

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

Complaint no. : 2339 of 2024
Order pronounced on: 12.09.2025

1. Neelkant K Swamy**2. Shaila Swamy**

Both R/o: E-106, Flat-4A, Street No.-7, Krishna Nagar,
Safdarjung Enclave, New Delhi, Delhi-110029

Complainants**Versus****1. M/s Bright Buildtech Pvt. Ltd.**

Regd. office: D-107, Panchsheel Enclave,
New Delhi-110017

Respondents**2. M/s Ace Mega Structures Private Limited**

Regd. office: 8th floor, Plot no. 01/B, Sector 126,
Noida Gautam Buddha Nagar, UP-201303

CORAM:

Shri Arun Kumar

Chairman**APPEARANCE:**

Shri Harshit Batra (Advocate)

Shri Bhavay Shree (Advocate)

**Complainants
Respondents****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 provisions of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter-se them.

A. Unit and Project-related details:

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

Sr. No.	Particulars	Details
1.	Name of the project	"Woodview Residencies", Sector: 89-90, Gurugram
2.	Total area of the project	101.081 acres
3.	Nature of the project	Residential Plotted Colony
4.	DTCP license no.	59 of 2013 dated 16.07.2013 valid upto 15.07.2021
5.	Registered/not registered	Registered vide no. 34 of 2020 dated 06.10.2020 valid up to 15.07.2023
6.	Unit no.	B-64-UGF
7.	Allotment letter	27.04.2015 [Page 7 of complaint]
8.	Area of the unit	1090 sq. ft. [Page 47 of complaint]
9.	Date of execution of BBA	03.08.2015 [Page 17 of complaint]
10.	Possession clause	5. Possession of Dwelling Unit 5.1 Subject to Clause 5.2 and subject to the Buyer making timely payments, the Company shall endeavor to complete the construction of the Building Block in which the Dwelling Unit is situated within 36 months, with a grace period of 6 (six) months from the date of issuance of Allotment Letter provided that all amounts due and payable by the Buyer has been paid to the Company in timely manner. The Company shall be

		entitled to reasonable extension of time for the possession of the Dwelling Unit in the event of any default or negligence attributable to the Buyer's fulfilment of terms and conditions of this Agreement. (Emphasis supplied)
11.	Due date of possession	27.10.2018 (Note: 36 months from date of allotment i.e., 27.04.2015 + 6 months grace period is allowed unconditionally)
12.	Sale consideration	Rs.70,84,521/- [As per page 36 of complaint]
13.	Total amount paid by the complainant	Rs. 19,01,325/- [as per payment receipts on page 48-53 of complaint]
14.	Offer of possession	Not offered
15.	Occupation certificate	Not obtained

B. Facts of the complaint:

3. The complainants have made following submissions in the complaint:

- i. That the complainants, Mr. Neelkant K Swamy and Ms. Shaila Swamy are peace-loving and law-abiding citizens who in their utmost *bonafide* and believing upon the assurances/ promised of the respondents, had purchased a unit.
- ii. That the respondent no. 1 is a real-estate company incorporated under the Companies Act, 1956 and having its registered office at D-35, Anand Vihar, Delhi-110092 New Delhi 110092 claims to be one of the leading real estate companies and is/ was responsible for the development of the project known under the name and style of "Woodview Residencies now known under the name of Ace Palm Floors" located at sector 89 and 90, Gurugram.

- iii. That the respondent no. 2 is a company incorporated under the Companies Act, 1956 and having its registered office at 8th Floor, Plot No. 01/B Sector 126 Noida Gautam Buddha Nagar UP-201303, and currently, undergoing the construction and development of the project, as such, falls within the ambit of "promoter" as per section- 2(zk) of the Act.
- iv. That the project came to the knowledge of the complainants through the authorized representatives of the respondent no. 1 and the complainants were assured that the project has attained all the necessary approvals and plans and the construction shall be smoothly and religiously completed.
- v. That the complainants relying on the assurances, representations and warranties of the respondent no. 1, booked a unit no. B-64-UGF admeasuring 1090 sq. fts. of super area on upper ground floor along with basement/ terrace area on plot no. B-64, admeasuring 153.01 sq. mtr. in the project of the respondents by making a payment of Rs. 5,58,226/- and therefore, an allotment letter dated 27.04.2015 was issued in favor of the complainants.
- vi. That thereafter, the complainants and respondent no.1 entered into the buyer's agreement on 03.08.2015.
- vii. That the respondent no. 1 in year 2019 had appointed respondent no. 2 as the development manager for development, construction, sales and marketing of the project and to deliver the apartments to the allottees of the project. Furthermore, the management of the respondent no. 1 has also taken over by the ace group as can be noted from the intimation letter dated 03.10.2019.
- viii. That the project, "Woodview Residence" was being constructed and developed by the respondent no. 1 however, due to change in the management and control of the project, the project is now being developed by respondent no.2 under the name and style of "Ace Palm Floors".
- ix. That on the basis of the above, prima facie, it is evident the currently, the construction of the project is being carried on by the respondent no. 2, however, both respondent no. 1 and 2 are jointly and severally liable to

complete the development of the project and for other grievances of the complainants.

- x. That the complainants have been threatened to executed new buyer's agreement under the name of "Ace Palm Floors" and the failure to sign the same will lead to cancellation of the allotment of the complainants.
- xi. That the complainant, with a very firm foot, denied to execute the same, as it was highly arbitrary and highly affecting the rights of the complainants. That under no circumstance whatsoever, can the complainants be asked to sign new agreement.
- xii. That the complainants have already invested their hard-earned money in the project of the respondents and such a demand by respondents to pay any amount towards the cost of the unit, and the respondents cannot cancel the allotment of the complainants on this sole ground.
- xiii. That as per clause 5.1 of the buyer agreement dated 03.08.2015, the possession of property was to be delivered within a period of 36 months from the date of issuance of allotment letter, i.e., from 27.04.2015. Therefore, the due date of delivery of possession comes out to be 27.04.2018. That till date neither the offer of possession has been made nor the possession had been delivered to the complainants.
- xiv. That the complainants made timely payments in accordance with the payment plan. In total, a sum of Rs. 19,01,325, which includes Rs. 5,58,226/- made at the time of booking and an amount of Rs. 9,85,973 disbursed by the bank to the respondent, against the total sales consideration of Rs. 70,84,521/- had been paid by the complainants.
- xv. That the possession of the unit had not been delivered despite a delay approx. 6 years from the due date of offer of possession. The complainants had time and again visited the project site and office of the respondents to know about the details of the project and written various emails as to when the possession of the unit would be delivered. However, the respondents have failed to

provide any concrete answer and thus the conduct of the respondents amounts to deficiency of service and unfair trade practices which has caused harassment and immense mental agony to the complainants.

xvi. That not only has the respondents failed in giving the possession of the unit to the complainants but has wrongly enjoyed over the money of the complainants and is also liable to give the interest on delayed possession to the complainants as under the proviso to section 18(1) of the Act.

xvii. That being aggrieved by the unlawful, and arbitrary conduct of the respondents, the complainant has filed the present complaint.

C. Relief sought by the Complainants:

4. The complainants have sought the following relief(s):

- i. Direct the respondents to provide the valid physical possession to the complainants.
- ii. Direct the respondents to give delay possession charges from due date of offer of possession till the actual handing over of physical possession.
- iii. Direct the respondent not to raise any illegal demands which are not agreed to between the parties.
- iv. Direct the respondents not to charge labour cess, electrification charges, EEC charges.
- v. Direct the respondents not to charge the club membership charges without existence of club at the project site.
- vi. Direct the respondents to execute the conveyance deed.

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) of the Act to plead guilty or not to plead guilty.

D. Reply by the Respondents:

6. The respondents have made following submissions in the reply:

- a. The respondent (Bright Buildtech Pvt. Ltd.) is developing the project namely 'Woodview Residences' (now known as "ACE Palm Floors") on its share in the project land measuring 101.081 acres situated at revenue estate of village Hayatpur, Sector-89 and 90, Gurugram.
- b. M/s. Ace Mega Structures Private Limited ("Ace") has been appointed as the 'Development Manager' for development, construction, sales and marketing of the project vide 'Development Management Agreement' dated 23.05.2019 with the objective of ensuring expeditious development of the project and to provide professionally proficient customer-care interaction.
- c. The role and responsibility of ACE is restricted to managing and supervising the construction and development of the said project and to ensure timely completion. The status of ACE is purely that of a service provider who shall receive a fee as consideration for providing project management and development services to the respondent.
- d. The complainant on his own free will and volition had approached the respondent for allotment of 'unit' in said project and initially submitted application form for booking the dwelling unit in the said project.
- e. Upon submission of the application form for allotment of the unit, the respondent vide letter of allotment dated 27.04.2015 had allotted to the complainant flat no. B-64, UGF. The allotment letter also contained the details of the payment plan and the particulars of the Unit allotted to the complainant in the said project. The total consideration of the unit agreed was Rs. 70,84,521/-
- f. The complainant has till date paid an amount of Rs. 19,01,325/- however, still some amount is due and payable by the complainant before taking over the possession of the unit, which is ready for possession.
- g. The builder buyer agreement was executed between the parties on 03.08.2015 which contained all the terms and conditions of the allotment and possession of the unit booked by the complainant. As per the terms of

the agreement, the unit of the complainant was to be completed within a period of 36 months + 6 months grace from the date of execution of the builder buyer agreement.

- h. Although the period 42 months for completion of the construction had elapsed, however due to unforeseen circumstances beyond the control of the respondent, the project could not be completed on time.
- i. The respondent has bonafide reasons to state that project of the has been reasonably delayed. It is pertinent to mention here that the reasons for delay in project are stoppage of construction activities in NCR region by the orders of court, non-availability of construction material and labour, implementation of nationwide 'lockdown' to contain the spread of 'Covid-19', etc. Moreover, all these situations and adverse conditions is 'force majeure' circumstance which is beyond the control of the respondent.
- j. Due to the exponential increase in the cases of 'covid-19', the Central Govt. had imposed nationwide 'lockdown' w.e.f. 25.03.2020 which has been extended till 30.06.2020, resultantly, the same has caused serious impact on the economy posing difficult challenges for everyone. It is pertinent to mention that prior, to this unprecedented situation of pandemic 'covid-19', the respondent along with the development manager had been carrying out the construction of the project at full pace and was expecting to deliver the units to the buyers by the end of year 2020, however, due to the sudden outbreak of the pandemic and closure of economic activities, the respondent had to stop the construction work during the 'lockdown'.
- k. As such, amid the difficult situation of 'force majeure' the respondent is not in a position to adhere to the arbitrary demands of the complainant for payment of any interest for the period which was wasted due to the aforesaid 'force majeure' situation. However, it is submitted that the unit of the complainant has been completed and is ready for possession in all respect.

1. Other than the above reasons, the delay in handing over the possession of the dwelling Unit/ apartment has been caused due to various reasons which were beyond the control of the respondent. Following important aspects are relevant which are submitted for the kind consideration of this Hon'ble Authority:

- Non-booking of all apartments seriously affected the construction: It is submitted that the global recession badly hit the economy and particularly the real estate sector. The construction of project of the respondent is dependent on the monies received from the bookings made and monies received henceforth, in form of instalments paid by the allottees. However, it is submitted that during the prolonged effect of the global recession, the number of bookings made by the prospective purchasers reduced drastically in comparison to the expected bookings anticipated by the respondent at the time of launch of the project. The reduced number of bookings along with the fact that several allottees of the project either defaulted in making payment of the instalment or cancelled booking in the project, resulted in less cash flow to the respondent, henceforth causing delay in the construction work of the project.
- Other various challenges being faced by the respondent: lack of adequate sources of finance, shortage of labour, rising manpower and material costs, approvals and procedural difficulties, there was extreme shortage of water in the region which affected the construction works, shortage of bricks due to restrictions imposed by Ministry of Environment and Forest on bricks kiln, unexpected sudden declaration of demonetization policy by the Central Government, affected the construction works of the respondent in a serious way for many months, non-availability of cash-in-hand affected the availability of labours, recession in economy also resulted in availability of labour and raw materials becoming scarce,

shortage of labour due to implementation of social schemes like National Rural Employment Guarantee Act (NREGA) and Jawaharlal Nehru Urban Renewal Mission (JNNURM), orders by the Hon'ble National Green Tribunal & Environmental authorities to stop the construction activities for some time on regular intervals to reduce air pollution in NCR region.

- Apart from the above, it is relevant to mention here that due to the increase in pollution in National Capital Region, the Hon'ble Supreme Court of India vide Order dated 04.11.2019 passed in Writ Petition (Civil) No. 13029 of 1985 titled as "M.C. Mehta-Versus-Union of India & Ors" ("Writ Petition") had put a blanket ban on the construction activities in the National Capital Region. Subsequently vide order dated 09.12.2019, the Hon'ble Supreme Court of India lifted the ban partially i.e., construction activities were only allowed between 6:00 am to 6:00 pm. It is pertinent to mention that due to the aforesaid restraining orders passed by the Hon'ble Supreme Court of India all the construction activities in the National Capital Region came to a standstill, resultantly the project got delayed. The said ban is completely lifted by the Hon'ble Supreme Court only on 14.02.2020.

- All the above stated problems are beyond the control of the developer i.e., the respondent. It may be noted that the respondent had at many occasions orally communicated to the complainant that the construction activity at the said project site had to be halted for some time due to certain unforeseen circumstances which are completely beyond the control of the developer.

m. In view of the above facts and circumstances the demands of the complainant for grant of delay penalty compensation at the exaggerated interest, particularly for the period which was wasted due to aforesaid reasons is not tenable and the complainant is only entitled to the penal interest, as per the clauses of the builder buyer agreement. It is respectfully submitted that if

such prayers are allowed, the same will materially affect the construction works at site, which will affect the interests of all the other allottees who have booked flats in the said project. It is relevant to point out herein that at present the respondent is focusing on the completion and delivery of the said project. The monies received from the allottees have been utilized in the construction activity and thus there is no justification in the demands made by the complainant.

- n. In view of the above facts and circumstances the demands of the Complainant for grant of delay penalty compensation at the exaggerated interest, particularly for the period which was wasted due to aforesaid reasons is not tenable and the complainant is only entitled to the penal interest, as per the clauses of the builder buyer agreement. It is respectfully submitted that if such prayers are allowed, the same will materially affect the construction works at site, which will affect the interests of all the other allottees who have booked flats in the said project. It is relevant to point out herein that at present the respondent is focusing on the completion and delivery of the said project. The monies received from the allottees have been utilized in the construction activity and thus there is no justification in the demands made by the complainant.
- o. The demand of the complainant to demand exorbitant amount in the form of compensation is baseless and jeopardise the whole project. It is submitted that if there is any delay in handing over the possession, the delay compensation shall be given to the complainant in the manner provided in the buyer agreement under clause 5.10 of the buyer agreement. It is reiterated herein that there is no intentional delay at present and hence, the concern of the complainant is unwarranted and premature at this stage.
- p. It is noteworthy to mention that the project of respondent is almost nearing the stage of completion. It is submitted that respondent has launched 420

numbers of independent floors to be constructed on 140 plots. Out of the 258 floors / units were sold by the company till date.

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

E. Jurisdiction of the Authority:

8. 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

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 the 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 complete territorial jurisdiction to deal with the present complaint.

E. 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 the agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(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 with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.

11. Hence, given 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.

F. Findings on the objections raised by the Respondents:

F.1 Objections regarding Force Majeure.

12. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by NGT, Demonetization, Haryana State Pollution Control Board, and other Authorities to curb the pollution in NCR, covid-19 etc. It further requested that the said period be excluded while calculating due date for handing over of possession. Further, in the instant complaint, as per clause 5.1 of agreement, the due date of handing over of possession was provided as 27.10.2018. However, all the pleas advanced in this regard are devoid of merits. First of all, the possession of the unit in question was to be offered by 27.10.2018. Further, the time taken in governmental bans/guidelines cannot be attributed as reason for delay in project. Moreover, some of the events mentioned above are of routine in nature happening annually and are for very shorter period of time. The promoter is required to take the same into consideration while launching the project.
13. The respondent's invocation of the force majeure clause, citing the COVID-19 pandemic as a reason for non-performance, is without merit in this case. The contractual due date for possession was stipulated as 27.10.2018. This deadline occurred well before the imposition of the nationwide lockdown on 20.03.2020, which was a direct response to the pandemic. Therefore, the circumstances cited by the respondent as force majeure did not affect their ability to fulfill the contractual obligation by the specified due date. As such, the plea based on the alleged impact of the pandemic is not tenable and is hereby rejected. Thus, the promoter-respondent cannot be given any leniency on based of aforesaid reasons and it is a well settled principle that a person cannot take benefit of his own wrong and the objection of the respondent that the project was delayed due to circumstances being force majeure stands rejected.

G. Findings on relief sought by the Complainants:

- G.I Direct the respondent to provide the valid physical possession to the complainants.
- G.II Direct the respondents to give delay possession charges from due date of offer of possession till the actual handing over of physical possession.
- G.III direct the respondent not to raise any illegal demands which are not agreed to between the parties.
- G.IV Direct the respondents not to charge labour cess, electrification charges, EEC charges.
- G.V direct the respondents not to charge the club membership charges without existence of club at the project site.
14. The complainants were allotted a unit in the project of respondent "Woodview Residencies" in at Sector 89-90, Gurgaon vide allotment letter dated 27.04.2015 for a total sum of Rs.70,84,521/- and the complainants started paying the amount due against the allotted unit and paid a total sum of Rs. 19,01,325/-
15. Upon perusal of the documents available on the record, the respondents failed to offer the possession of the allotted unit till date and did not receive occupation certificate from competent authority. The complainants took a plea that offer of possession was to be made in made in 2018, but the respondents have failed to handover the physical possession of the allotted unit.
16. The complainants intend to continue with the project and is seeking delay possession charges against the paid-up amount as provided under the 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, —

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*
due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand of the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:
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."

17. As per clause 5.1 of the agreement provides for handing over of possession and is reproduced below:

5.1 Subject to Clause 5.2 and subject to the Buyer making timely payments, the Company shall endeavor to complete the construction of the Building Block in which the Dwelling Unit is situated within 36 months, with a grace period of 6 (six) months from the date of issuance of Allotment Letter provided that all amounts due and payable by the Buyer has been paid to the Company in timely manner. The Company shall be entitled to reasonable extension of time for the possession of the Dwelling Unit in the event of any default or negligence attributable to the Buyer's fulfillment of terms and conditions of this Agreement.

18. On consideration of the abovementioned clause, 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 as per the agreement. By virtue of clause 5.1 of the draft agreement, the possession of the subject unit was to be delivered within a period of 36 months with an additional grace period of 6 months from the date of issuance of allotment letter. The due date is calculated 36 months from date of allotment of unit including a grace period of 6 months which comes out to 27.10.2018.

19. The occupation certificate of the buildings/towers where allotted unit of the complainants is situated has not been received till date by the promoter. The complainants, for delay by the promoter and failure of promoter to complete or unable to give possession of the unit in accordance with the terms of the draft buyer's agreement, wished to seek delay possession charges.

20. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges however, 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.

21. 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.
22. 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%.
23. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:
- "(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
- Explanation. —For the purpose of this clause—*
- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.*
 - (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*
24. 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 them in case of delayed possession charges.

25. On consideration of the circumstances, the evidence and other record and submissions made by the parties, the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 5.1 of the buyer's agreement, the possession of the said unit was to be delivered on 27.10.2018 (due date of possession). The OC has not been obtained by the respondent till date. The authority is of view that there is a delay on the part of the respondent to offer physical possession of the allotted unit to the complainants as per the terms and conditions of the draft buyer's agreement.

26. Accordingly, the non-compliance of the mandate contained in 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 prescribed rate of the interest @ 10.85 % p.a. w.e.f. 27.10.2018 till the date of offer of possession plus 2 months after obtaining the occupation certificate as per provisions of Section 18(1) of the Act read with rule 15 of the rules.

G.VI Direct the respondents to execute conveyance deed as per the agreed terms.

27. Section 17 (1) of the Act deals with duties of promoter to get the conveyance deed executed and the same is reproduced below:

"17. Transfer of title. -

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

28. The authority observes that OC in respect of the project where the subject unit is situated has not been obtained by the respondent promoter till date. As on date, conveyance deed cannot be executed in respect of, the subject unit, however, the respondent's promoters are contractually and legally obligated to execute the

conveyance deed upon receipt of the occupation certificate/completion certificate from the competent authority. In view of above, the respondents shall execute the conveyance deed of the allotted unit within 3 months alter the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainants as per norms of the state government.

H. Directions issued by the Authority:

29. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with obligations cast upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

- i. The respondents are directed to pay delay possession interest to the complainants against the paid-up amount of Rs. 19,01,325/- at the prescribed rate i.e., 10.85% per annum for every month of delay from due date of possession till expiry of 2 months from the date of offer of possession after obtaining occupation certificate.
- ii. The complainants are directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed. 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 respondents/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.
- iii. The respondents are directed to execute the conveyance deed of the allotted unit within a period of 3 months from the date of this order.
- iv. The respondents are hereby directed to refrain from charging any amounts or fees not expressly included in the terms of the Builder-Buyer Agreement from the complainants.

- v. A period of 90 days is given to the respondents to comply with the directions given in this order failing which legal consequences would follow.

30. Complaint stands disposed of.

31. File be consigned to the Registry.

Dated: 12.09.2025



(Arun Kumar)

Chairman
Haryana Real Estate
Regulatory Authority,
Gurugram

