



**HARERA**  
**GURUGRAM**

Complaint No. 3221 of 2024

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

Complaint no.:  
Date of decision:

3221 of 2024  
24.09.2025

1. Vaibhav Sachdeva
  2. Shivani Kochhar
- Both R/o:-** 48-201, Emaar Premier Floors,  
Sector-65, Gurugram, Haryana..

**Complainants**

Versus

M/s. Almond Infrabuild Private Limited  
**Regd. office:-** 711/92, Deepali Nehru Place,  
New Delhi-110019.  
Also at: Plot no. 16, Sector-153, Noida-110019.

**Respondent**

**CORAM:**

Ashok Sangwan

**Member**

**APPEARANCE:**

Ishaan Mukherjee (Advocate)  
Akshat Jain (Advocate)

Complainants  
Respondent

**ORDER**

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

**A. Unit and project related details**

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2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.no.	Particulars	Details
1.	Name of project	"ATS Grandstand Phase-I" (not known whether phase I or II)
2.	Nature of project	Group Housing
3.	Location of project	Sector-99-A, Gurugram
4.	RERA registered	Lapsed
5.	Welcome Letter	16.10.2019 (As on page no. 29 of complaint)
6.	Allotment Letter	Not on record
7.	Buyer's Agreement	Not executed
8.	Unit no.	3263
9.	Unit area	Not known
10.	Possession clause	Not known
11.	Due date of possession	16.04.2023 [Calculated 36 months from date of issuance of Welcome Letter]
12.	Sale consideration	Not known
13.	Amount paid	Rs.8,83,000/-
14.	Occupation certificate	Not obtained



15.	Offer of possession	Not on record
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**B. Facts of the complaint**

3. The complainants have pleaded the following facts:

- I. That the present complaint has been preferred by Mr. Vaibhav Sachdeva and Mrs. Shivani Kochhar (hereinafter referred to as "Complainants" before this Authority under Section 31 of the Real Estate (Regulation And Development Act), 2016 read with Rule 28 of the Haryana Real Estate (Development and Regulations) Rules, 2017 for execution of the Builder Buyer Agreement and delay in giving possession of flat booked in the project of the respondent.
- II. That at the time of booking/allotment, no flat/apartment was available in Phase-1, the respondent suggested initial allotment/booking in Phase-I (i.e. apartment/unit bearing no. 3263, 26<sup>th</sup> Floor, Tower No. 3) and simultaneous the allotment would be shifted to Phase-II (i.e., apartment/unit bearing no. 7142, 14<sup>th</sup> Floor) once RERA registration of Phase II is obtained.
- III. That at time of the said booking allotment, the respondent (through its employees, representatives, and/or agents) made extensive assurances and assertions of obtaining RERA approval of Phase-II/Tower-7, within a period of 2 months.
- IV. That the complainant got swayed by the representations made by the respondent, as well as, the market reputation enjoyed by 'ATS' in ensuring transparency and professionalism, sincerity towards its customers and providing on -time delivery of flats/apartments, made the booking.

- V. That a document vis-à-vis shifting/migration was signed at the time of the booking/allotment in the year 2019, itself; however, the formal relocation was to be done only after RERA approval of Phase-II/Tower-7.
- VI. That the respondent had purposely not executed or signed a Builder-Buyer Agreement) with the complainant. The agreed payment plan (30:40:30); the first installment of 30% included 10% i.e., the advance payment towards booking allotment. The remaining 20% of the first installment hinges upon the requisite RERA approval for Phase-II/Tower-7.
- VII. That even after lapse of over 5 years, the respondent has failed to obtain the registration certificate for Phase-II/Tower-7; and consequently, no construction work at the appropriate site has started. Surprisingly, repeated demands for money (i.e., remaining 20% of the first installment) are being made which further aggravates the situation and makes it more distressful.
- VIII. That the complainants have continuously reached out to the respondent since 2019, pleading for resolution of their legitimate concerns, yet the respondent has persistently neglected their requests, leaving them in distress. Despite numerous attempts to communicate, including office visits and phone calls, representatives of the respondent have been unresponsive. Also, when the complainant followed up for possession, they were abruptly denied and instructed to pursue legal action instead.
- IX. That the aforesaid illegal acts by the respondent have not only hoodwinked the complainants but have also caused wrongful loss to them, by causing wrongful gain to themselves, thereby, the respondent

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have cheated the complainants in furtherance of their deliberately designed stratagem to make quick and easy money.

- X. That the deficiency in services rendered by the respondent along with the unfair trade practices is also noteworthy in the present set of facts and circumstances.

**C. Relief sought by the complainants:**

4. The complainants have sought following reliefs:

i. Direct the respondent to execute the Builder Buyer Agreement of flat/apartment bearing no. 7142 on 14th Floor, Type C measuring 1750sq. ft. of Tower No. 7 and forthwith provide the complainant possession of the said flat.

ii. Direct the respondent to pay interest of 18% p.a towards the delay in giving possession of the flat/apartment till date along with continuing interest of 18% p.a on the outstanding amount till the date of actual possession of the flat to the complainants.

iii. Direct the respondents to pay the complainants Rs.50,000/- (fifty thousand only) on account of the legal expenses incurred.

5. On the date of hearing, the authority explained to the respondents /promoter about the contravention as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

6. Vide proceedings dated 06.11.2024, the counsel of the respondent put in appearance and filed a Memorandum of Appearance, the respondent was directed to file reply within a period of three weeks subject to a condition that in case the reply is not filed within the said period then a cost of Rs.5,000/- would be imposed on the respondent. On 05.02.2025, again a period of three weeks was granted to the respondent to file reply, the same

- was also not complied with by the respondent. Thereafter, on 23.04.2025, also another opportunity was granted to the respondent. The respondent failed to file reply despite sufficient opportunities. As a result, vide proceedings dated 23.07.2025, the defence of the respondent was struck off.
7. Copies of all the documents have been filed and placed on record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents.

**D. Jurisdiction of the authority**

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

**D.I. Territorial jurisdiction**

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

**D.II. Subject matter jurisdiction**

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

**Section 11**

.....

(4) The promoter shall-

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



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

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

**E. Findings on the reliefs sought by the complainants:**

- E.I. Direct the respondent to execute the Builder Buyer Agreement of flat/apartment bearing no. 7142 on 14th Floor, Type C measuring 1750sq. ft. of Tower No. 7 and forthwith provide the complainant possession of the said flat.
- E.II Direct the respondent to pay interest of 18% p.a towards the delay in giving possession of the flat/apartment till date along with continuing interest of 18% p.a on the outstanding amount till the date of actual possession of the flat to the complainants.

12. In the present complaint, the complainants have submitted that while making the booking, the flats that were available in Phase-I of the project were not complementing the complainant's wishes and therefore, the respondent suggested them to book a unit in Phase-I, i.e., apartment bearing no. 3263 on 26<sup>th</sup> floor in tower no. 3 and thereafter, after the "Phase-II" RERA registration is done, the unit would be shifted into Phase II and based on that representation only, they proceeded with the booking. However, even after a lapse of over five years, the respondent has failed to obtain the requisite approval from RERA for Phase-II 4/tower-7, and consequently, no construction work at the site has started.
13. In the present complaint, it is noted that the respondent issued a Welcome Letter dated 16.10.2019 to the complainants, wherein receipt of an amount of ₹3,00,000/- from the complainants was acknowledged. As per Annexure-I of the said Welcome Letter, it is stated that the booking request had been received in respect of Unit No. 3263, situated within the respondent's

project titled "ATS Grandstand." The Authority further observes that the complainants have annexed certain documents pertaining to the alleged booking, including a communication relating to the purported shifting of the unit from Phase-I to Phase-II. The complainants have relied upon these documents in support of their claims. Upon careful examination of the annexed documents, the Authority is of the view that the said documents consist merely of booking forms filled in by the complainants themselves and do not bear any execution or acknowledgment on behalf of the respondent. Therefore, such documents hold no evidentiary value in establishing that any assurance or commitment was made by the respondent to shift the unit from Phase-I to Phase-II of the subject project. However, there is an email on record dated 16.07.2022, wherein the respondent have made an admission regarding the said re-allocation, the same is reproduced below:

*"Welcome to ATS Family,  
Thanks for choosing ATS Grand Stand as your next home.  
We have **received your booking for unit 3263 (temporary Unit) and will be re allocated to unit 7142 (Final unit).**  
You have booked under 30:40:30 payment plan at all-inclusive cost of Rs.88.30 lakh (subject to approval) where you can pay only 10% payment and remaining payment is aligned to receiving of RERA for your particular tower..*

[Emphasis supplied]

14. In light of the above, the Authority is of the view that such re-allocation from Phase-I to phase-II was agreed between the parties. However, the respondent has not registered the Phase-II of the said project with the Authority till date and the said status is unclear. The complainants have made the payment in the year 2019 and despite a delay of over 5 years, neither any formal Allotment Letter has been issued by the respondent nor any Builder Buyer Agreement has been executed between the parties. On page no. 52 and 53 of the complaint, the complainants have annexed



acknowledgement of the respondent towards the receipt of Rs.5,83,000/- and Rs.3,00,000/- from the complainants. Neither has the promoter issued any allotment letter nor executed any buyer's agreement in this regard. The document/receipt so issued in favour of a person can be termed as an agreement for sale to put the developer before RERA Authority, compelling it to fulfil its obligations against the holder of that document. The promoter is duty bound to explain the reasons for which it has admittedly retained the consideration amount for so long, considering the fact that the promoter company is not a bank or non-banking financial company (NBFC).

15. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

***"Section 18: - Return of amount and compensation***

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

.....

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

16. The authority observes that despite receipt of Rs.8,83,000 against the booked unit back in 2019, the respondent-promoter has failed to enter into a written agreement for sale with respect to the same and has failed to get the plot registered in name of the complainants till date. Even after lapse of more than 5 years from the date of payment till the filling of complaint, the respondent-promoter has neither allotted a specific unit number nor specified the project details to the complainants. The Authority is of the considered view that the Act, 2016 ensures the allottee's right to information about the project, unit and knowledge about the timelines of the delivery of

possession. However, the respondent is not communicating the same to the complainants. Hence, it is violation of the provisions of the Act, and shows its unlawful conduct.

17. **Due date of possession:** The Hon'ble Supreme Court in the case of **Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018 - SC); MANU /SC /0253 /2018** observed that:

*"a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that **when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract.**"*

18. In view of the above-mentioned reasoning, the date of issuance of the Welcome Letter, ought to be taken as the date for calculating due date of possession. Therefore, the due date of handing over of the possession of the unit comes out to be 16.04.2023, manifesting that there has been a delay of more than 2 years in handing over possession, making the respondent liable to pay delay possession charges as per section 18 of the Act, 2016 along with possession.

19. **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.

20. 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.
21. 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., 24.09.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
22. 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;"

23. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% by the respondent /promoter

which is the same as is being granted to the complainants in case of delay possession charges.

24. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondents are in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date. The authority has observed that the due date of possession was 16.04.2023. However, the respondent/promoter has not allotted a specific unit number to the complainants and also has failed to handover possession of the plot to the complainants till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities to allot a specific unit number and hand over the physical possession. The Authority is of the considered view that there is delay on the part of the respondent to offer of possession of the booked unit to the complainants. Further no Occupation certificate has been granted to the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the promoter as well as allottees.
25. 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 respondents is established. As such the complainants are entitled to delay possession charges at the prescribed rate i.e., @10.85% p.a. w.e.f. 16.04.2023 till offer of possession plus 2 months after obtaining completion 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.

**E.III Direct the respondents to pay the complainants Rs.50,000/- (fifty thousand only) on account of the legal expenses incurred.**



26. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as ***M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors. (supra)*** has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

**F. Directions of the Authority**

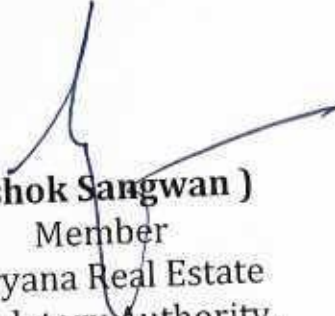
27. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act:

- i. The respondent is directed to allot a specific unit no. to the complainants and issue a formal and valid Allotment Letter in favour of the complainants within a period of 30 days from the date of this order and thereafter execute the Builder Buyer Agreement.
- ii. The respondent is directed to pay interest to the complainants against the paid-up amount at the prescribed rate of interest i.e., 10.85% p.a. for every month of delay from the due date of possession 16.04.2023 till valid offer of possession after obtaining occupation certificate, plus two months or actual handing over of possession, whichever is earlier as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- iii. The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottee 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 allottee(s) before 10<sup>th</sup> of the subsequent month as per rule 16(2) of the rules.

- iv. The complainants are directed to pay outstanding dues, after adjustment of interest for the delayed period.
  - v. The respondent is further directed to execute conveyance deed 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, after receiving the occupation certificate.
  - vi. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
28. Complaint as well as applications, if any, stand disposed of accordingly.
29. File be consigned to registry.

**Dated:** 24.09.2025



**(Ashok Sangwan )**  
Member  
Haryana Real Estate  
Regulatory Authority,  
Gurugram

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