

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

Date of Decision:

12.09.2025

NAME OF THE BUILDER		M/s Renuka Traders Private Limited
S. No.	Case No.	Case title
1.	6411 of 2024	Manish Srivastava Vs. Renuka Traders Pvt. Ltd.
2.	6470 of 2024	Kirti Maurya and Arvind Kumar Patel Vs. Renuka Traders Pvt. Ltd.

CORAM:

Shri Arun Kumar	Chairman
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APPEARANCE:

Sh. Kanish Bangia	Advocate for the complainant
Sh. Shubham Mishra	Advocate for the respondent

ORDER

1. The above complaints have been filed by the complainant/allottee 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 there under or to the allottees as per the agreement for sale executed *inter se*.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Aashiyara" situated at Sector-37C, Gurugram being developed by the

respondent/promoter i.e., Renuka Traders Private Limited. The issue involved in both cases pertains to failure on the part of the promoter to deliver timely possession of the units in question and the complainants are seeking possession and delay possession charges at prescribed rate of interest and other related reliefs.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Sr. No	Complain t No., Case Title, and Date of filing of complain t	Reply statu s	Unit No.	Date of execut ion of agree ment for sale	Due date of possess ion, offer of possess ion	Total Considerati on / Total Amount paid by the complainan ts (In Rs.)	Relief Sought
1.	CR/6411/ 2024 Case titled as Manish Srivastava VS Renuka Traders Private Limited D.O.F: 22.01.2025	Reply receiv ed on 23.05. 2025	406, 10 th floor, T- T10, 2BHK Area: 578.5 54 sq. ft	09.07.2 019	31.07.20 23 (as per possessi on clause includin g extensio n of 6 months in lieu of Covid) Offer of possess ion: not offered OC not receive d	TSC: - /- AP: - Rs.24,77,256 /-	1.Direct the respondent to hand over the possession of the apartment, along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.

2. It is most respectfully prayed that the Authority be pleased to order the respondent not to charge anything which is not the part of the payment plan as agreed upon.

3. It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit.

4. Direct the respondent to get the conveyance deed executed without raising illegal demands from the complainant.

5. Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications.

6. Direct the respondent to replace the

								internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall. 7. Direct the respondent to provide sliding doors in the balcony. 8. Direct the respondent to provide RCC chajja on the top floor buildings. 9. Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as per approved drawings, submitted at HRERA form REP-PART H. 10. Direct the respondent to specify whether they are providing parking as per the amendment in the Affordable Housing Policy.
2.	CR/6470/2024 Kirti Maurya	Reply received on Kirti Maurya	605, 7 th floor, T-T7, 2BHK	18.03.2020	31.07.2023 (as per possession)	TSC: - Rs.22,34,014/- AP: -		1. Direct the respondent to hand over the possession of the apartment,

	and Arvind Kumar Patel V/s Renuka Traders Pvt. Ltd.	30.05. 2025	Area: 548.9 21 sq. ft.	clause includin g extensio n of 6 months in lieu of Covid)	Rs.23,46,392 /-	<p>along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.</p> <p>2. It is most respectfully prayed that the Authority be pleased to order the respondent not to charge anything which not the part of the payment plan as agreed upon.</p> <p>3. It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit.</p> <p>4. Direct the respondent to get the conveyance</p>
	Date of Filing of complaint	- 21.01.202 5		Offer of possess ion: not offered		

								deed executed without raising illegal demands from the complainant. 5. Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications. 6. Direct the respondent to replace the internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall. 7. Direct the respondent to provide sliding doors in the balcony. 8. Direct the respondent to provide RCC chajja on the top floor buildings. 9. Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as
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							per approved drawings, submitted at HRERA form REP-PART H.
							10. Direct the respondent to specify whether they are providing parking as per the amendment in the Affordable Housing Policy.

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviation Full form

TSC- Total Sale consideration
 AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed against the promoter on account of violation of the agreement to sell against allotment of units in the upcoming project of the respondent/builder and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges and other reliefs.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. Out of the above-mentioned cases, the particulars of case ***CR/6411/2024 titled as Manish Srivastava V/S Renuka Traders Pvt. Ltd.*** are being taken into consideration as lead case for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

A. Project and unit related details

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/6411/2024 titled as Manish Srivastava V/S Renuka Traders Pvt. Ltd.

Sr. No.	Particulars	Details
1.	Project Name and Location	Aashiyara, Sector-37 C Gurugram
2.	Project area	5 acres
3.	Nature of the project	Affordable group housing
4.	DTCP License no and validity status	15 of 2018 dated 13.02.2018 valid upto 12.02.2023
5.	RERA Registered/ not registered	26 of 2018 dated 28.11.2018 valid upto 31.01.2023
6.	Unit no.	406, 10 th floor, T-T10, 2BHK
7.	Unit area	578.554 sq. ft.
8.	Builder buyer agreement executed on	09.07.2019
9.	Possession clause 7.1	<p><i>Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023.</i></p> <p><i>The Promoter agrees and understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per</i></p>

		<p><i>agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above-mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement.</i></p>
10.	Due date of possession	31.07.2023 Note: - Grace period is allowed.
11.	Total sale price of the flat	Rs. 22,59,291/-
12.	Amount paid by the complainant	Rs. 24,77,256 /-
13.	Occupation certificate	N/A

14.	Offer of possession	N/A
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B. Facts of the complaint:

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

- That the marketing officials of the Respondent further represented to the Complainant that a site visit could be availed and, since the Respondent was well known for strictly adhering to timelines with complete dedication, the Complainant should not miss this "lifetime opportunity," as the booking window was stated to be closing within a few days.
- That the Complainant was compelled to sign a blank application form under assurances provided by the Respondent's personnel. Relying upon these assurances and representations, the Complainant agreed to purchase an apartment/unit in the Respondent's project, with the dream of owning a home therein.
- Accordingly, the Complainant booked Unit No. 406, Fourth Floor, Block/Tower T10, 2 BHK (Type-A), having a super area of 578.554 sq. ft. in the said project, and paid an amount of Rs. 1,17,970/- at the time of booking. The Respondent executed an Agreement for Sale dated 09.07.2019 with the Complainant in respect of the said unit.
- Despite making timely payments in response to every demand letter, the Complainant was hopeful of receiving possession of the apartment by the date stipulated in Clause 7.1 of the Agreement for Sale, i.e., on or before 31.01.2023. However, during regular site visits, the Complainant observed significant delays, as the construction was not progressing in accordance with the approved plan and timeline. Concerned by this, the Complainant

repeatedly raised the issue with the Respondent through personal visits, formal letters, and emails, seeking clarity on the delay.

- v. The Respondent, however, merely offered vague assurances that possession would be delivered as per the Agreement, without addressing the evident lack of progress at the site. Despite these repeated promises, the Respondent continuously failed and neglected to hand over possession within the agreed timeline, causing severe distress and frustration to the Complainant, who had acted in good faith.
- vi. The delay not only disrupted the Complainant's plans for accommodation but also imposed financial strain owing to the prolonged waiting period. Having lost all hope of receiving possession and interest for the delay—now more than two years beyond the committed date of 31.01.2023—the Complainant has been compelled to approach this Authority for redressal.
- vii. Though the Respondent's representatives repeatedly assured the Complainant that the matter would be addressed promptly, no actual steps were taken. Relying on such assurances, the Complainant waited patiently; however, the issue remains unresolved, causing continued inconvenience and uncertainty. The Complainant has made numerous attempts to highlight the issue to the Respondent through telephonic conversations and emails, but the Respondent failed to take any corrective action. This apathy has aggravated the situation, causing the Complainant substantial financial loss and mental harassment.
- viii. The Complainant has already paid a sum of Rs. 24,77,2556/-, which is more than 100% of the total sale consideration of Rs.

22,59,291/- The Respondent is therefore liable to compensate the Complainant for the monetary losses, mental agony, and harassment suffered, as per Section 12 of the RERA Act, 2016 and the rules framed thereunder. It is submitted that the Respondent is guilty of deficiency in service, unfair trade practices, making false statements and misrepresentations, and providing incorrect assurances while selling the said unit. Such conduct falls squarely within the ambit of the provisions of the RERA Act, 2016.

- ix. The Government of Haryana, through its Town and Country Planning Department, issued Gazette Notification dated 19th August 2013 No. PF-27/48921, introducing the *Affordable Housing Policy-2013* under Section 9A of the Haryana Development and Regulation of Urban Areas Act, 1975. This policy was intended to ensure timely completion of group housing projects with pre-defined unit sizes and pre-defined prices, within a prescribed timeframe, so as to increase the supply of affordable housing in the urban market. Although the Real Estate (Regulation and Development) Act, 2016 came into effect from 01.05.2016, the said Affordable Housing Policy continues to remain valid and enforceable, being a special policy for a specific objective. The provisions of the policy are not inconsistent with the RERA Act, 2016, nor have they been repealed by the legislature.
- x. It is evident that the Respondent deliberately delayed construction and misused the Complainant's hard-earned money, thereby causing financial and mental harassment. The delay was intentional, mala fide, and aimed at extracting additional funds from the Complainant. The definition of "Agreement for Sale," as

envisaged under the RERA Act, covers both pre-RERA and post-RERA agreements. The Complainant's claim is based squarely on the remedies available under Section 18 of the Act. Accordingly, the operation of these provisions cannot be restricted only to post-RERA agreements, and the Complainant is fully entitled to relief under the Act.

C. The complainant is seeking the following relief:

9. The complainant has sought following relief(s):

- a. Direct the respondent to hand over the possession of the apartment, along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.
- b. It is most respectfully prayed that the Authority be pleased to order the respondent not to charge anything which not the part of the payment plan as agreed upon.
- c. It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit.
- d. Direct the respondent to get the conveyance deed executed without raising illegal demands from the complainant.
- e. Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications.
- f. Direct the respondent to replace the internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall.
- g. Direct the respondent to provide sliding doors in the balcony.
- h. Direct the respondent to provide RCC chajja on the top floor buildings.

- i. Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as per approved drawings, submitted at HRERA form REP-PART H.
- j. Direct the respondent to specify as whether they are providing parking as per the amendment in the Affordable Housing Policy.

10. 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.

11. The respondent has contested the complaint on the following grounds.

- i. That the respondent was granted with the registration certificate for the subject project under section 5 of the RERA Act, on 28.11.2018, by the Haryana Real Estate Regulatory Authority in pursuant to a development of the affordable group housing project namely "AASHIYARA". The said registration is valid up to 29.07.2025, in accordance with the statutory timeline prescribed under the RERA Act.
- ii. That the present complaint arose out of an allotment made to the complainant under the said project which is governed and regulated as per the Affordable Housing Policy, 2013, notified by the Government of Haryana vide Notification No. PF-27/4821 dated 19.08.2013, and amended vide Memo No. ZP-1238/AD(RA)/2018/28705 dated 08.10.2018. The respondent, M/s Renuka Traders Pvt. Ltd., is the licensed promoter of an affordable group housing project titled "AASHIYARA", situated in Sector 37-C, Gurugram, and has undertaken the said development strictly in compliance with the policy framework, licensing conditions, and approvals granted by the competent authorities.

iii. That it is most pertinent to mention that the complainant, desiring to purchase a house, approached the respondent and after being fully aware of the nature, category, and regulatory regime governing the project, submitted an application form dated 17.12.2018, seeking allotment of a residential flat in the said project. In the said application, the complainant expressly acknowledged that they had independently confirmed the respondent's statutory permissions, including HARERA Registration No. 26 of 2018 dated 28.11.2018 and License No. 15 dated 13.02.2018 issued by the Director General, Town and Country Planning, Haryana, vide Endorsement No. LC-3014-PA(B)-2018/5969-80 dated 15.02.2018.

iv. That in pursuance to the application, the complainant was allotted a unit in T-10, Unit - 406 and were informed about the same vide letter dated 10.07.2019, wherein it was mentioned that the Complainant has been allotted the unit having area 578.554 sq. ft. for a total sale consideration amount of **Rs. 24,77,250/-**.

v. That the respondent, in compliance with the applicable provisions of RERA and the Affordable Housing Policy, 2013, made consistent efforts to ensure the timely execution of the Agreement to Sale. Consequently, the said Agreement was duly executed between the parties on 09.07.2019. It is respectfully submitted that the agreement clearly defines the rights and obligations of both parties. In particular, Clause 1.2 of the agreement stipulates that the total price of the unit is **Rs. 23,59,291/-**. It is pertinent to note that the complainant has paid a total sum of **Rs. 24,77,256/-**, which includes the applicable service tax. Therefore, the complainant's allegation that he has paid an amount exceeding the total sale consideration is not only incorrect but also amounts to a deliberate concealment of material facts. Such

misrepresentation appears to be a blatant attempt to mislead this Authority and must be viewed seriously. The complainant is liable to be penalized for making such false and misleading statements.

vi. That it is respectfully submitted that the complainant himself has failed to adhere to the timely payment schedule as stipulated under the agreement. The agreement between the parties is premised on a mutually enforceable understanding that timely disbursement of payments by the allottees is crucial for the uninterrupted and scheduled progress of construction activities. It is pertinent to note that even a short delay of a few months in payment by multiple allottees can severely affect the fund-flow necessary for the execution of an affordable housing project. Such projects are typically executed on a "no profit, no loss" or minimal margin basis, with financial planning intricately dependent on scheduled inflows from the allottees. Thus, any deviation from the agreed payment schedule causes a ripple effect on the working capital cycle and construction schedule of the entire project. In the present case, not only have the Complainants defaulted in making timely payments, but a number of other allottees have also failed to fulfill their respective financial obligations. These cumulative defaults have directly resulted in disruptions in the planned construction activities and have, from time to time, necessitated adjustments in the timelines originally envisaged. Therefore, in light of the foregoing, it is submitted that attributing the entirety of the delay in project completion solely to the Respondent Company is both factually erroneous and ethically untenable. The delays, in significant part, have been occasioned due to the complainants' and other allottees' own defaults, which

materially affected the respondent's ability to execute the project in accordance with the pre-determined schedule.

vii. That the respondent has scrupulously complied with all statutory conditions and has obtained all requisite approvals for the project. These include approval for building plans under License No. 15 of 2018 dated 13.02.2018, Environment Clearance from the State Environment Impact Assessment Authority, Haryana, vide Memo No. SEIAA/HR/2018/1105 dated 20.08.2018, and a Fire Safety Certificate for the residential towers exceeding 15 meters in height, issued by the Fire Services Department, Haryana, vide Memo No. FS/2024/1033 dated 26.09.2024.

viii. That, moreover, the respondent has also filed an application for occupancy certificate for towers 1 to 11 on 11.09.2024, duly acknowledged under seal by the Director, Town & Country Planning Department, Haryana, dated 16.09.2024, demonstrating the respondent's sincere efforts to achieve project completion in a lawful manner.

ix. That, instead of complying with his own obligations i.e., timely payment, execution of the Agreement, and conclusion of registry, the complainant has filed the present complaint before the authority, raising speculative and baseless demands, including unjustified claims for interest and arbitrary requests for structural modifications that are wholly alien to the Agreement and the Affordable Housing framework. The complaint is a clear attempt to mislead the Authority and to pressurize the Respondent into granting concessions that are not contractually or legally owed to them.

x. That the respondent, being a responsible and compliant promoter under the Affordable Housing Policy, 2013, has acted with complete

transparency, financial discipline, and adherence to regulatory norms, and continues to remain willing to hand over possession upon the complainant's full compliance. The present complaint, however, is not a *bonafide* grievance but a calculated litigation designed to bypass contractual obligations and to misuse the remedial jurisdiction of the Authority.

- xi. That the complainant has repeatedly defaulted in making timely payments as per the agreed payment schedule. While the complainant has selectively referred to the 'targeted timeframe' for project completion in the complaint, he has conveniently failed to disclose his own.
- xii. That the complainant has repeatedly defaulted in making timely payments as per the agreed payment schedule. While the complainant has selectively referred to the 'targeted timeframe' for project completion in the complaint, she has conveniently failed to disclose her own consistent delays in fulfilling financial obligations. The respondent raised multiple demands *vide* letters dated 10.6.2020, 23.06.2020 and 09.07.2020 at different intervals. However, the complainant chose to ignore the said demands and failed to make timely payments even after the demands.
- xiii. That it is respectfully submitted that the complainants themselves have failed to adhere to the timely payment schedule as stipulated under the Agreement. The agreement between the parties is premised on a mutually enforceable understanding that timely disbursement of payments by the allottees is crucial for the uninterrupted and scheduled progress of construction activities. It is pertinent to note that even a short delay of a few months in payment by multiple allottees can severely affect the fund-flow necessary for

the execution of an affordable housing project. Such projects are typically executed on a "no profit, no loss" or minimal margin basis, with financial planning intricately dependent on scheduled inflows from the allottees. Thus, any deviation from the agreed payment schedule causes a ripple effect on the working capital cycle and construction schedule of the entire project. In the present case, not only have the Complainants defaulted in making timely payments, but a number of other allottees have also failed to fulfill their respective financial obligations. These cumulative defaults have directly resulted in disruptions in the planned construction activities and have, from time to time, necessitated adjustments in the timelines originally envisaged. Therefore, in light of the foregoing, it is submitted that attributing the entirety of the delay in project completion solely to the Respondent Company is both factually erroneous and ethically untenable. The delays, in significant part, have been occasioned due to the complainants' and other allottees' own defaults, which materially affected the Respondent's ability to execute the project in accordance with the pre-determined schedule.

xiv. It is pertinent to mention that the complainant has not made any payment in a timely manner upon the issuance of demands, nor within the stipulated time prescribed under the payment schedule. It is further submitted that several other allottees have similarly defaulted in meeting their payment obligations, which has collectively hindered and delayed the progress of construction from time to time. In such circumstances, attributing the delays solely to the respondent is neither factually correct nor ethically justifiable.

12. 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

13. 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

14. 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

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

Section 11

.....
(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

16. 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 objection raised by the respondent in the application.

F.I Objection regarding force majeure conditions.

17. In this complaint the authority has gone through the possession clause of the agreement and observed that the promoter has proposed to hand over the possession of the subject unit on or before 31.01.2023. Therefore, the due date of possession comes out to be 31.01.2023. As per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As such the due date for handing over of possession comes out to 31.07.2023.

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to hand over the possession of the apartment, along with the amenities and specifications as promised in AFS in all completeness without any further delay and not to hold delivery of the possession for certain unwanted and illegitimate reasons and not to force to deliver an incomplete unit along with interest.

18. 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."

19. Clause 7.1 of the agreement for sale dated 09.07.2019 provides for handing over of possession and is reproduced below:

"Schedule for possession of the said Unit/ Apartment - is on or before 31-Jan-2023. The Promoter agrees and understands that timely delivery of possession of the Unit/ Apartment along with parking (if applicable) to the Allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. The Promoter assures to hand over possession of the Unit/ Apartment along with parking (if applicable) as per agreed terms and conditions unless there is delay due to "Force Majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee(s) agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit/ Apartment. The Allottee(s) agrees and confirms that, in the event it becomes impossible for the Promoter to implement the project due to Force Majeure and above-mentioned conditions, then this allotment shall stand terminated and the Promoter shall refund to the Allottee(s), the entire amount received by the Promoter from the Allottee(s) within ninety days. The promoter shall intimate the Allottee(s) about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee(s), the Allottee(s) agrees that he/ she shall not have any rights, claims etc. against the Promoter and that the Promoter shall be released and discharged from all its obligations and liabilities under this Agreement."

20. **Due date of handing over possession:** In the present case, the promoter has proposed to hand over the possession of the subject unit on or before 31.01.2023. Therefore, the due date of possession comes out to be 31.07.2023 including grace period of 6 months in lieu of Covid-19.

21. Admissibility of delay possession charges at 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.

22. 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.

23. 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%**.

24. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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;"*

25. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent /promoter which is the same as is being granted to the complainant in case of delayed possession charges.

26. 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 7.1 of the agreement for sale executed between the parties on 09.07.2019, the possession of the subject unit was to be delivered by 31.07.2023 including grace of 6 months in lieu of Covid. It is important to note that till date respondent-promoter has not obtained occupation certificate from the competent Authority. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 09.07.2019 to hand over the possession within the stipulated period.

27. 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 is established. As such, the complainant is entitled to delay possession charges at rate of the prescribed interest @10.85% p.a. w.e.f. 31.07.2023 till offer of possession plus 2 months or actual handing over of possession

after obtaining occupation certificate/ completion certificate from the competent authority or, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

F. II It is most respectfully prayed that the Authority be pleased to order the Respondent not to charge anything which not the part of the payment plan as agreed upon.

28. As per the provisions of the Act, 2016, a promoter is bound to adhere strictly to the terms and conditions agreed upon with the allottee. Any additional charges, which are not mentioned in the builder buyer agreement cannot be unilaterally imposed upon the allottee. Therefore, respondent-promoter is directed not to charge anything which is not part of buyer agreement.

F.III It is most respectfully prayed that the Authority be pleased to direct the respondent not to cancel the allotment of the complainant of the said unit.

29. As per the documents on record it is evident that the complainant has already paid more than the agreed sale consideration. It is important to note that till date the respondent has neither obtained occupation certificate nor offered possession to the complainant. In view of the above submissions and findings the respondent is directed not create any third-party rights nor cancel the allotment of the subject unit.

F. IV Direct the respondent to get the conveyance deed executed without raising illegal demands from the complainant.

30. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. The respondent is directed to get the conveyance deed of the allotted unit 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

F.V Direct the respondent to change the doors from MS ANGLE to wooden door frames and the main door shall be laminated from both sides as per the specifications.

F.VI Direct the respondent to replace the internal wall from Ash Bricks to 90mm RCC thick internal and 150mm thick external wall.

F.VII Direct the respondent to provide sliding doors in the balcony.

F.VIII Direct the respondent to provide RCC chajja on the top floor buildings.

F.IX Direct the respondent to use good quality material for the construction of the project and follow 100% of the construction as per approved drawings, submitted at HRERA form REP-PART H.

F.X Direct the respondent to specify as whether they are providing parking as per the amendment in the Affordable Housing Policy.

31. The above-mentioned reliefs no. F.V, F.VI, F.VII, F.VIII, F.IX and F.X as sought by the complainant is being taken together and these reliefs are interconnected.

32. In the present case, the demand to replace MS angle door frames with wooden door frames, substitute ash brick walls with RCC walls, provide sliding balcony doors, RCC chajjas, and appropriate parking as per the amended Affordable Housing Policy, all fall within the scope of construction quality, adherence to approved plans, and promised specifications. However, to date no occupancy certificate/completion certificate has been received from the competent Authority. The promoter is advised to adhere to the sanctioned building plan and the specifications provided in the buyer agreement as well as to comply with the Affordable Housing Policy. If there are any structural defects or other defects in workmanship, quality, or provision of services within five years from the date of possession, in such cases, as per Section 14(3) of the RERA Act, 2016, the promoter shall be liable to rectify such defects without further

charge, within 30 days of the intimation. If the promoter fails to do so, the allottee shall be entitled to appropriate compensation as provided under the Act.

G. Directions of the authority

33. 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):

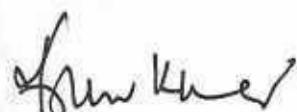
- i. The respondent is directed to pay interest to the complainants against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 31.07.2023 till offer of possession plus 2 months or actual handing over of possession after obtaining occupation certificate/ completion certificate from the competent authority.
- ii. The arrears of such interest accrued from 31.07.2023 till the date of order by the authority shall be paid by the respondent/promoter to the complainant 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 complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iv. The rate of interest chargeable from the allottee 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 Respondent is directed to hand over possession of the subject unit to the Complainant/Allottees, upon payment of outstanding dues, if any, after obtaining the Occupancy Certificate. The Respondent shall further ensure execution of the conveyance deed in respect of the allotted unit in favour of the Complainant, in terms of Section 17(1) of the Real Estate (Regulation and Development) Act, 2016, subject to payment of applicable stamp duty and registration charges.
- vi. The respondent shall not charge anything from the complainant which is not part of the agreement for sale dated 09.07.2019.
- vii. The respondent-promoter is not entitled to charge holding charges from the complainant-allottees at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 on 14.12.2020.

34. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

35. Complaint stands disposed of.

36. File be consigned to registry.



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.09.2025