

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

Complaint No. 555 of 2024

Date of Filing: 15.02.2024

Date of Order: 05.08.2025

Amit Chawla Through Special Power
Of Attorney Sh. Abhishek Gera
Address: H. No . 735, 1st Floor, Double Storey,
Near Manav Sthali Junior School, New
Rajinder Nagar, Delhi

Complainant

Versus

M/s. New Look Builders and Developers Pvt. Ltd.
[Earlier known as: Ansal Phalak Infrastructure Pvt.
Ltd.]
Address: -115, Ansal Bhawan, 16 K.G. Marg, New
Delhi-110019.

Respondent

CORAM:

Shri Arun Kumar
Shri Ashok Sangwan

**Chairman
Member**

APPEARANCE:

Shri Ashish Budhiraja (Advocate)
Shri Dhruv Gupta (Advocate)

Counsel for Complainant
Counsel for Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee in Form CRA 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 to the allottees as per the agreement for sale executed inter se.

A. Project and unit related details

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

S. No.	Particulars	Details
1.	Name of the project	"Versalia Avante Residences" (Formally known by "Avante Floors, Versalia") Sector-67-A, Gurugram, Haryana
2.	Nature of the project	Independent Floors
3.	HRERA Registered	Registered 365 of 2017 Dated - 28.08.2017
4.	Application Form	25.07.2014 (As on page no. 35 of complaint)
5.	Allotment letter	14.08.2014 (As on page no. 31 of complaint)
6.	Unit no.	3208, Floor-2 nd (As on page no. 38 of complaint)
7.	Unit area measuring	1685 Sq. ft. (As on page no. 38 of complaint)
8.	Floor Buyer's Agreement	14.08.2014 (As on page no. 34 of complaint)
9.	Possession clause	Clause -5 POSSESSION OF FLOOR <i>The Company shall endeavor to complete the development of Residential Colony and the Floor as far as possible within 36 months with an extended period of (6) six months from the date of execution of this Floor buyer</i>

		agreement. [Emphasis supplied] (As on page no. 45 of complaint)
10.	Due date of possession	14.02.2018 [Calculated 36 months + 6 months from the date of execution of floor buyer's agreement]
11.	Sale consideration	Rs.1,35,63,000/- (As on page no. 39 of complaint)
12.	Amount paid by the complainant	Rs.43,82,516/- (As per customer ledger on page no. 27 of reply)
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions in their complaint:
 - I. That the present complaint is being filed by Abhishek Gera son of Shri. Raghbar Dayal Gera, the special power of attorney holder of Amit Chawla.
 - II. That respondent had launched its project i.e. Avante Residences in Ansal Versalia at Sector 67A, Gurugram. The respondent approached the complainant making fancy claims in regard to the project and lured the complainant for booking the unit in the aforesaid project of the respondent stating that the project is best in Gurugram and reasonably priced.
 - III. That the officials of the respondent with malafide and to induce the complainant to purchase the floor/unit promised that the construction of the said project will be completed within a period of three and half years as detailed in all the Buyers Agreement. Floor Buyers Agreement for unit of the complainant also has the same

clause of delivery of possession in 36 months with grace period of 6 months from the date of execution of the agreement of the floor.

- IV. That the complainant booked the floor through an real estate broker firm namely Investors Clinic and paid an amount of Rs. 5,00,000/- as booking amount for the unit in the project admeasuring 1685 sq.ft.
- V. That a receipt dated 10.06.2014 against the cheque given for the booking amount was issued by the respondent for confirmation of booking of the complainant in the project.
- VI. That further the complainant has paid an amount of Rs. 23,50,000/- vide cheque no. 169872 dated 23.06.2014 and Rs. 1,50,000/- through cheque no. 30.06.2014.
- VII. That the respondent issued an allotment letter for floor/unit no. 3208 Second Floor in, "Avante Residences" in Ansal Versalia in favour of the complainant and the payment details to be made by the Complainant in the allotment letter for the basic cost of the unit of Rs. 1,27,41,000/- (Rupees One Crore Twenty-Seven Lakhs Forty-One Thousand Only) exclusive of PLC, taxes and EDC/IDC.
- VIII. That Floor Buyers Agreement For floor/unit was duly executed between the complainant and the respondent. The said agreement was signed between the complainant and respondent on 14.08.2014.
- IX. That further, as per clause 5.1 of the said agreement, the respondent is liable to deliver the possession to the complainant with in a period of 36 months from the date of the execution of the floor buyer agreement with grace period of 6 months. As per the agreement, 14.08.2017 was the due date of possession of the unit.

- X. That as per the payment plan annexed opted annexed with the buyer agreement the total sale consideration of the floor/ unit is Rs. 1,36,13,500/- including taxes, PLC, EDC and IDC.
- XI. That the complainant has paid total sum of Rs. 43,82,516/- (Rupees Forty-Three Lakhs Eighty-Two Thousand Five Hundred Sixteen Only) since the booking till date.
- XII. The complainant visited the project site of the respondent and was shocked to look at the state of affairs. No work was being carried out by the Respondent. Only the structure was erected by the respondent.
- XIII. That the construction of the project with a promise by the respondent to deliver the floor by 14.08.2017 was not completed within time for the reasons best known to the Respondent.
- XIV. That as per clause 5.4 of the agreement it was agreed by the respondent that in case of any delay, the Respondent shall pay to the complainant a compensation @ Rs.10/- per Sq. ft. per month of the super area of the unit in case of the delay.
- XV. That on the ground of parity and equity the respondent also be subjected to pay the same rate of interest hence the respondent is liable to pay interest on the amount paid by the complainant from the date of each payment made by the complainant till the floor is actually delivered to the complainant.
- XVI. That respondent had to deliver the possession of the floor till 14.08.2017 and it has been more than 7 years; complainant is waiting to get his floor delivered and shift in new home.

XVII. That the respondent company has utilized the deposited amount of complainant for sufficient time and now the respondent company is liable to pay delayed possession charges @ 18% per annum. The complainant has also suffered mental tension and harassment due to callous attitude of respondent for which the Complainant reserves his right to claim Rs. 10,00,000/- from the respondent before the appropriate Forum.

C. Reliefs sought by the complainant

4. The complainant is seeking the following relief:
 - I. Direct the respondent to offer and hand over the possession of the Floor/Unit bearing No. 3208, Second Floor, in Avante Residences, "Ansal Versalia" situated at Sector 67A, Gurugram, having super area of 1685 sq.ft along with car parking after taking Occupation Certificate from the concerned department
 - II. Direct the Respondent to execute the conveyance deed of the floor/unit with the complainant.
 - III. That delayed possession charges @18% per annum (compoundable) from the date of each payment made by the Complainant may kindly be awarded in favour of the Complainant and against the Respondent.
 - IV. That the Respondent may kindly be directed not to charge anything from the Complainant that is not a part of the Buyers Agreement.
 - V. That the Respondent may kindly be directed to complete the construction as per the approved layout plan and provide all the amenities as promised in its brochure and to the Complainant.
 - VI. Direct the respondent to accept the payment for the said unit if any after adjustment of the delay possession interest from the complainant.

VII. The cost of present litigation amounting to Rs. 1,00,000/- (Rupees One Lakh Only) along with costs of the present Complainant may kindly be awarded in favour of the Complainant and against the Respondent.

5. On the last date of hearing, the Authority explained to the respondent/promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
6. The complainant filed an application for amendment in the memo of the parties and the CRA form of the complaint on 01.04.2025. By way of the said application, the complainant has changed the name of the respondent from M/s. Ansal phalak Infrastructure Private Limited to M/s. New Look Builders and Developers Private Limited.

D. Reply filed by the respondent.

7. The respondent has contended the complaint on the following grounds:
 - I. That the complaint has been filed through an SPA holder, Mr. Abhishek Gera, whose authority is restricted to initiating legal action only against Ansal API and its sister concerns.
 - II. That the present respondent, New Look Builders and Developers Pvt. Ltd., is not a sister company of Ansal API. Therefore, the complaint is not maintainable for want of proper authorization. The project "Versalia" is developed by Ansal Properties & Infrastructure Ltd. (APIL), which holds the license and registration certificate of the project.
 - III. That the respondent merely purchased certain plots from APIL and was never responsible for construction or development. In light of the Registration Order dated 30.05.2022 of this Authority, it stands recorded that APIL is solely responsible for the development work.

- IV. Hence, APIL is a necessary party and the complaint is liable to be dismissed against the respondent for non-joinder of a necessary party.
- V. That the complainant has misrepresented facts and attempted to mislead the Authority by filing a frivolous complaint with mala fide intent to gain unjust enrichment.
- VI. That the complainant was allotted Unit No. 3208 (Second Floor) under Floor Buyer Agreement (FBA) dated 14.08.2014 for a total sale consideration of Rs. 1,40,68,500/-.
- VII. That the complainant has paid only Rs. 43,82,516.50/- till 30.06.2016, and thereafter defaulted on further payments.
- VIII. That the respondent company was incorporated in 2010 as a joint venture between Ansal Properties & Infrastructure Ltd. (Promoter No.1) and Caliber Properties Pvt. Ltd. for the development of a township at Sector 67 & 67A, Gurugram.
- IX. That due to financial defaults and mismanagement by APIL, the investors-initiated arbitration proceedings which resulted in a Master Settlement Agreement (MSA) dated 24.12.2019.
- X. That as per the MSA, the management of the respondent company was transferred to the investors. APIL undertook to complete the construction, settle pending customer claims, and indemnify the respondent from all past liabilities. That, clause 1.2 and clause 4.5 of the MSA make it clear that APIL remains solely responsible for the project's liabilities and customer claims.
- XI. That, the respondent (New Look Builders and Developers Pvt. Ltd.) only purchased 108 plots from APIL. APIL "shall remain responsible for carrying out the development work for the entire licensed area."

- XII. That the allotment and construction obligations were under APIL's management; hence, the respondent has no privity with the complainant.
- XIII. That under Clause 3 of the MSA, APIL indemnifies the respondent for any past or customer-related liabilities.
- XIV. That as per clause 5.4 of the FBA, the complainant is bound by the agreed terms for compensation in case of delay and cannot seek relief beyond the contractual provisions.
- XV. That since APIL is the license holder and developer, its absence as a party renders the complaint defective. The allotment and construction obligations were under APIL's management; hence, the respondent has no privity with the complainant.
- XVI. That under Clause 3 of the MSA, APIL indemnifies the respondent for any past or customer-related liabilities. Since, APIL is the license holder and developer, its absence as a party renders the complaint defective.
- XVII. Without prejudice to above, it is submitted that the respondent is not in the position to handover the possession of the unit as the construction of the unit has not been completed by M/s. Ansal Properties and Infrastructure Pvt. Ltd. till date.
8. 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 written submissions made by the parties and who reiterated their earlier version as set up in the pleadings.

F. Jurisdiction of the authority:

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

F.I Territorial jurisdiction

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

F.II Subject-matter jurisdiction

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

Section 11(4)(a)**Section 11**

.....

(4) The promoter shall-

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

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

G. Findings on the objections raised by the respondent:**G.I Objections regarding misjoinder and non-joinder of parties.**

13. The respondent has raised the contention that the complainant has arrayed "Ansal Phalak Infrastructure Pvt Ltd." as respondent in the present complaint. However, the name of the respondent i.e., "Ansal Phalak Infrastructure Pvt. Ltd." has been changed to "New Look Builders and Developers Pvt. Ltd." on 28.05.2025. The Authority observes that the complainant had filed an application for amendment in the memo of the parties and the CRA form of the complaint on 01.04.2025. By way of the said application, the complainant has changed the name of the respondent from M/s. Ansal Phalak Infrastructure Private Limited to M/s. New Look Builders and Developers Private Limited. Thus, the objection of the respondent regarding misjoinder of party stands dismissed.
14. Further, the respondent raised an objection of non-joinder of necessary party i.e., "M/s. Ansal Properties and Infrastructure Ltd" (APIL) as the same is liable for delay in constructing the project and payment of compensation to the complainant for delay in handing over the unit and the respondent is not a necessary party to the complaint as the respondent neither allotted the unit to the complainant (the allotment was done under the management of APIL) nor the respondent is liable to construct the unit or pay any compensation to the complainant.
15. The Authority observes that the Floor Buyer Agreement dated 14.08.2014 has been executed between the complainant and M/s Ansal Phalak Infrastructure Pvt. Limited. It is the submission of the respondent itself that the name of the respondent i.e., "Ansal Phalak Infrastructure Pvt. Ltd." has been changed to "New Look Builders and Developers Pvt. Ltd." on

23.10.2020. The privity of contract is between the complainant and the respondent and there is no privity of contract between the complainant and M/s. Ansal Properties and Infrastructure Ltd. Thus, the objection of the respondent stands dismissed.

H. Findings of the authority on relief sought by complainant.

- I. Direct the respondent to offer and hand over the possession.
- II. Direct the respondent to execute the conveyance deed.
- III. Delayed possession charges @18% per annum (compoundable) from the date of each payment made by the Complainant may kindly be awarded in favour of the Complainant and against the Respondent.
- IV. Not to charge anything from the Complainant that is not a part of the Buyers agreement.
- V. Direct to complete the construction as per the approved layout plan and provide all the amenities as promised in its brochure and to the complainant.
- VI. Direct the respondent to accept the payment for the said unit if any after adjustment of the delay possession interest from the complainant.

16. In the present complaint, the complainant booked an independent floor in the project "Avante/Woodwinds, **Versalia**" being developed by the respondent i.e., M/s New Look Builders Pvt Ltd. A Floor Buyer's Agreement was executed between the parties on 14.08.2014 in respect of unit bearing no. 3208, Floor-2nd admeasuring 1685 sq.ft. of sale area. The sale consideration of the unit was Rs.1,35,63,000/-. As per Clause 5 of the Floor

Buyer's Agreement dated 14.08.2014, the respondent undertook to offer possession of the unit to the complainant within 36 months with an extended period of 6 (six) months from the date of execution of this Floor buyer agreement subject to the receipt of requisite building/revised building plans/other approvals & permissions from the concerned authorities, as well as force majeure conditions. The respondent failed to put on record the documents wherein from the Authority can determine the dates as to when the necessary sanctions were granted in favour of the respondents for necessary construction. The Authority have calculated 36 months from the date of execution of the agreement. The agreement was executed between the complainant and the respondent on 14.08.2014, 36 months from 14.08.2014 expired on 14.08.2017. Further an unqualified grace period is agreed between the parties to be granted to the respondent over and above the period of 36 months in offering possession of the unit. Thus, the due date for handing over of possession of the unit to the complainant comes out to be 14.02.2018. The respondent has failed to obtain the Occupation Certificate from the competent authorities till date.

17. The complainant is seeking delayed possession charges along with interest on the amount paid. Clause 5 of the flat buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below: -

*"Subject to Clause 5.2 infra and further subject to all the buyers of the Floors in the Residential Colony making timely payment, the Company shall endeavour to complete the development of Residential Colony and the Floor as far as possible **within 36 months with an extended period of (6) six months from the date of execution of this Floor Buyer agreement** subject to the receipt of requisite building/revised building plans/ other approvals & permissions from the concerned authorities, as well as Force majeure Conditions as defined in the agreement and subject to fulfilment of the Terms and Conditions of the*

Allotment, Certificate & Agreement including but not limited to timely payments by the Buyer(S), in terms hereof. The Company shall be entitled to extension of time for completion of construction of the Unit equivalent to the period of delay caused on account of the reasons stated above. No claim by way of damages/compensation shall lie against the Company in case of delay in handing over possession of the Unit on account of the aforesaid reasons. However, if the Buyer(S) opts to pay in advance of schedule, a suitable discount may be allowed but the completion schedule shall remain unaffected. The Buyer(s) agrees. The Buyer(s) agrees and understands that the construction will commence only after all necessary approvals are received from the concerned authorities and competent authorities including but not limited to Environment & Forest."

18. Admissibility of delay possession charges at prescribed rate of interest: Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

19. The legislature in its wisdom in the subordinate legislation under 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., 05.08.2025 is 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%. (The rate of interest has been inadvertently mentioned as 11.10% in POD dated 05.08.2025).
21. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:
- "(za) "interest" means the rates of interest payable by the promoter or the allottees, as the case may be.*
- Explanation. —For the purpose of this clause—*
- (i) the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default;*
- (ii) the interest payable by the promoter to the allottees 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 allottees to the promoter shall be from the date the allottees defaults in payment to the promoter till the date it is paid;"*
22. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.90% by the respondent which is the same as is being granted to the complainant in case of delayed possession charges.
23. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act, by not handing over possession by the due date as per the builder

buyer agreement. That the Floor Buyer's Agreement was executed between the parties on 14.08.2014, the due date of possession was 14.02.2018. It is the failure of the respondent /promoter to fulfil its obligations and responsibilities as per the builder buyer's agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such the allottee shall be paid, by the promoter, interest at the rate of 10.90% for every month of delay from due date of possession i.e., 14.02.2018 till offer of possession plus 2 months or actual handover whichever is earlier after obtaining the occupation certificate from the competent authority, as per section 18(1) of the Act 2016 read with Rule 15 of the Rules.

24. Thus in view of the above, the Authority directs the respondent to offer valid offer of possession to the complainant within 2 months after obtaining the occupation certificate from the competent authorities. Also, the respondent is liable to pay interest at the prescribed rate of 10.90% for every month of delay from the due date of possession i.e., 14.02.2018 till the offer of possession plus 2 months or actual handover whichever is earlier, after obtaining the occupation certificate from the competent authority.

H.VII. The cost of present litigation amounting to Rs. 1,00,000/- (Rupees One Lakh Only).

25. The complainant is seeking above mentioned relief w.r.t. litigation cost. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation &

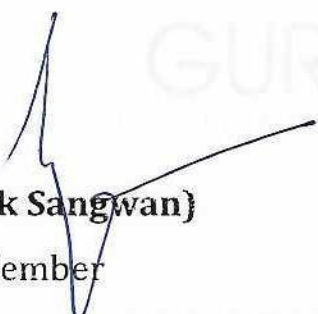
litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

I. Directions of the Authority

26. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.90% p.a. for every month of delay from the due date of possession i.e., 14.02.2018 till the date of offer of possession plus two months after obtaining the occupation certificate or actual handing over possession whichever is earlier, as per section 18(1) of the Act 2016 read with Rule 15 of the Rules.
 - ii. The arrears of such interest accrued from 14.02.2018 till the date of 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 the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
 - iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - iv. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.90% by the

respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

- v. As per Section 17(1) of the Act of 2016, the respondent is obligated to handover physical possession of the subject unit to the complainant. Therefore, the respondent shall handover the possession of the allotted unit as per specification of the buyer's agreement dated 14.08.2014 executed between the parties after obtaining completion certificate/part CC from the competent authority.
 - vi. The respondent is directed to get the conveyance deed executed within a period of three months after depositing necessary payment of stamp duty and registration charges as per applicable local laws from the date of this order.
27. Complaint stands disposed of.
28. File be consigned to registry.


(Ashok Sangwan)

Member


(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram**Date: 05-08-2025**