

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

Complaint no. :	4118 of 2024
Date of filing of complaint:	22.08.2024
Date of decision:	12.09.2025

Sanjay Agarwal

Residence of: C-87, Surya Nagar, Ghaziabad 201011,
Uttar Pradesh

Complainant

Versus

1. M/s Ramprastha Developers Pvt Ltd
2. M/s Ramprastha Promoters Pvt Ltd

Address: Plot No 114, Sector 44, Gurugram, Haryana

Respondents

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Harshit Batra (Advocate)

Complainant

Ms. Mirnal Dave (Advocate)

Respondent

ORDER

1. The present complaint dated 22.08.2024 has been filed by the complainant under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale executed inter se.

A. Project and unit related details

2. The particulars of the project, the details of sale consideration, the amount paid by the 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.	Project Name and Location	Ramprastha City Sector-37C & D Gurugram
2.	Project area	105.402 acres
3.	Nature of the project	Plotted colony
4.	DTCP license no. and other details	128 OF 2012 dated 28.12.2012 valid upto 27.12.2025
6.	Allotment letter	05.10.2015
7.	Unit no.	B-97
8.	Unit area	250 Sq. yards.
9.	Builder buyer agreement executed on	03.11.2015
10.	Possession clause	<p>Clause 11 Schedule for possession</p> <p><i>The Company shall endeavour to offer possession of the said plot within 30 months with another grace period of 6 months from the date of execution of this agreement subject to timely payment by the intending allotted of total price stamp duty registration, charges and any other charges due and payable according to the payment plan.</i></p>
11.	Due date of possession	03.11.2018

		[6 months Grace period is allowed as unconditional]
12.	Total sale price of the flat	Rs. 29,00,000/-
13.	Amount paid by the complainant	Rs. 24,00,000/-
14.	Occupation certificate	N/A
15.	Offer of possession	N/A

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:

- That the Complainant, Mr. Sanjay Agarwal, is a peace-loving and law-abiding citizen who, acting in utmost good faith and relying upon the assurances, representations and promises of the Respondent, purchased the Unit described hereinbelow. Accordingly, the Complainant squarely falls within the definition of an "*allottee*" under Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 ("the Act").
- That in or around 2006, the Respondent projected itself as a leading real estate developer with multiple high-value projects and assured prospective allottees—including the Complainant—of high returns, timely procurement of licenses/approvals from competent authorities, completion of development works within stipulated time, and delivery of possession without delay.
- That through its authorised representatives, the Respondent aggressively advertised and induced members of the public to invest by portraying that plots in its project were selling rapidly

due to their purportedly high future potential. The Complainant was made to believe that immediate booking was necessary to avoid losing the opportunity.

- iv. That relying on these representations and assurances, the Complainant registered for Plot No. B-97, admeasuring 250 sq. yards ("the Unit"), in the Respondent's project situated at Sector 92, 93 & 95 and Sector 37-C & 37-D, under License Nos. 44/2010 and 128/2018 issued by DCP, Haryana. The Complainant accordingly paid a sum of Rs. 10,00,000/- through Cheque Nos. 727193 and 727194 dated 01.06.2006 and 27.06.2006 respectively, drawn on Punjab National Bank. Receipt No. 64 dated 22.06.2006 acknowledging the said payment was issued by the Respondent.
- v. That the Respondent repeatedly assured the Complainant that allotment would be issued shortly. However, despite numerous visits made by the Complainant, the Respondent intentionally and deliberately withheld and delayed the issuance of allotment.
- vi. That after an unjustified delay of approximately seven (7) years, the Respondent finally issued an Allotment Letter dated 05.10.2015 in favour of the Complainant for Plot No. B-97 ad-measuring 250 sq. yards in Ramprastha City, Sector 37-C and 37-D, Gurgaon, Haryana.
- vii. That subsequently, the Complainant and Respondent executed the Plot Buyer's Agreement ("PBA") on 03.11.2015. That the Complainant duly paid all amounts demanded by the Respondent, save for the final instalment of Rs. 5,00,000/- payable at the time of intimation of possession. That the Respondent's grand assurances regarding development progress, procurement of

statutory licenses, and timely delivery of possession were false, misleading, and made with the sole intent to misappropriate funds from innocent purchasers including the Complainant.

- viii. That despite 16 years having elapsed from the date of booking, the Respondent has unjustly enjoyed and utilized the Complainant's hard-earned money while failing to fulfil its obligations. The Respondent has breached the assurances, promises and warranties in an unlawful and fraudulent manner. That the Respondent has caused wrongful gain to itself and corresponding wrongful loss to the Complainant, who acted bona fide and was induced by fraudulent and deceptive representations of the Respondent. That by its conduct, the Respondent has violated multiple provisions of the Act and acted in an illegal, arbitrary and mala fide manner.
- ix. That the Complainant duly paid all instalments as demanded by the Respondent. The Respondent was obligated to execute the Agreement to Sell and deliver possession within a reasonable period; however, the Respondent executed the PBA only on 03.11.2015, after an unjustified delay of seven years from the date of booking. That under Clause 11 of the Plot Buyer's Agreement, possession was to be offered within 30 months with an additional grace period of 6 months from the date of execution of the Agreement. Thus, the due date for possession was 03.11.2018. However, till date, no offer of possession has been made, nor has possession been handed over.
- x. That despite the Complainant fulfilling all obligations, the Respondent has failed to complete development works and offer

possession within the stipulated or even a reasonable period. This inordinate delay constitutes gross deficiency of service and unfair trade practice. That there is now a delay of nearly six (6) years beyond the contractual deadline, with no valid justification or compensation offered. The Respondent's conduct has caused severe harassment, financial loss, and mental agony to the Complainant. That the Complainant issued a Legal Notice dated 12.07.2023 requesting a timeline for possession; however, the Respondent failed to reply or take corrective action, thereby further demonstrating its negligent and unlawful conduct.

C. The complainant is seeking the following relief:

4. The complainant has sought following relief(s):
 - a. Direct the respondent to deliver the physical possession of the unit along with delay possession charges.
5. The present complaint was filed on 22.08.2024 in the Authority. That the Respondents have failed to file its written statement/reply despite being granted sufficient opportunities. Advocate Mirnal Dave appeared on behalf of the Respondent on 12.09.2025. The Respondents were previously granted opportunities to file its defence on 06.12.2024, 07.03.2025 and on again 02.05.2025. However, no reply has been filed till date. Accordingly, the right of the Respondents to file its defence is hereby struck off.
6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainant. The case now proceed on merits shall based on the complainant submission.

E. Jurisdiction of the authority

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

E. I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District, therefore this authority has completed territorial jurisdiction to deal with the present complaint.

E. II Subject-matter jurisdiction

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

Section 11

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

10. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation

which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the relief sought by the complainants.

F.I Direct the respondent to deliver the physical possession of the unit along with delay possession charges.

11. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

12. Clause 11 of the buyer's agreement provides for time period for handing over of possession and is reproduced below:

Clause 11 Schedule for possession

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

(Emphasis Supplied)

13. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges at the prescribed rate. Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at

such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:*

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

14. The legislature in its wisdom in the subordinate legislation under rule 15 of the rules has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
15. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 12.09.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
16. **Rate of interest to be paid by the complainant in case of delay in making payments-** The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.—For the purpose of this clause—

- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;”*

17. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondents/ promoters which is the same as is being granted to the complainant in case of delayed possession charges.
18. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 11 of the apartment buyer's agreement executed between the parties on 03.11.2015, the possession of the subject apartment was to be delivered by 03.11.2018. Moreover, the Authority observes that the Respondents have not obtained the Occupation Certificate (OC) till date. Hence, this project is to be treated as on-going project, and the provisions of the Act shall be applicable equally to the builder as well as allottee.
19. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from the due date i.e. 03.11.2018 till the valid offer of possession plus 2 months after obtaining

occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules. Furthermore, the Promoters are hereby directed to deliver physical possession of the subject unit, complete in all respects and strictly in accordance with the specifications set forth in the Builder-Buyer Agreement, immediately upon obtaining the Occupation Certificate from the competent authority.

H. Directions of the Authority

20. Hence, the authority hereby passes this order and issue 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 respondents are directed to pay delayed possession charges at the prescribed rate of interest @10.85% p.a. for every month of delay from the due date of possession i.e., 03.11.2018 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of the unit, whichever is earlier, as per section 18(1) of the Act of 2016 read with under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017.
 - ii. The arrears of such interest accrued from 03.11.2018 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.

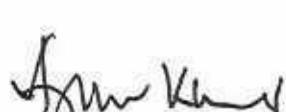
iii. The respondents are hereby directed to deliver physical possession of the subject unit, complete in all respects and strictly in accordance with the specifications set forth in the Builder-Buyer Agreement, immediately upon obtaining the Occupation Certificate from the competent authority and to get the conveyance deed executed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

iv. The complainant is also directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. 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 delayed possession charges as per section 2(za) of the Act.

V. The respondents are also directed not to charge anything which is not part of builder buyer's agreement.

21. Complaint as well as applications, if any stands disposed of accordingly.

22. File be consigned to registry.


(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 12.09.2025