

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

Complaint no.: 4988 of 2024
Date of filing of complaint: 04.11.2024
Date of decision: 30.10.2025

Shri Suneet Yadav

R/o: - S-902, Sispal Vihar, Sector-49, Gurugram- 122018,
Haryana

Complainant**Versus**

1. M/s Sunray Heights Private Limited
2. Shri Sushil Bedarwal
3. Shri Amrit Lal Bhardwaj
4. Shri Harish Bhatt

All having regd. office at: 211, 2nd floor, Ansal Bhawan, 16
Kasturba Gandhi Margh, New Delhi- 110001

Respondents**CORAM:**

Shri Phool Singh Saini

Member**APPEARANCE:**

Shri Karma S Bhutia (Advocate)

Shri Gagan Sharma (Advocate)

None

Complainant**Respondent no. 1****Respondent 2 to 4****ORDER**

1. The present complaint has 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 allottee as per the agreement for sale executed *inter se*.

A. Unit and project 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.	Name of the project	"Sixty-Three Golf Drive", Sector 63A Gurugram
2.	Nature of the project	Affordable group housing
3.	RERA registered or not registered	249 of 2017 dated 26.09.2017 valid up to 25.09.2022
4.	DTCP license	82 of 2014 dated 08.08.2014 valid up to 31.12.2023
5.	Unit no.	F-47, in tower-F (Page no. 43 of complaint)
6.	Unit admeasuring	613.31 sq. ft. (carpet area) 95.10 sq. ft. (balcony area) (Page no. 43 of complaint)
7.	Allotment Letter	30.06.2017 (Page no. 84 of complaint)
8.	Date of execution of Buyers agreement	03.03.2016 (As alleged by the complainant at page no. 5 of the complaint)
9.	Possession clause as per buyer's agreement	<p>4.1 <i>The Developer shall endeavor to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure & timely payments by the allottee towards the sale consideration, in accordance with the terms as stipulated in the present agreement.</i> <i>(page no. 33 of the complaint)</i></p> <p>*Note:- As per affordable housing policy 2013 <i>1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose</i></p>



		<i>of this policy. The licence shall not be renewed beyond the said 4 years from the date of commencement of project.</i>
10.	Date of approval of building plan	10.03.2015 (taken from the similar complaint of the same project being developed by the same promoter)
11.	Date of environment clearance	16.09.2016 (Page no. 66 of complaint)
12.	Due date of possession	16.03.2021 (16.09.2020 plus six months in lieu of covid-19) (calculated from the date of environment clearance)
13.	Total sale consideration	Rs.25,00,790/- (As per annexure-A, annexed with agreement to sell at page 43 of complaint)
14.	Amount paid by the complainant	Rs.22,76,731/- (91.04%) (As per receipt information at page 30 of the reply)
15.	Final reminder	27.08.2024, (Page no. 129 of complaint)
16.	Newspaper publication	16.10.2024 (Page no. 10 of the application dated 01.10.2025, filed by the respondent)
17.	Occupation certificate	31.12.2024 (Page no. 69 of reply)
18.	Offer of possession	Not on record

B. Facts of the complaint

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

- That the respondents who are the promoter/developer of one project "Sixty-Three Golf Drive", issued an advertisement in the local newspaper inviting applications from interested end buyers under the affordable housing policy, 2013, issued by the Government of Haryana, vide Town and Country Planning department vide notification dated 19.08.2013 for



allotment of apartment units in the said project located at Sector 63A, Gurugram – 122 102, Haryana.

- b) That the complainant as one of the applicant vide application form bearing No. SGD(A) 4363 dated 20.04.2015 applied for allotment of one apartment unit in the said project "Sixty-Three Golf Drive" and accordingly submitted a filled form along with a cumulative amount of Rs.1,24,393/- towards the 5% as booking amount of the total purchase price vide cheque no. 252229 dated 19.04.2015.
- c) That the complainant was informed by the promoter that it conducted a draw of allotment on 06.01.2016 in accordance with the government policy as per the Affordable Housing Policy, 2013. Vide provisional allotment letter cum demand letter dated 11.01.2016, the respondents informed the complainant, she was allotted a unit bearing no. F-47, 4th Floor, Tower-F, Type C2, ad-measuring carpet area 613.31 sq. ft. (approx.) and balcony area of approx. 95.10 sq. ft. together with a free two wheeler parking for a total sale consideration of Rs.25,00,790/- (inclusive of the total price and applicable taxes and other charges). The said letter, the respondents also demanded an amount of Rs.5,40,795.84/- being the 20% of the total purchase price.
- d) That after, a one-sided builder buyer agreement dated 03.03.2016 was executed between the complainant and the respondents. As per clause 4 of the said builder buyer agreement, the respondents were obligated to hand over the possession of the apartment to the complainant within a period of 48 (forty-eight) months from the date of commencement of the project.
- e) That since the environmental clearance was issued by the State Environment Impact Assessment Authority Haryana, Bay No. 55-58, Prayatan Bhawan, Sector 2, Panchkula on 16.09.2016, the 48 (forty eight)



months period started to commence from the said issuance date month and year and, therefore, the respondents were under the obligation to hand over the possession of the apartment unit to the Complainant within 16.03.2021 which included the 6 (six) months extension on account of Covid 19 pandemic.

- f) That as on the date of filing of this complaint, as and when, based on the issuance of the valid and legitimate demand letters in accordance with Annexure B – payment schedule of the buyer builder agreement by the respondents from time to time, the complainant has made the following payments for which the corresponding receipts was also issued by the respondents.

S. No.	Demand Letter Date	Payment (Rs.) incl. of the VAT and Service Charges	Receipt No. and Date
1	At the time of Application submission	135,198.96 (5%)	Receipt No. 1246 dated 25.01.2016
2	11.01.2016	552,602.00 (20%)	
3	18.10.2016	315,724.54 (12.5%)	Receipt No. 1965 dated 02.11.2016
4	04.05.2017	271,184.00 (12.5%)	63GD/02503 dated 04.05.2017
5	30.05.2018	309,722.00 (12.5%)	63GD/03582 dated 29.06.2018
6	17.01.2019	337,609.00 (12.5%)	63GD/04429 dated 19.02.2019
7	31.12.2021	337,609.00 (12.5%)	GD/REC19-20/1034 dated 28.01.2022
TOTAL		22,75,731.00	

- g) That the complainant has not made a payment of the last final tranche of 12.5% of the total purchase consideration on account of the respondents' failure to provide a valid and legitimate demand notice in accordance with annexure b – payment schedule of the buyer builder agreement. That a right to create security interest and no objection certificate was also granted by the respondents in favour of the complainant to create security interest (including mortgage) in favour of SBI Housing Finance (India) limited to



avail the financing loan amount by the complainant and, one tripartite agreement was also executed between the complainant, the respondents and, the State Bank of India wherein SBI agreed to extend the home loan of Rs.21,00,000/- to the complainant.

- h) That since the respondents miserably failed to complete the project and hand over the possession of the subject unit to the complainant, within the due date of possession was 16.03.2021 which includes the 6 (six) months extension on account of Covid 19 pandemic, in accordance with the project registration certificate no. 249/2017 dated 26.09.2017 and the environmental clearance certificate dated 16.09.2016, the respondents even submitted one application under section 6 of the 2016 which was subsequently rejected for reasons solely attributable with the application becoming infructuous for failure to submit the requisite approvals and the fees.
- i) That the respondent no. 2 vide one written communication informed the allottees including the complainant inter alia the occupation certificate has been applied in December, 2023 and the project was stalled for reasons amongst others "**.....various long terms bans from NGT....**", which was neither made known to the complainant at the time of the allotment and/or otherwise communicated to the complainant, which was an act of intentional concealment of a fact to the allottees and the complainant.
- j) That the respondents arbitrarily and without any application of mind and thought and in total contravention of the builder buyer agreement, the Act of 2016 and Rules of 2017, issued one demand notice dated 27.08.2024 to the complainant demanding an inflated and an exaggerated sum of Rs.10,63,804/- towards the alleged long outstanding due against the unit allotted to the complainant, which needless to say is not only sham but



concocted, invalid and illegitimate. Despite the recipient of the both the replies dated 04.09.2024 and 16.09.2024, the respondents neither bothered to respond to it nor complied with the content of the said replies. Thus, being aggrieved by the inaction and delayed possession of the apartment unit to the complainant within the possession due date, by the respondents, hence, this complaint

- k) That the complainant through her legal counsel responded to the said arbitrary demand notice vide holding reply dated 04.09.2024 and subsequently, a detailed reply dated 16.09.2024 wherein the complainant demanded that the respondents tender unconditional apology for making such frivolous and arbitrary demand and also to immediately, withdraw the said demand notice and, pay an interest @ 10.75% for every month from the possession due date on Rs.22,75,731/- being deposited amount by the complainant with the respondents.
- l) That the first cause of action arose when the respondents placed one advertisement inviting applications from buyers like the complainant for allotment of apartment units in one real estate project promoted and marketed by the respondents, the cause of action also arose when the complainant submitted one application for allotment of an apartment unit, the cause of action also arose when the complainant was allotted a unit, in the said project, the cause of action also arose when the respondents made the complainant execute one-sided builder buyer agreement, the cause of action also issued on various dates when a valid and legitimate demand notices for payments, and when the complainant in compliance with the said demand notice made the payments from time to time and the respondents issued receipts thereof in accordance with the one-sided builder buyer agreement, the cause of action also arose when the



respondents miserably failed to deliver the possession of the apartment unit to the complainant within 48 months from the date of commencement of project despite the grant of additional (6) six months in view of the Covid-19 pandemic, the cause of action also arose when the complainant proactively inquired with the respondents the status and completion of the project and also the payment status from time to time, the cause of action also arose when the respondents arbitrarily without application of mind issued one invalid and illegitimate demand notice of Rs.10,63,804/-, the cause of action also arose when the respondents despite the receipt of the complainant's interim and detailed reply to the said invalid and illegitimate demand notice failed to respond to the complainant and, the cause of action is continuing as on the date of filing of this complaint.

C. Relief sought by the complainant

4. The complainant has sought the following relief(s):
 - I. To immediate withdrawal of the demand notice dated 27.08.2024 demanding an inflated and exaggerated sum of Rs.10,63,804/- towards the long outstanding due against the unit allotted to the complainant;
 - II. Direct the respondents to hand over the possession of the apartment unit F-47 to the complainant in a time bound manner;
 - III. Direct the respondents to pay an interest of 10.75% for every month from the contractual possession due date i.e., 16.03.2021 which included the 6 (six) months extension on account of Covid-19 pandemic on Rs.22,75,731/- being the amount deposited by the complainant with the respondents in as per the provision of the Act, 2016 and the Rules, 2017;
 - IV. Direct the respondents to ensure that the project is habitable conditions with all amenities mentioned in the brochure after securing the occupancy certificate in accordance with schedule C of the builder buyer agreement.



5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the act to plead guilty or not to plead guilty.
6. The present complaint was filed on 04.11.2024 in the Authority and the respondent no. 1 has filed reply on 17.07.2025. Further, respondent no. 2 to 4 failed to put in appearance before the authority and has also failed to file reply. In view of the same, vide order dated 30.10.2025 the matter was proceeded ex-parte against respondent no. 2 to 4.

D. Reply by the respondent no. 1

7. The respondent no. 1 has contested the complaint on the following grounds.
 - a) That the complainant has miserably and willfully failed to make payments in time or in accordance with the terms of the builder buyer's agreement. The complainant has frustrated the terms and conditions of the builder buyer's agreement, which were the essence of the arrangement between the parties and therefore, the complainant now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. It is further submitted that timely payment was the essence to ensure timely completion of construction & handover of the apartments as per the terms of the policy. The 'Pith & Substance' of the Affordable Housing Policy is clearly captured in its essence, wherein the 'Intended Beneficiaries' were given Thirty-Six (36) months to pay the entire cost of the apartment (25% upfront and rest 75% in 6 equal monthly instalments), against which the Developer (respondent) was provided with the timeline of forty-eight (48) months to complete the project subject to timely payment.
 - b) It has been categorically agreed between the parties herein that subject to the complainant having complied with all the terms and conditions of the buyer's agreement and not being in default under any of the provisions of the



said agreement and having complied with all provisions, formalities, documentation etc., the developer contemplates to complete construction of the project within a period of 48 months from the date of commencement of project subject to force majeure and timely payment by the allottee toward the sale consideration.

- c) That the respondent was faced with certain other *force majeure* events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. Similar orders staying the mining operations were also passed by the Hon'ble High Court of Punjab & Haryana and the National Green Tribunal in Punjab and Uttar Pradesh as well. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel exponentially. It was almost for 2(Two) years that the scarcity as detailed aforesaid continued, despite which, all efforts were made and materials were procured at 3-4 times the rate and the construction of the project continued without shifting any extra burden to the customer. The development and implementation of the said project have been hindered on account of several orders/directions passed by various authorities/forums/courts.
- d) That additionally, even before normalcy could resume, the world was hit by the Covid-19 pandemic. That the Covid-19, pandemic resulted in serious challenges to the project with no available labourers, contractors etc. for the construction of the project. The Ministry of Home Affairs, GOI vide notification dated March 24, 2020, bearing no. 40-3/2020-DM-I (A)



recognized that India was threatened with the spread of the Covid-19 pandemic and ordered a complete lockdown in the entire country for an initial period of 21 days which started on March 25, 2020. By various subsequent notifications, the Ministry of Home Affairs, GOI further extended the lockdown from time to time. Various State Governments, including the Government of Haryana, have also enforced various strict measures to prevent the pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of the Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention, that considering the wide spread of Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. That during the period from 12.04.2021 to 24.07.2021 (103 days), each and every activity including the construction activity was banned in the State. It is also to be noted that on the same principle, the Haryana Real Estate Regulatory Authority, Gurugram granted 6 months extension for all ongoing projects vide order/direction dated 26th of May, 2020 on account of 1st wave of COVID-19 Pandemic. The said lockdown was imposed in March 2020 and continued for around three months. As such extension of only six months was granted against three months of lockdown.

- e) That as per license condition, developer are required to complete these projects within a span of 4 years from the date of issuance of environmental clearance since they fall in the category of special time bound project under Section 7B of the Haryana Development and Regulation of Urban Area Act 1975, for a normal Group Housing Project there is no such condition applied hence it is required that 4 years prescribed period for completion of



construction of Project shall be hindrance free and if any prohibitory order is passed by competent authority like National Green Tribunal or Hon'ble Supreme Court then the same period shall be excluded from the 4 years period or moratorium shall be given in respect of that period also.

- f) That it is safely concluded that the said delay of 422 days in the seamless execution of the project was due to genuine force majeure circumstances and the said period shall not be added while computing the delay. Thus, from the facts indicated above and the documents appended, it is comprehensively established that a period of 450 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of aforesaid Orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure in terms with the agreement.
- g) That even the UPRERA Authority at Gautam Budh Nagar has provided benefit of 116 days to the developer on account of various orders of NGT and Hon'ble Supreme Court directing ban on construction activities in Delhi and NCR, 10 days for the period 01.11.2018 to 10.11.2018, 4 days for 26.10.2019 to 30.10.2019, 5 days for the period 04.11.2019 to 08.11.2019 and 102 days for the period 04.17.2019 to 74.02.2020. The Authority was also pleased to consider and provided benefit of 6 months to the developer on account of the effect of COVID also.
- h) That the Hon'ble UP REAT at Lucknow while deciding appeal No. 541 of 2011 in the matter of "**Arun Chauhan Versus Gaur sons Hi- Tech Infrastructure Pvt. Ltd.**" vide order dated 02.11.2021 has also granted the extension of 116 days to the promoter on account of delay in completion of construction on account of restriction/ban imposed by the Environment Pollution

(Prevention & Control) Authority as well vide order of Hon'ble Supreme Court Dated 14.11.2019.

- i) That the complainant is chronic defaulter in timely payment of the installments as per the payment plan annexed with the builder buyer agreement. The respondent sent many reminder letter to clear dues. It is submitted that for non-payment of installments demand letter as per the payment plan to the allottee. It is pertinent mention here that if the complainant was aware about the respondent bank is Frizz/blocked so he can come forward in respondent office.
- j) Despite many undulations such as Covid (loss of 6 months), GRAP restrictions and most importantly non-compliance on the part of the 'Intended Beneficiaries'/allottees/complainant(s); i.e., non-payment, the respondent has still fulfilled our obligations in terms of completing the construction, OC has obtained it; even whilst facing the disruption in supply chain, migration of labourers due to Covid, and without seeking any escalation linked to escalated cost of construction due to inflation. Further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the respondent company then the respondent /promoter shall be automatically entitled to the extension of time for delivery of possession.
- k) That as per law of Affordable housing policy whom can apply this scheme only who have no house their name and his spouse but in this case applicant are trying to put the curtain on this fact. Because complainant has grab a shelter of a needy person due to field the Affordable housing scheme because complainant has his own house and enjoying his life in a highly expensive society. It is crystal and clear case of payment defaulter and complainant



want to ruin and wipe out the images of respondent in society, and want to put the curtain her illegal act and conduct.

l) That, the application under reply is not maintainable in law and facts as the same is false, frivolous, vexatious, uncalled for, unwarranted, without any cause and justification and has been presented with sole intention to mislead only.

8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

10. As per notification no. **1/92/2017-1TCP dated 14.12.2017** issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purposes 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 a complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11....

(4) The promoter shall-

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



common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

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

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

F. Findings on the objections raised by the respondent no. 1.

F.I Objection regarding delay due to force majeure circumstances.

13. It is contended on behalf of respondent no. 1 that due to various circumstances beyond its control, it could not speed up the construction of the project, resulting in delays such as various orders passed by NGT and Hon'ble Supreme Court, lockdown due to outbreak of Covid-19 pandemic.
14. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

"All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the 'date of commencement of project' for the purpose of this policy. The licenses shall not be renewed beyond the said 4 year period from the date of commencement of project"

15. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. The Authority notes that the construction ban cited by the respondent was of a short duration and is a recurring annual event, usually implemented by the National Green Tribunal (NGT) in November. These are known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Similarly, the various orders passed by other Authorities cannot be



taken as an excuse for delay as it is a well- settled principle that a person cannot take benefit of his own wrong. Hence, all the pleas advanced in this regard, except for that of Covid-19 for which relaxation of 6 months is allowed by the authority are devoid of merits.

G. Findings on the relief sought by the complainant.

G.I To immediate withdrawal of the demand notice dated 27.08.2024 demanding an inflated and exaggerated sum of Rs.10,63,804/- towards the long outstanding due against the unit allotted to the complainant.

G.II Direct the respondents to pay an interest of 10.75% for every month from the contractual possession due date i.e., 16.03.2021 which included the 6 (six) months extension on account of Covid-19 pandemic on Rs.22,75,731/- being the amount deposited by the complainant with the respondents in as per the provision of the Act, 2016 and the Rules, 2017.

16. The factual matrix of the case reveals that the complainant was allotted unit no. F-47, Tower F admeasuring carpet area of 613.31 sq. ft. and a balcony area of 95.10 sq. ft., in the respondent's project at sale price of Rs.25,00,790/- under the Affordable Group Housing Policy 2013. A buyer's agreement was executed between the parties on 03.03.2016. The possession of the unit was to be offered by 16.03.2021 as delineated herein below. The complainant paid a sum of Rs.22,76,731/- towards the subject unit.
17. It is pertinent to note that a final reminder letter dated 27.08.2024 was being sent to the complainant-allottee to make a payment of Rs.22,76,731/-, thereby affording him an opportunity to clear the outstanding dues. The complainant is seeking a direction to quash the letter dated 27.08.2024 issued by the respondent as "final reminder". A final reminder letter dated 27.08.2024 was being sent to the complainant wherein it was specified that in case the complainant/allottee fails to make a payment of Rs.10,63,804/- within a period of 15 days of the said reminder, it shall result in automatic cancellation of the allotment without any further notice of communication by the respondent. Thereafter, the respondent made a publication in the newspaper "AAJ SAMAJ"

on 16.10.2024 as required under Affordable Group Housing Policy, 2013. The said publication also stated that failure to make payment within the stipulated period would lead to automatic cancellation of the allotment, without any further notice or communication by the respondent.

18. The foremost question which arises before the Authority for the purpose of adjudication is that "whether the said publication would tantamount to a valid cancellation in the eyes of law or not?
19. Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below:-

*"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a **reminder** may be issued to him for depositing the due instalments within a **period of 15 days** from the date of issue of such notice. If the allottee still defaults in making the payment, the **list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State** for payment of due amount **within 15 days** from the date of publication of such notice, **failing which allotment may be cancelled**. In such cases also an amount of Rs.25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list."*

20. The Authority observes that the respondent issued "Final Reminder Letter" dated 27.08.2024, directing the complainant to clear the outstanding dues amounting to Rs.10,63,804/-. It is pertinent to mention here that the complainant had already paid an amount of Rs.22,76,731/- (i.e., 91.04%) against the sale consideration of Rs.25,00,790/- to the respondent by 28.01.2022. Perusal of case file reveals that the demand raised by the respondent via letter dated 27.08.2024 was towards the payment of last instalment accompanied with interest on delay payments. Therefore, the rate of interest chargeable from the allottee by the promoter, in case of default, if any 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 allottee, in case of default



i.e., the delayed possession charges as per Section 2(za) of the Act. Also, the respondent is obligated to raise last demand only in accordance with the builder buyer agreement and as per Affordable Housing Policy, 2013 and shall not charge anything from the complainant which is not the part of the builder buyer agreement and under the Affordable Housing Policy, 2013.

21. Further, the Authority vide order dated 23.04.2024 in M.A. No. 233/2024 in CR/1244/2022 titled ***"Sixty-Three Golf Drive Flat Buyers Association vs. Sunrays Heights Private Ltd."***, and also in CR/1474/2024, titled as ***Avindra Kumar Singh Vs. Sunrays Heights Pvt. Ltd.*** wherein a clear directive was issued restraining the respondent from cancelling the allotment of any unit in cases where more than 85% of the sale consideration had already been paid by the allottee, and without adhering to the due process stipulated under the Affordable Housing Policy.
22. The Authority notes that the complainant had already paid an amount of Rs.22,76,731/- (i.e., 91.04%) against the sale consideration of Rs.25,00,790/- to the respondent. Per se, it is evident that the amount demanded by the respondent vide letter dated 27.08.2024 is more than 100% of the total sale consideration and prima facie seems to be arbitrary and cryptic. The respondent was required to hand over the project by 16.09.2020 under the Affordable Housing Policy, 2013, excluding the COVID-19 grace period. Even with a six-month grace period in lieu of Covid-19 pandemic to 16.03.2021, the respondent failed to complete the project. More than three years later, the project remained incomplete, and the respondent has obtained the occupation certificate from the competent authority on 31.12.2024. The interest accrued during the delay period significantly reduces the amount payable by the complainant. Upon adjustment of this interest, the respondent would, in fact, be liable to pay the complainant.



23. Additionally, as per Clause 9.2 of the agreement for sale, annexed as Annexure A to the Rules, 2017, the allottee has the right to stop making further payments if the promoter defaults on its obligations. The relevant portion is reproduced below:

9.2 In case of Default by Promoter under the conditions listed above, Allottee is entitled to the following:

- (ii) Stop making further payments to Promoter as demanded by the Promoter. If the Allottee stops making payments, the Promoter shall correct the situation by completing the construction/ development milestones and only thereafter the Allottee be required to make the next payment without any interest for the period of such delay; or...

(Emphasis Supplied)

24. In the present case, the promoter was obligated to complete the construction within four years from the date of either the environment clearance or the building plan approval, whichever was later, i.e., by 16.09.2020. However, the promoter failed to complete the project within this timeline. Even after granting a six-month extension due to the Covid-19 pandemic, extending the deadline to 16.03.2021, the promoter did not complete the construction. Thus, in accordance with Clause 9.2, the allottee was fully justified in stopping further payments.
25. Herein, the complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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."

26. **Due date of handing over possession:** The project was to be developed under the Affordable Housing Policy, 2013, which clearly mandates that the project



must be delivered within 4 years from the date of commencement of project (as per clause 1(iv) of Affordable Housing Policy, 2013, all such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy). However, the respondent has chosen to disregard the policy provision. Clause 1(iv) of the Affordable Housing Policy, 2013 is reproduced as under:

*"1(iv) All such projects shall be required to be necessarily completed **within 4 years from the approval of building plans or grant of environmental clearance, whichever is later.** This date shall be referred to as the **"date of commencement of project"** for the purpose of this policy. The licences shall not be renewed beyond the said 4 years period from the date of commencement of project."*

27. In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is 16.09.2016. The due date of handing over of possession is reckoned from the date of environment clearance being later. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as per **HARERA notification no. 9/3-2020 dated 26.05.2020**, an extension of 6 months is granted for the projects having a 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 complainant is 16.09.2020 i.e., 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 the outbreak of Covid-19. As such the due date for handing over of possession comes out to be 16.03.2021.

28. **Admissibility of delay possession charges at prescribed rate of interest:**

The complainant is seeking delay possession charges till the date of delivery of



possession to the complainant. 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, *ibid*. 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."

29. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, has determined the prescribed rate of interest. The rate of interest, determined by the legislature, is reasonable and if the said rule is followed to award interest, it will ensure uniform practice in all cases.
30. 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., 30.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
31. The definition of term 'interest' as defined under Section 2(z) 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;"

32. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent which is the same as is being granted to them in case of delayed possession charges.
33. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, 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.
34. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. 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 the prescribed rate of interest i.e., @ 10.85% p.a. w.e.f. 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- G.III Direct the respondents to hand over the possession of the apartment unit F-47 to the complainant in a time bound manner.**
- G.IV Direct the respondents to ensure that the project is habitable conditions with all amenities mentioned in the brochure after securing the occupancy certificate in accordance with schedule C of the builder buyer agreement.**
35. In the present complaint, the grievance of the complainant is neither the project is habitable conditions with all amenities mentioned in the brochure after securing the occupancy certificate in accordance with schedule C of the builder buyer agreement nor the respondent handed over the physical possession of the unit till date.

36. The Authority observes that the respondent-promoter has obtained occupation certificate of the said project from the competent authority on 31.12.2024. Further, Section 11(4)(f) and Section 17(1) of the Act of 2016 the promoter is under an obligation to get the conveyance deed executed in favour of the allottees and handover the physical possession of the subject unit to the allottee complete in all respect as per specifications mentioned in BBA and thereafter, the complainant-allottee is obligated to take the possession and execute the conveyance deed within 2 months as per provisions of Section 19(10) and Section 19(11) of the Act, 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
37. In view of the above, the respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the occupation certificate for the project has already been obtained by it from the competent authority. The respondent is further directed to execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining occupation certificate.

H. Directions of the authority

38. 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):
1. The cancellation if any is hereby set aside being bad in the eyes of law. The respondent is directed to reinstate the subject unit within a period of 30 days from the date of this order. Further, the respondent is directed to pay interest on the amount paid by the complainant at the prescribed rate of 10.85% p.a.



for every month of delay from the due date of possession i.e., 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession, whichever is earlier.

- II. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules, *ibid*.
- III. 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 allottee, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act. Further, no interest shall be payable by both the parties for delay, if any between 6 months Covid period from 01.03.2020 to 01.09.2020.
- IV. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainant is directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 30 days.
- V. The respondent is directed to handover the possession of the allotted unit to the complainant complete in all aspects as per specifications of buyer's agreement within one month from date of this order, as the occupation certificate in respect of the project has already been obtained by it from the competent authority.
- VI. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state



government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.

VII. The respondent shall not charge anything from the complainant which is not part of the buyer's agreement and the provisions of the Affordable Housing Policy, 2013.

39. Complaint as well as applications, if any, stand disposed off accordingly.

40. Files be consigned to the registry.

Dated: 30.10.2025




(Phool Singh Saini)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram

HARERA
GURUGRAM