



HARERA
GURUGRAM

Complaint No. 378 of 2025

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

Complaint no. : 378 of 2025
Date of decision : 24.09.2025

1. Madhu Singh
2. Hitendra Pratap Singh
**Both R/o : - B-1158 (FF), IFFCO Colony,
Sector-17-B, Gurugram.**

Complainants

Versus

M/s ALM Infotech Private Limited .
**Office at: - B-418, New Friends Colony,
New Delhi-110025.**

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Garvit Gupta (Advocate)
Harshit Batra (Advocate)

Complainants
Respondent

ORDER

1. The present complaint dated 28.01.2025 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 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 unit details, 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. N.	Particulars	Details
1.	Name of the project	"ILD Grand"
2.	Project location	Sector-37 C, Gurugram.
3.	Project type	Group Housing
4.	DTCP License	1. License no. 96 of 2010 dated-03.11.2010 2. License no 118 of 2011 Dated-26.12.2011
5.	HRERA registered/ not registered	Registered Vide registration no. 386 of 2017 Dated-18.12.2017
6.	Allotment letter	Not on record
7.	Apartment Agreement Buyer	06.07.2016 (As on page no. 38 of complaint)
8.	Unit no.	4A, Block-Skylark (A2), Type-3BR, Floor-4 th (As on page no. 40 of complaint)
9.	Unit area	1820 sq.ft. [Super Area] (As on page no. 40 of complaint)
10.	Possession clause	Clause 9

		COMPLETION OF CONSTRUCTION AND COMPENSATION FOR DELAY <i>i. Subject to Force Majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs, etc, and further subject to the Allottee(s) having complied with all his obligations under the terms and conditions of this Agreement and the Allottee(s) not being in default under any part of this agreement including but not limited to the timely payment of the total sale consideration and other charges/fees/taxes/levies and also subject to the Allottee(s) having complied with all the formalities or documentation as prescribed by the Developer, the Developer proposes to complete the construction within a period of 24 months computed from the date of execution of this agreement with further grace period of 180 days under normal circumstances.</i> [Emphasis supplied] (As on page no. 51 of complaint)
11.	Due date of possession	06.01.2019 [Calculated 24 months from the date of execution of agreement plus 180 days grace period]
12.	Payment plan	Possession linked payment plan <i>i. On application of booking amount- Rs.1,00,000/-</i> <i>ii. Within 60 days of booking-40% of (BSP + EDC/IDC + IFMS + FFC Charges)-Booking amount.</i> <i>iii. External Finish-30% of (BSP + EDC/IDC + IFMS + FFC Charges)</i> <i>iv. On offer of possession-30% of (BSP + EDC/IDC + IFMS =FFC Charges)</i>

13.	Total sale consideration	Rs.82,00,920/- (As on page no. 42 of complaint)
14.	Amount paid by the complainant	Rs.33,87,852/-
15.	Demand letter [final installment]	20.02.2024
16.	Reminder	12.06.2024 26.06.2024
17.	Occupation certificate	21.08.2024 (As on page no. 27 of reply)
18.	Offer of possession	Not on record
19.	Cancellation letter	19.12.2024 (As on page no. 112 of complaint)
20.	Letter for full and final refund	04.01.2025
21.	Conveyance Deed in favour of third party	13.02.2025

B. Facts of the complaint

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

1. That the complainants received a marketing call from the office of respondent in the month of January, 2016 for booking in the above said project of the respondent. Induced by the assurances and

representations made by the respondent, the complainants decided to book an apartment in the project and made part-payment out of the total sale consideration of Rs.1,00,000/-. The complainants thereafter made the payment of Rs.7,20,000/- which was acknowledged by the respondent vide receipt dated 27.06.2016.

- II. That a copy of the Apartment Buyer's Agreement was sent to the complainants, which was a wholly one-sided document containing totally unilateral, arbitrary, one-sided, and legally untenable terms favoring the respondent and was totally against the interest of the complainants. The respondent confirmed the allotment of unit bearing no. 4A, Block Skylark (A2) having super area of 1820 sq.ft.
- III. That the provisions of the Apartment Buyer's Agreement were on the face of it, highly illegal, absurd, unilateral, arbitrary, unconscionable, and not valid. The complainants made their objections vocal to the arbitrary and unilateral clauses of the Apartment Buyer's Agreement to the respondent. The complainants repeatedly requested the respondent for execution of the Apartment Buyer's Agreement with balanced terms. However, the respondent refused to amend or change any term of the pre-printed Apartment Buyer's Agreement and further threatened the complainants to forfeit the previous amounts paid by him if further payments are not made. The Apartment Buyer's Agreement was executed on 06.07.2016.
- IV. That as per 'Annexure D' of the Apartment Buyer's Agreement, the payment plan was possession linked payment plan. The same is reproduced hereunder:-

*On application of booking amount : Rs. 1,00,000/-
Within 60 days of the Application: 40% of BSP+EDC/IDC+IFMS+FFC
External Finish: 30% of BSP+EDC/IDC+IFMS+FFC*

On offer of possession: 30% of BSP+EDC/IDC+IFMS+FFC

- V. That the complainants continued to make the payments as per the mutually agreed Payment Plan and as per the demands raised by the respondent. No default or delay was ever caused by the complainants in complying with their contractual obligations and in making the timely payments. The complainants paid Rs.22,00,000/- and Rs.3,67,852/- to the respondent and the same was acknowledged vide receipts dated 03.08.2016. The complainants have made the total payment of Rs.33,87,852/- out of Rs.82,00,920/-.
- VI. That the respondent in complete defiance of the terms and conditions of the agreement and allotment, sent a demand dated 12.12.2017 against net payable amount of Rs.26,31,646/- on 'Completion of external plaster'. It is pertinent to mention herein that the said payment demand was in complete contrast to the actual ground reality as till that stage, the external finishing work was not completed by the respondent. As per the mutually agreed payment plan, the milestone of 'External finish' had not been achieved and hence, the said demand was not only illegal but also showed the malafide of the respondent.
- VII. That the complainants immediately vide emails dated 20.12.2017 and 21.12.2017 protested against the issuance of the said demand letter and asked the respondent to withdraw the same. The respondent vide its email dated 26.12.2017 admitted that the external plaster work was yet to be completed and that dues have to be cleared as and when the respondent would intimate about the same to the complainants.

Relevant part of the email dated 26.12.2017 is reproduced hereunder:-

*"We will inform you as soon as the plaster is completed against unit no. 4A in Tower-A2.
Please be ready for clearance of dues as demanded by us immediately after our intimation...."*

VIII. Hence, it is clear that till 26.12.2017, the respondent had not achieved the milestone 'External finish' and yet, in order to create false evidence and in order to illegal extract amount from the complainants, the respondent had sent such baseless demands.

IX. That the respondent sent a completely baseless and untenable email dated 09.03.2018 demanding clearance of alleged outstanding amounts of Rs.26,31,646/-. The said email/demand was again illegal as the corresponding stage towards third installment of 'External finish' has not been achieved even till 09.03.2018. The said fact was again brought to the notice of the respondent by the complainants vide emails and letters dated 16.03.2018, 01.05.2018 and 13.07.2018. The complainants vide their email dated 04.09.2018 even shared the photographs of the tower in which the unit of the complainants was located and it was evident from the perusal of the said photographs that the external finishing work of the tower was far from completion.

X. That as per Clause 9 of the Agreement, the possession of the unit was to be handed over by the respondent by 06.01.2019. Thus, the due date to handover the possession of the allotted unit lapsed on 06.01.2019. Clause 9 of the Apartment Buyer's Agreement is reproduced hereunder:

"9(i).....the Developer proposes to complete the construction within a period of 24 months computed from the date of execution of this Agreement with further grace period of 180 days under normal circumstances".

XI. That due to delay on the part of the respondent in completion of the project and the fact that illegal demand was not revoked by the respondent, the complainants visited the construction site in April, 2019 and was shocked to see that no construction activity was going on there and the work has been at standstill. The complainants confronted the respondent and enquired about the said delay in development of the project.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s)
 - i. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 06.01.2019 till actual handing of the possession
 - ii. Hold the cancellation/termination of the allotment as illegal and to immediately restore the allotment of the unit in question in favour of the complainants. If in case, for any reason, the unit in question cannot be allotted to the complainants, then the respondent be directed to allot a unit having same size at the same price and at the similar location in the project in question.
 - iii. Direct the respondent to handover the physical possession of the unit, in a habitable state with all the facilities and specifications as per the Apartment Buyer's Agreement.
 - iv. Direct the respondent to execute the Conveyance Deed of the unit in favour of the complainants.
5. On the date of hearing, the Authority explained to the respondent /promoter on 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.

D. Reply by the respondent

6. The respondent contested the complaint on the following grounds. The submission made therein, in brief is as under: -
- I. That the complainants being interested in purchasing a unit in the project being developed by the respondent, approached the respondent after conducting their own due diligence, seeking allotment of a unit by submitting an application for booking.
 - II. That upon the acceptance of the application made by the complainants for allotment, a unit bearing no. 4 A, Block - Skylark (A2), Type 3 BR, 4th Floor was allotted to the complainants vide Allotment Letter dated 29.06.2017, for total sale price of Rs.82,00,920.
 - III. Thereafter, the parties mutually entered into an Apartment Buyer's Agreement on 06.07.2016. As per clause 19-A and 19-B of the Agreement, upon default of the complainants, the respondent is well within its rights to cancel the unit.
 - IV. That upon completion of the project, the respondent duly applied for the grant of Occupation Certificate on 04.09.2023. Thereafter, the respondent was granted the Occupation Certificate for the project on 21.08.2024. That without prejudice to the rights of the respondent, it is submitted that once the respondent had applied for the Occupation Certificate, the time taken to grant the Occupation Certificate is entirely upon the department, and the respondent had no role in the delay caused in grant of the Occupation Certificate.

- V. That after the receipt of the Occupation Certificate dated 21.08.2024, the respondent sent an offer of possession on 20.04.2024 to the complainants, along with the statement of account thereby requesting the complainants to remit the outstanding dues pending towards the sales consideration of the unit. The complainants failed to come forward and remit the balance payment.
- VI. That the complainants have been a defaulter since the beginning and never made timely payments with respect to the unit. On 20.02.2024, the respondent duly sent a notice to the complainants requesting them to clear their outstanding dues of an amount of Rs.54,46,659/-.
- VII. That since the complainants failed to make a payment towards the outstanding dues, the respondent issued reminder letters for payment of the final instalment dated 12.06.2024 and the same was sent vide email as well. Thereafter, the respondent sent a final reminder dated 01.08.2024 to the complainants requesting the complainants to make payment of outstanding dues. The complainants have till date made payment only 41% of the total sales consideration for the unit, i.e. Rs.33,87,852/-, and the same can be verified from the Statement of Account dated 21.06.2025.
- VIII. Subsequently, when no response was received from the complainants, the respondent sent an intimation of cancellation dated 13.12.2024 to the complainants. Upon continuous default of the complainants and their failure to make timely payments since the year 2016, the

respondent was constrained to cancel the unit on 19.12.2024. The unit allotted to the complainants was cancelled as per the terms and policy of the Agreement dated 06.07.2016. Thereafter, the complainants were duly refunded the entire amount paid by them on 04.01.2025.

- IX. That the entire amount was refunded to the complainant by the respondent in good faith without any deduction or forfeiture of the earnest money, despite the complainants being defaulter. The allotment of the unit in favour of the complainants was deemed cancelled when, the complainant failed to comply with the notice dated 01.08.2024, in the time period mentioned therein.
- X. That despite the deemed cancellation after the notice dated 01.08.2024, and without prejudice to the rights and submissions of the respondent, as a final opportunity, and acting in good faith, the respondent allowed 6 days of time to make the further payment. However, the complainant again failed to make the payment, after which, the unit was finally terminated on 13.12.2024.
- XI. That subsequent to the cancellation of their allotment, the complainants sent an email to the respondent wherein they expressly admitted the existence of outstanding dues and acknowledged their liability to make the requisite payment. Despite this admission, the complainants have wilfully failed to fulfil their obligations and continued to avoid making any payment towards the outstanding amount. It is pertinent to note

that the complainants, vide email dated 17.12.2024, admitted their liability to pay the outstanding amount from the same email address, i.e., hitendra@iffco.in, which was also used for all prior correspondence, including the reminders and notices that were sent to them by the respondent. That the conduct of the complainants is manifestly mala fide, since the beginning and they are now attempting to take advantage of their own wrong. Hence, the present complaint is liable to be 10

- XII. That the complainants are chronic defaulters, who have time and again breached the terms of the Agreement and failed to make timely payment of demands despite repeated reminders and follow-ups, since the year 2017. That constrained by the continuous defaults on part of the complainants, the respondent was left with no other option but to cancel the unit allotted to the complainants.
- XIII. That upon cancellation of the allotment, all rights, title, interest, claims, demands, entitlements, privileges, and benefits whatsoever that were to vest in the complainants stood extinguished. Consequently, the complainants have no right, title, interest, claim, demand, entitlement, possession, or any other legal or equitable right in respect of the unit in question as on date.
- XIV. That third-party rights have already been created on the subject unit and a Conveyance Deed dated 13.02.2025 has been duly executed with a third-party. Upon cancellation of the unit due to the complainants

being the defaulter, the complainants have no right or interest over the unit earlier allotted to them, whatsoever.

7. 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 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 The Town and Country Planning Department, Haryana the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

10. The Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter as per provisions of section 11(4)(a) of the Act leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the relief sought by the complainants.

- F.I. Direct the respondent to pay interest for every month of delay at the prevailing rate of interest from 06.01.2019 till actual handing of the possession.**
- F.II. Hold the cancellation/termination of the allotment as illegal and to immediately restore the allotment of the unit in question in favour of the complainants. If in case, for any reason, the unit in question cannot be allotted to the complainants, then the respondent be directed to allot a unit having same size at the same price and at the similar location in the project in question.**
- F.III. Direct the respondent to handover the physical possession of the unit, in a habitable state with all the facilities and specifications as per the Apartment Buyer's Agreement.**
- F.IV. Direct the respondent to execute the Conveyance Deed of the unit in favour of the complainants.**
11. In the present complaint, the complainants seeks relief in relation to setting aside the cancellation of the complainant's unit and is seeking possession and interest on the delayed possession. The complainants were allotted unit bearing no. 4A, Block-Skylark (A2), Type-3R, situated on the 4th floor of the project titled "ILD Grand", located at Sector-37-C, Gurugram. Subsequently, an Apartment Buyer's Agreement was executed between the parties on 06.07.2016 As per the agreed payment plan the total sale consideration for the said unit was Rs.82,00,920/- against which the complainants have paid a total sum of Rs.33,87,852/-.
12. The complainants contends that the respondent arbitrarily cancelled the allotment of the unit on 19.12.2024 on the ground of non-payment of outstanding dues. The complainants further submits that under the terms of the payment plan the complainants have paid an amount of Rs.33,87,852/- out of the sale consideration of Rs.82,00,920/-. Vide demand letter dated 12.12.2017, the respondent raised a demand against the instalment of "Completion of external plaster". Although, on the ground reality, the external plaster work was not completed by the

respondent, thus, the demand was illegal and the complainants vide emails dated 20.12.2017, 21.12.2017, 16.03.2018, 01.05.2018, 04.09.2018 protested against the issuance of the said Demand Letter and asked the respondent to withdraw the demand letter. Vide email dated 02.09.2019, the respondent withdrew the demand letter dated 17.06.2019 and the respondent submitted that it will raise the demand again as and when the external finishing work would be completed in the tower.

13. The respondent on the other hand, submits that the complainants failed to fulfil their obligation and make timely payments towards the outstanding dues despite several reminders, the unit of the complainants was duly cancelled. Now the question before the authority is whether the cancellation issued vide letter dated 19.12.2024 is valid or not.
14. Upon consideration of the documents placed on record and the submissions made by both the parties, the Authority is of the view that an examination of the payment plan is essential in order to determine the respective obligations of the parties and to assess the validity of the cancellation of the unit. The payment plan is reproduced below for ready reference:

S.No.	Milestone	Particulars
1.	On application of Booking Amount	Rs.1,00,000/-
2.	Within 60 Days of Booking	40% of (BSP+ EDC/IDC + IFMS + FFC Charges)-Booking Amount
3.	External Finish	30% of (BSP+ EDC/IDC+ IFMS+ FC Charges)

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4.	On Offer of Possession	30% of (BSP + EDC/IDC + IFMS + FFC Charges)
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15. As per the payment plan the complainants have to make first instalment i.e., Rs.1,00,000/- on the application of the booking amount, second instalment i.e., 40 % of (BSP+ EDC/IDC + IFMS + FFC Charges)-Booking Amount, within 60 days of the application, these payments were duly made by the complainants. Thereafter, the third instalment i.e., 30% of (BSP+ EDC/IDC+ IFMS+ FFC Charges) on the external finishing, was raised by the respondent on 12.12.2017 of an amount of Rs.26,31,646/-. Vide email dated 20.12.2017, the complainants have objected to the demand dated 12.12.2017 stating that the complainants have visited the project site and it was found that the external plaster work on the towers has not been completed and the complainants took some pictures of the construction site and shared them with the respondent. Again on 21.12.2017, the complainants vide an email re-sent their above said concern to the respondent. The respondent replied to the same as follows:

*"Dear Sir,
We will discuss and check your observations with our concerned team and will revert to you soon."*

[Emphasis supplied]

16. Vide email dated 15.03.2018 and 20.04.2018, the respondent informed the complainants that 95% of the construction stage has been reached in the project and accordingly, the demands for clearance of outstanding dues have already been raised. The complainants replied to the said emails on 01.05.2018 and stated that the external work was not completed as observed by them upon their visit on the site in the month of April, photographs of the same were shared with Ms. Jiya Sharma on

Whatsapp, and therefore no question of delay payment on behalf of the complainant exists. The complainants also requested the respondent to send fresh demand letter if the "External Work" is completed on the unit, alongwith photographs of the same, at the earliest so that the due amount could be paid on time.

17. The respondent again sent a Reminder cum Demand Notice for Instalment on 17.06.2019. The respondent vide email dated 02.09.2019, withdrew the demand letter dated 17.06.2019 and intimated that the said demand would be raised again as and when the external finishing works would be completed in the tower. The same is reiterated below:

*" Dear Sir,
Greetings of the day!!!!
This is in reference to our discussions held at our office today i.e., 02/09/2019 and your written concern regarding the demand raised against external finish of the tower, we understand your concern and **accordingly withdraw the said demand letter dated 17/06/2019 now. The demand will be raised to you again and when the external finishing work will be completed in the tower.**
We assure you that **no interest/penalties is applicable against the demand which had been raised on the external finish.***

[Emphasis supplied]

18. Here, in the above said email, the respondent had itself admitted that the external plaster finishing work has not been completed and the demand dated 17.06.2019 was withdrawn by the respondent. Also, the respondent stated that no interest/penalty would be charged against the demand that had been raised on the external finish. Thus, the demand letter raised by the respondent on 12.12.2017, the third instalment i.e., "On External Finishing" had been withdrawn by the respondent. On 03.02.2020, the respondent sent a letter to the complainants and informed that the possession would be offered by December 2020. The Occupation Certificate in respect to the project has been obtained by the respondent on 21.08.2024.

19. On 20.02.2024, the respondent raised a demand via "call notice for instalment due as per the Resolution Plan submitted to HRERA" amounting to Rs.54,46,659.04/-. The said demand letter does not have any mention about the stage wherein the demand was raised. The respondent in the said demand letter have mentioned it as "Final Installment", the final instalment was at the stage of "Offer of possession".
20. The Authority observes that the final instalment was to be made on the Offer of Possession and that could have been done after receiving the Occupation Certificate. The Occupation Certificate has been obtained by the respondent on 21.08.2024 and the demand that was to be raised at the stage of offer of possession was very cleverly raised by the respondent before obtaining the Occupation Certificate. In furtherance of the said demand, the respondent raised reminders dated 12.06.2024, 26.06.2024 and cancelled the unit on 19.12.2024. After the cancellation, the respondent issued a letter for "Full & Final Refund Against the Cancellation of the Unit". The due date of possession of the unit was 06.01.2019, the project was delayed beyond a period of 4 years from the promised due date.
21. The Authority is of the view that demands raised by the respondent were illegal because of the fact that no Occupation Certificate was received by the respondent till that stage and also the respondent issued the demand without any adjustment of the delayed possession charges for the delay in the deliverance of possession of the unit. The said demand could have been made by the respondent only on "Offer of possession" and the same was not made by the respondent ever. Vide email dated 17.12.2024, the complainants requested the respondent to share the Statement of

Accounts so that the complainants could make the payment against the balance sale consideration. The respondent vide its letter dated 19.12.2024, terminated the allotment of the complainants. The complainants vide emails dated 19.12.2024 and 04.01.2025 protested against the cancellation of the unit and requested the respondent to share the statement of accounts.

22. The respondent submitted that the respondent had created third party rights on the subject unit and Conveyance Deed had been executed in favour of a Third party on 13.02.2025. The Authority observes that as per clause 1 of the Conveyance Deed (at page no. 38 of reply), it has been mentioned that the Allotment letter was issued in favour of the third party on 28.02.2024 and the Apartment Buyer's Agreement was also executed on the same date. The cancellation of the allotment of the unit qua the rights of the complainants has been done on 19.12.2024. No allotment could be made in favour of a third person when the allotment is already in some other person name. Thus, in view of the facts above stated, the cancellation dated 19.12.2024 is hereby set aside being invalid and the respondent is directed to restore the allotment of the complainants within a period of 30 days of this order.

23. 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

"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."

- 24. Due date of handing over possession and admissibility of grace period:** As per clause 9(i) of the agreement dated 06.07.2016, the respondent was obligated to complete the construction of the project and hand over possession of the subject unit within a period of 24 months from the date of execution of the agreement alongwith a grace period of 180 days. The said clause is reiterated below:

"Clause 9

COMPLETION OF CONSTRUCTION AND COMPENSATION FOR DELAY

*(i) Subject to Force Majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs, etc, and further subject to the Allottee(s) having complied with all his obligations under the terms and conditions of this Agreement and the Allottee(s) not being in default under any part of this agreement including but not limited to the timely payment of the total sale consideration and other charges/fees/taxes/levies and also subject to the Allottee(s) having complied with all the formalities or documentation as prescribed by the Developer, the Developer proposes to complete the construction **within a period of 24 months computed from the date of execution of this agreement with further grace period of 180 days under normal circumstances.***

25. As per clause 9 of the agreement dated 06.07.2016, the due date of possession comes out to be 06.01.2019.

- 26. Admissibility of delay possession charges at prescribed rate of interest:** The complainants intends to continue with the project and 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."

27. 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.

28. 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%.

29. 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:

"(z) "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;"*

30. 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 her in case of delayed possession charges.

31. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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. By virtue of clause 9 of the agreement dated 06.07.2016, the due date comes out as 06.01.2019. Occupation certificate was granted by the concerned authority on 21.08.2024. The Authority is of the view that there is delay on the part of the respondent to offer possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the agreement dated 06.07.2016 to hand over the possession within the stipulated period.
32. 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 delayed possession at prescribed rate of interest i.e., 10.85 % p.a. w.e.f. 06.01.2019 till the expiry of 2 months from the date of Occupation Certificate i.e., 21.10.2024 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act. Further, the respondent is directed to handover possession of the unit to the complainants within a period of 30 days of this order.

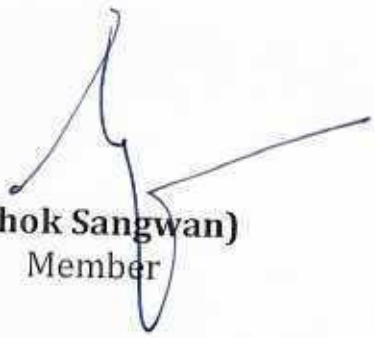
G. Directions of the Authority:

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

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- i. The cancellation dated 19.12.2024 is hereby set aside being invalid and the respondent is directed to restore the allotment of the complainants within a period of 30 days of this order.
- ii. The complainant is directed to return the refunded amount, if any to the respondent within a period of 2 weeks.
- iii. The respondent is directed to pay interest on delayed possession at prescribed rate of interest i.e., 10.85 % p.a. w.e.f. 06.01.2019 till the expiry of 2 months from the date of Occupation Certificate i.e., 21.10.2024 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act.
- iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- v. The respondent is directed to provide an updated statement of accounts to the complainant within a period of one week from the date of this order and thereafter, the complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- vi. The respondent is directed to handover physical possession of the unit to the complainant within 30 days of this order.
- vii. 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, within 60 days of the order.
- viii. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

34. Complaint stands disposed of.
35. File be consigned to registry.



(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 24.09.2025



HARERA
GURUGRAM