

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

Complaint no. : 2879 of 2024
Date of decision : 01.10.2025

1. Palak Bhargava
2. Shobhneet Bhargava
Both R/o: -C-903, Aqua Front Towers, Flower
Valley, Central Park 3, Sector-33, Sohna.

Complainants

Versus

1. M/s Godrej Highview LLP
Office at: Godrej One, Floor-5th, Pirojshanagar
Eastern Express Highway, Vikhroli, Mumbai-
400079.
Also At: Floor-3rd, UM House, tower-A,
Plot no. 35-P, gate No. 1, Sector-44, Gurugram.

Respondent no.1

2. M/s. Aum Shri Hotels and Resorts Pvt Ltd.
Office at: 902 A, Floor-9th, D-mall, Netaji
Subhash Place, Pitampura.

Respondent no. 2

CORAM:
Ashok Sangwan

Member

APPEARANCE:
Kuldeep Kumar Kohli
(Advocate)
Rohan Malik (Advocate)

Complainants

Respondent no.1

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 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

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	"Godrej Nature Plus"
2.	Nature of project	Group Housing
3.	Location of project	Village-Dhunela, Sector-33, Sohna, Gurugram, Haryana.
4.	DTCP License	License no. 01 of 2014 dated-03.01.2014
5.	RERA registered	Registered Vide registration no. 18 of 2018 Dated-30.01.2018
6.	Allotment Letter	18.06.2018 (As on page no. 52 of complaint)
7.	Agreement For Sale	25.06.2018 (As on page no. 61 of complaint)
8.	Unit no.	T-4-1701, Floor-17 th ,

		(As on page no. 65 of complaint)
9.	Unit area	107.67sq.mtr [Carpet Area] 21.74sq.mtr [Exclusive Area] 129.41 sq.mtr [Total Area] (As on page no. 65 of complaint)
10.	Possession clause	<p>Clause 6.</p> <p>POSSESSION</p> <p>6.2 The Developer shall offer possession of the Apartment to the Buyer for the said Apartment on or before 30th day of June 2023 ("Completion Time Period"). The Completion Time Period shall stand reasonably extended on account of (i) any Force Majeure event and/or (ii) reasons beyond the control of the Developer and/or its agents and/or (iii) due to non-compliance on the part of the Buyer including on account of any default on the part of the Buyer.</p> <p>[Emphases supplied]</p> <p>(As on page no. 75 of complaint)</p>
11.	Due date of possession	30.12.2023 (30.06.2023 + 6 months grace period on account of Covid-19) [Note: vide proceedings dated 03.09.2025, the same was inadvertently mentioned as 30.06.2023]
12.	Sale consideration	Rs. 1,22,64,829/- (As on page no. 105 of reply)
13.	Amount paid	Rs.92,18,203/-

		(As per S.O.A dated 09.05.2024 on page no.78 of complaint)
14.	Occupation certificate	Not obtained
15.	Offer of possession	Not on record

B. Facts of the complaint

3. The complainants have submitted as under:

- I. That the respondent no. 1 i.e., M/s Godrej Highview LLP (LLP PIN AAH-5060), is a Limited Liability Partnership incorporated under the provisions of the Limited Liability Partnership Act 2008, having its registered office at 5th Floor, Godrej One, Pirojshahnagar, Eastern Express Highway, Vikhroli (east), Mumbai, Maharashtra - 400079 and its regional office at 3rd Floor, UM House Tower A, Plot No. 35, Sector-44, Gurugram, Haryana-122002.
- II. That the respondent no. 2 i.e., M/s Aum Shri Hotels and Resorts Private Limited, is a company incorporated under the provisions of the Companies Act, 1956, and having registered office address at E 3/6 Model Town, New Delhi 1100093, (hereinafter referred to as the "ASHRPL/Land Owner).
- III. That the respondent no. 1 issued an advertisement announcing a residential project called "Godrej Nature Plus" at Sector 33, Sohna, Gurugram, Haryana and thereby invited application from the prospective buyers for the purchase/allotment in the said project.
- IV. That the respondent no. 1 and its representatives also handed over a Brochure advertising the nature of the project and the amenities which would be provided to buyers. It held out the

- representations detailed in Para 7 on the basis of which buyers were induced to invest. Responding to the representation held out by the developer, the complainants booked flats in the residential project.
- V. The brochure that was issued by the developers spoke of a "Distinctive Living" while advertising the project, which was described as "*Presenting An Exclusive Health Land Mark*".
- VI. That the complainants were induced by the assurances and representations made by respondent no. 1 and signed an application form for one unit and made a payment towards booking of a 3 BHK Unit with utility / terrace unit no. 1701, Tower 4 in the project situated at Sector 33, Sohna, Gurugram, Haryana measuring 107.67 sq. meters (carpet area against a total area of 129.41 sq. meters, the total cost being Rs.1,40,00,000/-. It is pertinent to mention that the complainants subsequently made the payments amounting to Rs.92,18,203.40/-.
- VII. That on 25.06.2018, the complainant executed an "Agreement for Sale" for the said unit bearing no 1701, Tower 4, in project Godrej Nature Plus and the same was registered at Tehsil Sohna on 25.06.2018.
- VIII. That the Clause No 6.2 of the Agreement for Sale dated 03.11.2022 reads as under:

"The developer shall offer possession of the apartment to the buyer for the said apartment on or before 30th Day of June 2023 (Completion time period). The completion time period shall stand reasonably extended on account of (i) any force majeure event and or (ii) reasons beyond the control of developer and or its agents and or (iii) due to non-compliance on the part of the buyer including on account of any default on the part of the buyer. ("Extension Event") in case the developer is unable to offer possession on or before the completion time period for any reasons other than those set out in the foregoing, than on demand in writing by the buyer, the developer shall refund the amounts received from the buyer along with prescribed interest in accordance to the applicable laws."

- IX. That the possession, therefore, had to be given to the complainants by respondent no. 1 by 30.06.2023.
- X. That the respondent raised various demands dated 15.06.2018, 13.01.2020, 27.02.2021, 15.11.2021, 31.08.2022, which were duly paid. Since the time of booking and during the years 2021, 2022 and 2023, the complainant has been meeting the representatives of the respondent no. 1 regularly seeking clarity concerning the status of the project and the delivery date but unfortunately the representatives of the respondent no. 1 have been giving vague reasons for the delay in the project and have been assuring that all the efforts are being made to deliver the project on priority.
- XI. That after losing all hope from the respondent and having shattered and scattered dreams of owning a unit and also losing a considerable amount of time and money (as per the buyer's agreement dated 25.06.2018 the complainant never received the letter of possession and till now the area looks far from complete and habitable as is evident from the status report provided by company.
- XII. That as per section 11 (4) of the Act, the promoter is liable to abide by the terms and agreement of the sale. As per section 15 of the Act the respondent is liable to pay interest to the allottees of an apartment, building, or project for a delay or failure in handing over of such possession as per the terms and agreement of sale. Accordingly, the complainant is entitled to get interest on the paid amount along with interest at the rate as prescribed by the Authority per annum from the due date of possession as per flat buyer agreement till the date of handing over of possession.
- XIII. That the complainant has been diligently making the payments as per the demands of the respondent hoping that the possession will be

ultimately delivered to them soon. But the hopes have been completely shattered as the respondent has failed to intimate the complainant of any date of delivery of possession of the plot. That perturbed by the lingering silence on the part of the respondent, the complainant has preferred the present complaint before the Authority to issue necessary directions to the respondent to immediately handover the possession of the plot/ villa to the complainant along with relevant Delay Possession Charges for the delay. Hence, this complaint.

XIV. That it is abundantly clear that the project is nowhere near completion. The allottee/complainant had booked the unit in the entire complex which had to be provided to the complainant with all the facilities. The complainant had not booked a standalone unit Therefore as held by the Honourable SC, the entire set of amenities including roads, parks and all other facilities as stated earlier have to provided and offered with the unit. The unit stand alone cannot be offered for the possession.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
 - i. Direct the respondent to pay interest at the prescribed rate of interest Of 10.75% per annum for every month of delay on the amount paid by the complainants from the due date of possession plus 2 months.
 - ii. To handover the unit in a habitable condition and execute the Conveyance Deed in favour of the complainants after the receipt of the Occupation Certificate and a valid offer of possession for the unit in a habitable condition.
 - iii. Direct the respondent to provide all the amenities as per the assurances given in the Brochure.
 - iv. Direct the respondent not to charge anything from the

- complainants which is not a part of the Buyer's Agreement.
- v. Direct the respondent to ensure not to raise the demands in the Offer of Possession which are not a part of the Agreement like increase in the area, GST on corresponding amount, advance monthly maintenance beyond 12 months, additional EDC/IDC, additional maintenance, Electrification Charges, Sewerage & water charge, indemnity bond and in case any such illegal demands are raised by the respondent in the offer of possession, the same may kindly be declared as an invalid offer of possession.
 - vi. Direct the respondent not to cancel the unit as the complainants are interested in taking possession of the property.
 - vii. Direct the respondent not to create any third party rights in the unit as the complainants are interested in taking possession of the unit.
 - viii. Direct the respondent not to charge Holding Charges at any point of time.
 - ix. Direct the respondent not to charge maintenance charges till the time the physical possession along with all the amenities and the Conveyance Deed is handed over to the complainants.
 - x. Direct the respondent to adjust the interest for the delayed possession from the outstanding dues if any, after getting a confirmation of the dues from the complainants.
5. On the date of hearing, the Authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

6. Vide proceedings dated 03.09.2025, respondent no.2 i.e., Aum Shri Hotels and resorts Private Limited was proceeded ex-parte.

D. Reply by the respondent no.1

7. The respondent no.1 has contested the complaint on the following grounds:

- I. That the respondent is in the process of developing a project (in phase wise manner) by the name of "Godrej Nature Plus" on a land measuring 18.744 acres approx. at Sector 33 in Tehsil Sohna, Gurugram, Haryana. The project comprises of 1094 multi-storied apartment(s) and 19 shops along with amenities, facilities, services etc. The respondent has registered the project with the Authority and RERA Registration Certificate has been granted by the Authority vide certificate no. 18 of 2018, dated 30.01.2018.
- II. That the complainants, after satisfying themselves with the project, vide application form dated 06.06.2018 applied for the allotment of T4-1701 in the project for a sale consideration of Rs.1,22,64,829/- (Excluding Applicable Taxes). Pursuant to receipt of the requisite payment, the respondent allotted the said unit in favour of the complainants vide allotment letter dated 18.06.2018. Thereafter, the respondent called upon the complainants to execute the Agreement For Sale. In pursuance of the same, the AFS was executed on 25.06.2018 between the parties.
- III. At this stage, the respondent seeks liberty to highlight the following relevant clauses of the AFS which are germane for effective adjudication of the present dispute:

a. As per the definition clause of the AFS, Force Majeure shall mean (a) war, flood, fire, draught, cyclone, earthquake or any other calamity caused by the nature affecting regular development of the Project, civil commotion or act of God; (b) any notice, order, rule, notification of the Government and/or other public competent authority/court affecting the regular development of the Project.



- b. As per clause 6.2 of the AFS, The Developer shall offer possession of the Apartment to the Buyer for the said Apartment on or before 30th day of June 2023 ("**Completion Timer Period**"). The Completion Time Period shall stand reasonably extended on account of (i) any Force Majeure Event and/or; (ii) reasons beyond the control of the Developer and/or its agent and/or; (iii) due to non-compliance on the part of the Buyer including on account of any default on the part of the Buyer. ("**Extension Event**")
- c. Clause 7.5 of the AFS deals with the cases in which compensation, if any, to be given to the Complainant. The said clause categorically excludes liability of the Respondent to pay any compensation in case of occurrence of a force majeure event affecting the timelines for offer of possession.

- IV. That while the project was being developed in the year 2020, the entire world fell in the clutches of Covid 19 pandemic and the country was in complete lockdown for several months. It is a matter of common knowledge that the pandemic hampered every small and big business, the respondent was also equally affected since its hands were also tied due to the nationwide lockdown and disruptions in the material supply chain and labour issues. It is reiterated that even the Government of India had declared Covid-19 as a *force majeure* event.
- V. That this Authority also reviewed the situation independently and released an order dated 26.05.2020, wherein it has been clarified that all the registered projects with the Authority shall be extended automatically by 6 months, invoking force majeure clause. In view of the aforesaid, the registration of the project automatically got extended from 30.06.2023 to 30.12.2023.
- VI. Further, a brief of various difficulties that were faced by the Respondent while developing the roject during the Covid -19 pandemic and thereafter, are mentioned herein below:

- a. Due to second wave of covid, the construction workers went back to their hometowns. Movement of labourers to construction sites was further worsened due to closing of borders and lockdown imposed by other state governments. Other labourer issues such as 14 days quarantine, social distancing, frequent sanitisation of workplace etc. In view of the second wave, the Hon'ble Panchkula Authority granted respite to the Developers for 3 months (01.04.2021 to 30.06.2021) on the account of force majeure event i.e., specific to "**second wave of covid 19**". It is also a matter of common knowledge that second wave of covid 19 was much graver than the first wave and thus, the damage and slowdown that was caused due to second wave in the project was way more than 3



months. A copy of the extract of the resolution passed by the Hon'ble Haryana RERA, Panchkula dated 02.08.2021 is annexed herewith and marked as **Annexure R-7**.

- b. Acute shortage of imported material, raw material in the market owing to interstate import restrictions. Contractors refusing to execute works at site in view of increased prices in raw material like copper, aluminium etc.
- c. Market recession and negative customer sentiment towards real estate.

- VII. That the business of construction is labour intensive and shortage of labour and material due to Covid and reasons beyond the control of the respondent had led to slowdown of construction, thereby affecting the pace and schedule of construction of the project and thereby its expected handover dates. In this regard, reliance is also placed on the persuasive value of the judgment of Hon'ble UP REAT (Appellate) in "**Central Government Employees Welfare Housing Org. Vs Rajender Mohan Saxena**" **Appeal No. 197/2023**, in which the Hon'ble Appellate Tribunal has granted a benefit of zero period to the developer for both the waves of covid-19 (i.e., First and Second Wave). The Hon'ble Appellate Court granted approximately one and a half year (exactly 20 months and 28 days) to the project situated in NCR Region keeping in mind the devastating effect of both the waves of covid 19. The argument of second wave is captured in paragraph no. 7 of the said judgement. A copy of the judgment in **Central Government Employees Welfare Housing Org. Vs Rajender Mohan Saxena**" **Appeal No. 197/2023** is annexed herewith and marked as **Annexure R-8**.
- VIII. It is further submitted that the adverse effects of covid -19, which admittedly is a force majeure event and its effects in all spheres of life including the real estate sector are being faced even today. In fact, its crippling effects till June 2022 were duly recognised by the Hon'ble Supreme Court in a *suo motu* action in which the Hon'ble Supreme Court granted extension in limitation on court filings, let alone construction activities which are more labour-intensive activities. Therefore, it is

clear that the timeline for delivery of possession stood extended due to force majeure events and the respondent is not in breach of any of its obligations.

- IX. That apart from the restrictions imposed by the authorities in view of covid-19, various other authorities (including courts, pollution control boards/Air Quality management authorities) also banned construction activities in NCR Region. Vide Order dated 29.10.2018 ban was from 01.11.2018 to 10.11.2018, Order dated 24.12.2018 ban was from 24.12.2018 to 26.12.2018, Order dated 11.10.2019 ban was from 11.10.2019 to 31.12.2019, Order dated 04.11.2019 ban was from 04.11.2019 to 16.11.2019, Order dated 16.11.2021 ban was from 16.11.2021 to 21.11.2021 and Order 24.11.2021 ban period was 24.11.2021 to 20.12.2021 passed by various concerned authorities/courts, banning/ restricting various construction activities such as work time restrictions, use of DG sets at construction sites. These orders could not be anticipated. That total ban period under these orders is 142 days.
- X. In addition to the above, there were restrictions/ban on construction activities in view of the Stage - III of Graded Response Action Plan ("GRAP") in NCR region. Total ban period in terms of these orders is 130 days. A table capturing details of all the GRAP Orders banning construction activity in NCR is provided below:

<i>DATE OF ORDER</i>	<i>DATE OF REVOCATION</i>	<i>NUMBER OF DAYS</i>
29.10.2022	14.11.2022	17
04.12.2022	07.12.2022	04
30.12.2022	04.01.2023	06
06.01.2023	15.01.2023	10
02.11.2023	28.11.2023	27
22.12.2023	01.01.2024	11



14.01.2024	18.01.2024	05
14.11.2024	05.12.2024	22
16.12.2024	27.12.2024	12
03.01.2025	05.01.2025	03
09.01.2025	12.01.2025	04
15.01.2025	17.01.2025	04
29.01.2025	03.02.2025	06
		Total - 130

- XI. Therefore, it is submitted that since the signing of the AFS, the complainants were aware of the terms and conditions mentioned therein. And despite of the knowledge of aforesaid force majeure events, which are already in public domain, and having agreed to the terms and conditions of the AFS, the complainants have filed present complaint and malafidely seeking possession along with interest on alleged delay in offer of possession. The aforesaid is being done in spite of occurrence of "*force majeure event*" (outbreak of covid 19, declared as force majeure event). Thus, the complainants are bound by the aforesaid terms and the law of the land. In light of the above, the complainants are not entitled to any relief as prayed in the complaint under reply and the present complaint is liable to be dismissed as baseless and misconceived.
- XII. In view of the same, no delay is attributable to the respondent in the present case as the development of the project was majorly hampered due to various Force Majeure events which was duly considered by the Hon'ble Authority. In view of the above, the complainants are not entitled to claim any compensation/ interest for any alleged delay in offer of possession. However, in complete ignorance of the above, the complainants have resorted to file the present complaint in order to

arm twist the respondent and surrender to the unlawful demand of seeking interest on delay in delivery of possession of the unit..

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

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the Town and Country Planning Department, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes with office 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 complaints.

E.II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per 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;

12. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaints 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 respondent

F.1 Objection regarding Force Majeure circumstances.

13. The respondent has taken an objection that the construction of the project was delayed due to force majeure conditions such as various orders passed by the concerned authorities (including courts, pollution control boards/Air Quality management authorities), outbreak of Covid-19 pandemic. Since there were circumstances beyond the control of respondent, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which the construction activities came to stand still, and the said period be excluded while calculating the due date. In the present case, the 'Agreement For Sale" was executed between the parties on 25.06.2018. As per clause 6 of the Agreement dated 25.06.2018, the due date for offer of possession of the unit

6. Possession

6.2 The Developer shall offer possession of the Apartment to the Buyer for the said Apartment on or before 30th day of June 2023 ("Completion Time Period"). The Completion Time Period shall stand reasonably extended on account of (i) any Force Majeure event and/or (ii) reasons beyond the control of the Developer and/or its agents and/or (iii) due to non-compliance on the part of the Buyer including on account of any default on the part of the Buyer.

[Emphasis supplied]

12. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 30.12.2023.

13. The respondent has submitted that due to various orders of the Authorities and court, the construction activities came to standstill. The Authority observes that though there have been various orders issued to curb the environment pollution, shortage of labour etc but these were for a short period of time and are the events happening every year. The respondent no.1 was very much aware of these event and thus, the promoter/ respondent cannot be given any further leniency based on the aforesaid reasons.

G. Findings on the relief sought by the complainants

G.I. Direct the respondent to pay interest at the prescribed rate of interest of 10.75% per annum for every month of delay on the amount paid by the complainants from the due date of possession plus 2 months.

G.II. To handover the unit in a habitable condition and execute the Conveyance Deed in favour of the complainants after the receipt of the Occupation Certificate and a valid offer of possession for the unit in a habitable condition.

G.III. Direct the respondent to provide all the amenities as per the assurances given in the Brochure.

14. The above mentioned reliefs are being taken together as the findings in one relief will definitely affect the result of the other reliefs and these reliefs are interconnected.

15. In the present complaint, the allottees intends to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Section 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. **Due date of possession:** As per clause 6.2 of the Agreement For Sale executed between the complainants and the respondent, the possession of the unit was to be handed over to the complainants on or before 30.06.2023 and the same is reproduced below:

""6

6.2. POSSESSION

6.2 The Developer shall offer possession of the Apartment to the Buyer for the said Apartment on or before 30th day of June 2023 ("Completion Time Period"). The Completion Time Period shall stand reasonably extended on account of (i) any Force Majeure event and/or (ii) reasons beyond the control of the Developer and/or its agents and/or (iii) due to non-compliance on the part of the Buyer including on account of any default on the part of the Buyer.

[Emphasis supplied]

17. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be 30.12.2023.

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

19. 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.
20. 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., 01.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
21. The definition of term 'interest' as defined under section (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;"

22. 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 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 6.2 of the agreement executed between the respondent and the complainants, the due date of possession comes out to be 30.12.2023 including grace period of six months granted in favour of the respondent on account of Covid-19.
23. The respondent has failed to obtain the Occupation Certificate from the concerned authorities till date despite a lapse of almost more than half a year from the date as was promised for delivery of possession of the subject unit.
24. 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 respondent is established. As such, the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 30.12.2023 till valid offer of possession after obtaining occupation 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. Further, the respondent is directed to offer the possession of the allotted unit (with all the promised amenities) within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the

occupation certificate, after paying the outstanding dues. In the present complaint, the respondent has not obtained the Occupation Certificate yet. As per Section 11(4)(f) and Section 17 (1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the allottees. Also, as per Section 19 (11) of the Act, 2016, the allottee is also obligated to participate towards registration of the Conveyance Deed of the unit in question.

25. In view of the above, the respondent is directed to execute Conveyance Deed in favour of the complainant in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining Occupation Certificate.

G.IV Direct the respondent not to charge anything from the complainants which is not a part of the Buyer's Agreement.

G.V Direct the respondent to ensure not to raise the demands in the Offer of Possession which are not a part of the Agreement like increase in the area, GST on corresponding amount, advance monthly maintenance beyond 12 months, additional EDC/IDC, additional maintenance, Electrification Charges, Sewerage & water charge, indemnity bond and in case any such illegal demands are raised by the respondent in the offer of possession, the same may kindly be declared as an invalid offer of possession.

26. The complainants have sought the above mentioned reliefs regarding various charges. The Authority observes that no demand on Offer of Possession has been made by the respondent to the complainants, till date as the Offer of Possession has not been issued yet. Thus, the Authority cannot give directions in regard to any event that has not occurred yet. Although, the respondent is directed not to raise any demand on charges other than those mentioned in the Buyer's Agreement.

G.VI Direct the respondent not to cancel the unit as the complainants are interested in taking possession of the property.

G.VII Direct the respondent not to create any third party rights in the unit as the complainants are interested in taking possession of the unit.

27. The complainants are seeking directions to restrain the respondent from cancelling the unit of the complainants and not creating any third party rights on the unit. The Authority is of the view that there is neither any document on record showing the respondent's intention or willingness to cancel the allotment of the complainants' unit nor the respondent has taken any measures in this regard. Thus, the Authority cannot grant the said relief on mere apprehension of the complainants and the said reliefs are declined.

G.VIII Direct the respondent not to charge Holding Charges at any point of time.

28. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed.

29. Moreover, the respondent is not entitled to claim holding charges from the complainants/allottees at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in Civil appeal nos. 3864-3899/2020 decided on 14.12.2020 (supra).

G.IX Direct the respondent not to charge maintenance charges till the time the physical possession along with all the amenities and the Conveyance Deed is handed over to the complainants.

30. The respondent is entitled to charge maintenance charges as per terms and conditions of the buyer's agreement. In the present matter, the respondent has not obtained the Occupation Certificate from the competent authority. ☑ As per Section 11(4)(g) of the Act, 2016:

The promoter shall be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of allottees.

31. This implies the promoter cannot shift maintenance cost to buyers before the possession offer. Thus, the respondent is only entitled to charge maintenance charges from the stage of "Valid Offer of Possession" after receiving the Occupation certificate, because maintenance charges are meant to cover the cost of upkeep and common area services from the point the property is ready for use by the buyer.

H. Directions of the authority

32. The Authority hereby passes this order and issues the following directions under section 37 of the Act in respect all matter dealt jointly to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent is directed to pay interest to the complainant 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 30.12.2023 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.
- ii. 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 10th of the subsequent month as per rule 16(2) of the rules.

- iii. The complainants are directed to pay outstanding dues, after adjustment of interest for the delayed period.
- iv. The respondent is directed to offer possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainant with respect to obligation conferred upon her under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupation certificate.
- v. 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.
- vi. The respondent is directed to execute conveyance deed in favour of the complainants in terms of Section 17 (1) of the Act, 2016 on payment of stamp duty and registration charges as applicable, within three months from the date of obtaining Occupation Certificate.
- vii. The respondent-builder is directed not to charge anything which is not part of buyer's agreement.

33. Complaint stands disposed of.

34. File be consigned to registry.

Dated- 01.10.2025


(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority