure P-5.



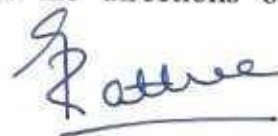
9. That the site condition of the project is deplorable. The project is far from completion even after more than 12 years from booking. Shockingly, the emergency iron staircase of the building collapsed on 23.05.2022 due to poor construction quality, posing grave safety risks to prospective residents. This incident clearly reveals gross negligence and deficiency in service on the part of the respondent. Photographs of the project site, complainant's flat (taken on 20.08.2022), and the fallen staircase (taken on 25.05.2022) are annexed as Annexure P-6 (Colly).
10. That the complainant also paid ₹40,000/- towards club membership charges; however, the respondent has not even commenced construction of the club facilities till date, further proving its failure to meet contractual and statutory obligations.
11. That despite receipt of almost the entire sale consideration and lapse of more than nine and a half years from the date of booking, and over six years from the due date of possession, the respondent has failed to deliver possession of the unit or offer any compensation for the delay. The cause of action is continuous and ongoing, as the respondent-promoter remains in default of its obligations. Hence, present complaint has been filed seeking possession of the flat along with delay interest from the due date of possession till actual handing over of physical possession along with other consequential reliefs as deemed appropriate by this Hon'ble Authority.



12. That vide application dated 06.03.2025, complainant had placed on record placing on record key handover allotment letter dated 07.10.2024, possession certificate dated 07.10.2024, car parking allotment letter dated 07.10.2024, fixtures allotment letter dated 07.10.2024 and certificate of acknowledgement of possession dated 07.10.2024.

13. The complainant has also filed written submissions on 25.08.2025 stating as under:

- i. The complainant had made a payment of ₹49,96,500/- to the respondent up to 17.01.2013 against the total sale consideration of 51,09,260/- which clearly establishes that respondent collected more than 95% of the sale consideration prior to execution of agreement for sale which was executed on 21.01.2013.
- ii. The respondent has raised unlawful demands towards maintenance charges, interest and staircase charges despite the fact that unit was incomplete.
- iii. During the hearing dated 02.08.2023, it was recorded in paragraph no. 2 of the order that the learned counsel for the respondent claimed that possession had been offered on 03.12.2022. The complainant, however, categorically denied having received any such offer. Through counsel, the complainant expressed readiness and willingness to take possession of the unit. The respondent's assertion is false, misleading, and factually incorrect, as the unit was not complete in all respects. If the unit had been ready for occupation, the respondent was duty-bound to comply with the directions of this Hon'ble



Authority and hand over possession, which it failed to do. Complainant even shared the address with the respondent for compliance of the order, still no offer was made.

iv. The possession was finally offered via email dated 21.09.2024 and complainant without any delay visited the flat and took the possession on 07.10.2024. Request has been made to pay delayed possession interest from 21.07.2017 till 07.10.2024.

C. RELIEF SOUGHT

14. That complainant seeks following relief and directions to the respondent: -

- i. To compensate the complainant for the delay in completion of the project and to pay compound interest @18% from the due date of delivery of possession till actual handing over of physical possession.
- ii. To direct the Respondent not to charge the complainant ₹3,36,000/- as additional cost of allotted flat staircase which is unreasonable & unjust.
- iii. To direct the concerned department for the financial audit of expenditure done by the respondent on the construction of said staircase for which the respondent unreasonably charged ₹3,36,000/- complainant.
- iv. To direct the respondent to deliver the possession of the flat unit as soon as possible & all the other promised facilities as per buyer's agreement &



return the ₹40,000/- which the respondent charged for the club membership as the construction of the said club has not done till date.

- v. The complaint may be allowed with costs and litigation expenses of ₹2,50,000/-.
- vi. Any other relief as this Hon'ble Authority may deem fit and appropriate in the facts and circumstances of the present case.

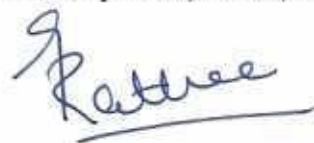
During the course of hearing, learned counsel for the complainant reiterated the averments made in the complaint and further submitted that the complainant took possession of the flat on 07.10.2024 while the present complaint was still pending before this Authority and documents in this regard were filed with the Authority on 06.03.2025. Hence, all issues related to receivable and payable amounts are to be decided by the Authority.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 24.03.2025 pleading therein:

15. That the complaint is not maintainable on account of relief sought by the complainant as the primary relief claimed is of compensation and hence Authority has no jurisdiction to adjudicate said matter and same is liable to be dismissed.

16. That no agreement as referred to under the provisions of RERA Act, 2016 and Haryana Real Estate (Regulation and Development) rules, 2017 has



been executed between the respondent company and the complainant. Rather, the agreement that has been referred to for the purpose of getting adjudication of the complaint is the apartment buyer agreement executed much prior to coming into force of 2016 Act.

17. That the complainant had booked a unit in the project of the respondent namely 'RUHIL RESIDENCY' situated at Sector-3, Sarai Aurangabad Village, Bahadurgarh, Distt. Jhajjar, Haryana-124507. Complainant was allotted apartment no. D-204, Second Floor, Block/Tower No. D-4 admeasuring super area 1708 sq. ft.

18. That the project of the respondent consists of two phases i.e. Phase I and Phase II. Phase I includes Tower A, B, C, D, EWS and commercial shops and Phase II includes Tower E, F, G, H, I, J and low rise and primary school. The construction of the entire project including both the phases has been completed and the occupation certificate has also been issued from the concerned department on 17.03.2022.

19. That the complainant is a chronic defaulter and has never adhered to the agreed payment plan opted by him and has consistently defaulted on his payment obligations. The respondent had completed the project despite non-payment by the complainant and several other allottees like him. The complainant was informed of the completion of the project and receipt of occupation certificate and also requested to clear the payment due against him



unit, but complainant never turned to clear the outstanding against her unit nor came forward to take possession.

20. That there was delay in construction of the project because of some circumstances which were beyond the control of the respondents. As per clause 9(vii) of the agreement, if there is delay due to reasons beyond the control of the developer then the allottee(s) do not have any right to claim the compensation of whatsoever nature. Moreover, the complainant himself agreed upon the terms of the agreement and also gave his full consent over such terms. For ease, clause 9(vii) is reproduced herein below:

"The developer as a result of such contingency arising reserves the right to alter or vary the terms and conditions of this agreement or if the circumstances beyond the control of the developer so warrant, the developer may suspend /abandon the project or any of its part for such period as it may consider expedient and the Allottee(s) agrees not to claim compensation of any nature whatsoever including the compensation stipulated in clause 9(iii) of this agreement during the period of suspension of the scheme".

21. That the construction of the said unit is complete and the respondent is ready to give the possession as the Occupation Certificate from the concerned department has been issued. It is further submitted that despite force majeure situations which were beyond the control, respondent was able to complete the unit.



22. That the complainant has not approached the Hon'ble Authority with clean hands and had not disclosed that the possession had already been offered to him vide letter dated 07.07.2022 but he had not come forward either to clear outstanding amount or to take possession of the unit in question. Rather he termed the demands as illegal. That the allegations of imposition of illegal charges are wholly baseless. As per clause 8(i) of the apartment buyer's agreement, the allottee expressly agreed that the developer is entitled to make revisions or modifications to the layout plan, building plan, or specifications as approved by the competent Authority and the same shall not give rise to any claim by the allottee. Hence, the contention of illegal charges or alterations is misconceived and untenable and the respondent has raised demands as per the apartment buyer agreement and the payment plan opted by the complainant. Complainant is only interested in getting wrongful enrichment in the form of interest and is not interest in taking possession. Hence, he is liable for breach of provision of Section 19(6), 19(7) and 19(10) of the RERA Act, 2016 and is accordingly, liable to pay interest and holding charges for delay in making payments. Request has been made that since the complainant has not approached the Authority with clean hands and concealed the important facts, present complaint needs to be dismissed with costs.

23. During the course of hearing, learned counsel for the respondent reiterated the averments made in the reply and further stated that an application



has been submitted in the Authority on 03.11.2025 to place on record the postal receipt of the letter dated 07.07.2022 wherein offer of possession was made to the complainant. She argued that complainant was duly offered possession on said date but he did not come forward to clear his dues and take the possession.

E. ISSUES FOR ADJUDICATION

1. Whether the complainant is entitled to relief of delayed possession charges?
2. Whether the complainant is liable to pay maintenance charges, staircase charges, club charges?

F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

24. Facts set out in the preceding paragraph demonstrate that the complainant booked an apartment bearing no. D-204, Second Floor, Block/Tower No. D-4 admeasuring super area 1708 sq. ft. in respondent's project i.e., "Ruhil Residency", Bahadurgarh" in the year 2012. An apartment buyer agreement was executed between the parties on 21.01.2013. Admittedly, an amount of ₹49,96,500/- has been paid against the total sale consideration of ₹51,09,260/- by the complainant in lieu of the booked unit till date.

25. The respondent has challenged the maintainability of the present case on the ground that the primary relief of the complainant is compensation. In this regard it is observed that the relief clause bearing no. (i) reads as follows:



"To compensate the complainant for the delay in completion of the project and to pay compound interest @18% from the due date of delivery of possession till actual handing over of physical possession."

Drawing an inference from the language of the complaint and said relief clause, it can be safely assumed that the complainant is seeking relief of payment of delay interest for the delay cause in completion of the project and not otherwise. Said clause has to be harmoniously read with the complaint. Mere use of the word compensate would not change the actual relief of delayed possession charges sought by the complainant. Moreover, the complainant is seeking relief of compensation along with compound interest @18% from due date of delivery of possession till actual handing over of physical possession. Meaning thereby that the complainant has sought two parallel remedies i.e. compensation and interest. Therefore, plea of the respondent is not tenable and the Authority has complete subject matter jurisdiction to adjudicate upon the complaint/relief claimed.

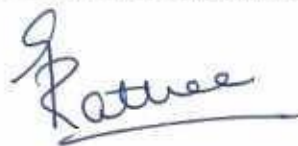
26. Another averment of the respondent is that provisions of the RERA Act of 2016 will not apply on the agreements executed prior to coming into force of RERA Act, 2016. Accordingly, respondent has argued that relationship of builder and buyer in this case will be regulated by the agreement previously executed between them and the same cannot be examined under the provisions of RERA Act. In this regard, Authority observes that after coming into force



the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in complaint no. 113 of 2018 titled as **Madhu Sareen v/s BPTP Ltd** decided on 16.07.2018. Relevant part of the order is being reproduced below:

"The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller."

Further, as per recent judgement of Hon'ble Supreme court in **Newtech Promoters and Developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021** it has already been held that the projects in which completion certificate has not



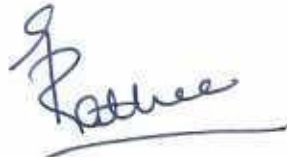
been granted by the competent Authority on the date of commencement of the Act, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act, 2016 shall be applicable to such real estate projects, furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder, therefore this Authority has complete jurisdiction to entertain the captioned complaint.

27. Proceeding on merits, Authority observes that execution of floor buyer agreement is admitted by the respondent. Said agreement is binding upon the parties. As such, the respondent was under an obligation to hand over possession as stipulated in the agreement. Complainant in his complaint alleged that possession was not handed over by respondent till the date of filing of this complaint. However, during the course of the hearings, it was brought to the notice of the Authority that physical possession has been handed over to the complainant on 07.10.2024 and the only issue which is left to be adjudicated is with regard to receivable and payable amounts. Authority observes that as per clause 9(i) of apartment buyer agreement executed between the parties, possession of the unit should have been delivered within a period of 36 months along with grace period of 6 months i.e. by 21.07.2016. However, respondent has failed to deliver possession of the booked unit within the stipulated time



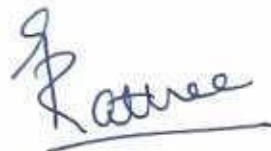
period. Respondent has attributed this delay in delivery of possession to force majeure conditions i.e situations beyond his control but no specific reasons causing delay in the construction of the project have been mentioned by the respondent. There is no document placed on record by respondent to show or to prove that any force majeure condition occurred or existed during the 42 months' period from execution of agreement for sale that could have contributed to any delay in completion of construction and handing over of possession. Hence, it was an obligation on the respondent to hand over the possession of the unit by 21.07.2016.

28. Complainant in his complaint alleged that possession has not been offered by respondent till date whereas respondent has claimed that complainant was informed about the completion of the project and receipt of OC and offer of possession of possession was made to him on 07.07.2022, however complainant has refused to receive the same. Respondent has averred that complainant was requested to take possession and to clear outstanding dues, however the complainant did not turn either to make payment or to take possession of the unit in question. In this regard it is observed that respondent vide application dated 03.11.2025 has placed on record postal receipt dated 07.07.2022 which proves that the letter dated 07.07.2022 (offer of possession) was duly sent to the complainant. Complainant on the other hand disputes that pin code on which said letter has been sent does not belong to him and it has

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been sent on wrong pin code. While going through the documents on records, it is observed that the complainant has himself placed on record a letter dated 16.06.2022 which is a provisional demand letter sent by respondent to complainant on the same address with same pin code which was duly received by him. In light of this document, it can be safely presumed that letter dated 07.07.2022 was also duly delivered to him as it was sent on the same address. Hence, argument of the complainant that offer of possession dated 07.07.2022 was never received by him as pin code was wrong cannot be accepted and it is observed that valid offer of possession was made to the complainant on 07.07.2022. Therefore, 07.07.2022 is considered as the date for deciding rights and obligations of both parties.

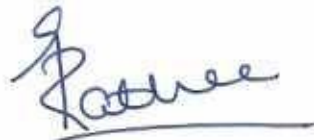
29. Complainant in his complaint is primarily seeking interest for delay caused in handing over the possession of the flat. On the other hand respondent has averred that complainant was offered possession on 07.07.2022, however it is the complainant who has failed to accept the possession and make remaining payment and is therefore liable for breach of provision of Section 19(6), 19(7) and 19(10) of the RERA Act, 2016 and resultantly cannot seek relief under RERA. Authority observes that Sections 19(6), 19(7) and 19(10) impose obligations on the buyer to make timely payments and take possession when the promoter issues a notice of possession. In the present case, the complainant opted for construction linked plan and made maximum payment (more than



95%) till 2013. The remaining was to be made on the start of internal fittings and offer of possession which was due on 21.07.2016. However, the respondent did not complete the project as per agreed timelines and offer the possession on due date and hence post due date of possession complainant was not obligated to make further payments unless the possession of the unit was offered to him. Hence, there is no default on the complainant's part. Therefore, the respondents claim that the complainant is not entitled to relief under RERA is unsustainable.

Under RERA Act, 2016 the promoter is responsible for completing the project on time and obtain all necessary approvals. In the present case, respondent had promised to deliver possession latest by 21.07.2016. This implies that the project should have been completed by that date, and the respondent should have applied for and obtained the Occupation Certificate (OC) from the competent authority to ensure timely possession. However, the respondent only received the Occupation Certificate on 17.03.2022, which was more than five years after the due date of possession. Failure to meet these obligations allows the buyer to seek relief under RERA, such as interest for delays or even refund with interest.

30. As discussed earlier as per clause 9(i) of apartment buyer agreement executed between the parties, possession of the unit should have been delivered by 21.07.2016, however, offer of possession of the flat was made to the complainant on 07.07.2022 i.e. after a delay of more than six years.



Hence, complainant is entitled to delay possession interest from the period 21.07.2016 i.e., due date of possession till the date of offer of possession i.e 07.07.2022. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

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;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: "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 (NCLR) 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”.

31. Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date of order i.e., 04.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.85%.

32. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which on date 04.11.2025 works out to 10.85% from the due date of possession i.e. 21.07.2016 till the date of offer of possession i.e. 07.07.2022.

33. Authority has got calculated the interest on total paid amount from due date of possession or date of payment (whichever is later) till the date of offer of possession i.e. 07.07.2022 and same is depicted in the table below:

Sr. No.	Principal Amount (in ₹)	Due date of possession or date of payment whichever is later	Interest accrued till offer of possession i.e 07.07.2022 (in ₹)
1.	49,96,500/-	21.07.2016	32,34,898/-
Total =	49,96,500/-		32,34,898/-

[Signature]

34. It is further observed that the complainant had filed the present complaint on 21.09.2022 i.e. after 2 and half months of offer of possession only, claiming valid offer of possession and quashing of illegal demands. Accordingly rights of parties stands frozen as on 07.07.2022, therefore respondent shall not charge complainant any interest for non acceptance of possession with effect from 07.07.2022 till date of acceptance of physical possession i.e. on 07.10.2024.

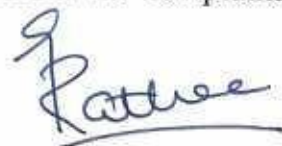
35. Further, by way of present complaint, complainant has alleged that respondent has illegally raised demand on account of staircase charges, maintenance charges, club charges and interest and has prayed that respondent be directed not to charge the same. The Authority has gone through the averments of the parties and documents available on record and observes as under:

a) The complainant has alleged that the respondent has illegally charged ₹3,36,000/- as additional cost of allotted flat staircase which is unjust and unreasonable as it was not mentioned in BBA. In this regard, it is observed by the Authority that charges raised under 'staircase charges' are for construction of additional staircase for emergency fire safety as per directions by Fire Safety Department. Since the demand on account of staircase charges has been proportionately charged from the complainant, therefore the complainant is liable to pay the same. Authority in complaint no. 607 of 2018 titled as 'Vivek Kadyan Vs TDI Infrastructure Ltd.' has already laid down the



principle for calculation of fire exit stair case and same is applicable in this case as well.

- b) The complainant has also alleged that the respondent has charged maintenance charges which is unjust and illegal. With regard to maintenance charges, it is observed that according to clause 1(viii) of the apartment buyer agreement, the complainant has agreed to pay demand raised on account of maintenance charges, therefore the complainant is liable to pay the same. As per clause 11(iii) of the flat buyer agreement, the date of commencement of maintenance shall be intimated by the developer to the allottees and the maintenance charges will be reckoned from that date. In the present circumstances, the valid offer of possession after receiving OC was sent to the complainant on 07.07.2022 and accordingly he is liable to pay maintenance charges from said date.
- c) The complainant has prayed that amount collected on account of club charges be refunded as there is no club in existence at site. In this regard, it is observed that club charges can only be levied when the club facility is physically located within the project and is fully operational. Complainant has submitted that the proposed club has not been constructed till date. Respondent has not placed any document/photograph to negate the claim of the complainant. Respondent is entitled to charge club membership charges only after the club at the site becomes functional and the complainant is able



to make use of it. Since at present the club is not there, respondent cannot raise demand on account of club membership charges.

Complainant is seeking refund of club charges, however it has not been mentioned as to when and how much amount has been paid as club charges and no document in support thereof has been attached. However, if any amount for club has been paid by the complainant, it shall be refunded back to him with prescribed rate of interest.

d) Complainant is also seeking direction to the concerned department for financial audit of expenditure done by respondent on the construction of staircase. However, said relief is neither part of the pleadings nor pressed upon by the complainant during hearing. Hence, no observation is made in this regard.

36. Complainant is also seeking compensation, costs and litigation expenses of ₹2,50,000/-. In this regard it is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "**M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors.**" has 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 learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to



deal with the complaint in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses and compensation.

37. It is pertinent to highlight that in the present case in hand, the entire payment i.e of ₹49,96,500/- has been made in cash (as per receipts attached as Annexure P-1 and apartment buyer agreement annexed as Annexure P-3) by the complainant to the respondent. With regard to cash payment of more than ₹2,00,000/-, Hon'ble Supreme Court in the Civil Appeal No. 5200 of 2025 titled **"The Correspondence, RBANMS Educational Institution versus B. Gunashekhar & Another"**, has passed important directions. Relevant part of judgement is reproduced as below:

"18.1. Further, through the averments made in the plaint and agreement, the respondents/plaintiffs have claimed to pertinent have paid huge sum towards consideration by cash. It is was to recall that Section 269ST of the Income Tax Act, transactions introduced to curb black money by digitalising the above Rs.2,00,000/- and contemplating amount equal the said of penalty under Section 271DA of the Act. As per However, provisions, action is to be taken on the recipient. there is also an onus on the plaintiff's to disclose their source for such huge cash. The Central Government thought it fit to cap the cash transactions and move forwards towards digital economy to curb the dark economy which has a drastic effect on the economy of the country. It will be useful to refer to the Budget Speech during the introduction of the Finance Bill, 2017 and the extract of the memo presented with the Finance Bill, 2017, which lay down the object:

Budget Speech:

"VII. DIGITAL ECONOMY



111. Promotion of a digital economy is an integral part of Government's strategy to clean the system and weed out corruption and black money. It has a transformative impact in terms of greater formalisation of the economy and mainstreaming of financial savings into the banking system. This, in turn, is expected to energise private investment in the country through lower cost of credit. India is now on the cusp of a massive digital revolution.

.....

Promoting Digital Economy

162. The Special Investigation Team (SIT) set up by the Government for black money has suggested that no transaction above Rs.3 lakh should be permitted in cash. The Government has decided to accept this proposal. Suitable amendment to the Income-tax Act is proposed in the Finance Bill for enforcing this decision."

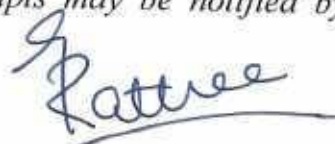
Extract from Memo of Finance Bill, 2017

"Restriction on cash transactions In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a source crunch for its various welfare programmes. Black money is generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash.

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of three lakh rupees or more,-

- (a) in aggregate from a person in a day;
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is further proposed to provide that the said restriction shall not apply to Government, any banking company, post office, savings bank or co-operative bank. Further, it is proposed that such other persons or class of persons or receipts may be notified by the



Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply. Transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section. It is also proposed to insert new section 271DA in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST. The penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.

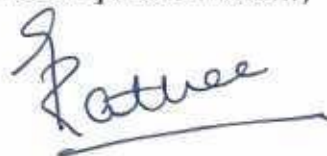
It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of one per cent. of sale consideration on cash sale of jewellery exceeding five lakh rupees.

These amendments will take effect from 1st April 2017."

However, when the Bill was passed, the permissible limit was capped under Rupees Two Lakhs, instead of the proposed Rupees Three Lakhs. When a suit is filed claiming Rs.75,00,000/- paid by cash, not only does it create a suspicion on the transaction, but also displays a violation of law. Though the amendment has come into effect from 01.04.2017, we find from the present litigation that the same has not brought the desired change. When there is a law in place, the same has to be enforced. Most times, such transactions go unnoticed or not brought to the knowledge of the income tax authorities. It is settled position that ignorance in fact is excusable but not the ignorance in law. Therefore, we deem it necessary to issue the following directions:

(A) Whenever, a suit is filed with a claim that Rs. 2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any,

(B) Whenever, any such information is received either from the court or otherwise, the Jurisdictional Income Tax authority shall take appropriate steps by following the due process in law,



(C) Whenever, a sum of Rs. 2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for the jurisdictional Sub-Registrar the same to shall intimate the jurisdictional shall follow the Income Tax Authority who shall follow the due process in law before taking any action.

(D) Whenever, due process in law before taking any action, Authority it comes to the knowledge of any Income Tax paid by way that a sum of Rs. 2,00,000/- or above has been of consideration in any transaction any immovable relating to the course property from any other source or during of search or assessment proceedings, of the failure knowledge the registering authority shall be brought to the initiating of the Chief Secretary of the State/UT for officer who appropriate failed disciplinary action against such to intimate the transactions.

In compliance of the directions of Hon'ble Supreme Court in the above judgment, this Authority directs the office of Authority to send a copy of this order to Director General Investigation, Sector 17, Chandigarh for intimation.

G. DIRECTIONS OF THE AUTHORITY

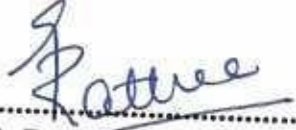
38. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to pay upfront delay interest of ₹32,34,898/- to the complainant towards delay already caused in handing over the possession.



- (ii) A period of 90 days is given to the respondents to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.
- (iii) Complainant will remain liable to pay balance consideration amount as per observations made in Para no. 34 of this order. Complainant will also be liable to pay interest at the prescribed rate for delay, if any.
- (iv) The respondent shall not charge anything from the complainant which is not part of the agreement to sell.
- (v) Respondent shall not charge any interest for non acceptance of possession from 07.07.2022 to 07.10.2024.

Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.


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DR. GEETA RATHEE SINGH
[MEMBER]