

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

Complaint no. : 49 of 2025
Date of decision : 08.10.2025

Alok Ranjan Tripathi
R/o: - Ahirauli, Gorakhpur,
Uttar Pradesh-273007.

Complainant

Versus

M/s Agrante Realty Limited.
Regd. Office at: 704 DLF, Tower- B, Jasola,
New Delhi- 110025

Respondent

CORAM:
Ashok Sangwan

Member

APPEARANCE:
Aakash Gupta (Advocate)
Tarun Biswas (Advocates)

Complainant
Respondent

ORDER

1. The present complaint dated 13.01.2025 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the 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. No.	Particulars	Details
1.	Name of the project	"Kavyam", Sector- 108, Gurgaon (Phase-1)
2.	Nature of project	Affordable group housing
3.	RERA registered/not registered	Registered vide registration no. 23 of 2018 dated 22.11.2018
	Validity status	31.11.2022
	Licensed area	5 acres
4.	DTCP License no.	101 of 2017 dated 30.11.2017
	Validity status	29.11.2022
	Name of licensee	Arvinder Singh & others
	Licensed area	5 acres
5.	Unit no.	TA3-801, Floor-8 th , Tower-A3 (As on page no. 35 of complaint)
6.	Unit area admeasuring	512.50sq.ft.[Carpet Area] (As on page no. 35 of complaint)
7.	Allotment Letter	01.07.2019 (As on page no. 22 of reply)
8.	Agreement For Sale	29.08.2019 (As on page no. 30 of complaint)

9.	Total sale consideration	Rs.21,21,000/-
10.	Amount paid by the complainant	Rs.18,40,125/- — Rs.18,55,875/- [As per pg. no. 77 of complaint.]
11.	Possession clause as per Affordable Housing Policy, 2013	1 (iv) All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance , whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy.
12.	Building plan approved on	06.07.2018 [As per project details]
13.	Environment clearance	20.08.2019
14.	Due date of possession	20.02.2024 [Calculated as 4 years from date of environmental clearance i.e., 20.08.2019 as the same is later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020]
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -

- I. That in the year 2019, the respondent launched a new affordable group housing project namely "**Kavyam**" located at sector-108, Gurugram, as per the Haryana Affordable Housing Policy, 2013 the

complainant booked a unit in the Affordable Housing Project namely "Kavyam" at Sector-108, Gurugram.

- II. That believing on the representations of the respondent, the complainant chose to book a unit in said project. The complainant was successfully allotted a unit bearing no. TA3-801, on 8th Floor in Tower-A3 having a carpet area of 512.50 sq. ft. vide allotment/demand letter dated 01.07.2019 vide which a demand of Rs.4,24,492/- was raised on account of booking.
- III. That the Apartment Buyer's Agreement was executed between the respondent and the complainants on 29.08.2019. The total sale consideration of the unit is Rs.25,08,037/-. The date of handing over possession of the apartment was 31.08.2023. The complainant has paid all the payable amounts, as and when demanded by the respondents and till December 2022, the complainant has paid an amount of Rs.18,55,875/-.
- IV. Despite, receiving more than 95% payable amount, the respondent failed to honor the terms of the Agreement and timely deliver possession of the Apartment.
- V. That the respondent is responsible and accountable to the terms and conditions prescribed in the Apartment Buyer's Agreement and the respondent is bound to pay the interest on the deposited amount to the complainant.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s).

- i. Direct the respondent to pay Delayed possession Charges from the due date i.e., 31.08.2023 till 30.11.2024.
 - ii. Direct the respondent to complete the development of the apartment along with all facilities and amenities like water, electricity, roads, parks, club, etc. immediately.
 - iii. Direct the respondent to handover the legal and rightful possession of the apartment to the complainant, after receiving all the required permissions and approvals from the competent authorities.
 - iv. Direct the respondents to provide a definite fixed date of delivery of possession, as the complainant cannot be made to wait till eternity for enjoying the rights over the apartment.
 - v. Direct the respondent to pay the arrears of delay of possession charges.
 - vi. Direct the respondents not to charge anything beyond the charges stipulated in the Buyer's Agreement.
 - vii. Direct the respondents to pay legal expenses of Rs.1,00,000/-.
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.

D. Reply by the respondent

6. The respondent contested the complaint on the following grounds: -
- I. That the respondent is developing an affordable housing project namely 'Kavyam' under Pradhan Mantri Awas Yojna (PMAY) at Sector -108 situated in Gurugram and is subject to the mandate of the Affordable housing policy issued by the DTCP Office Haryana as amended from time to time.

- II. That the complainant had booked the unit/flat bearing no. TA1-104, Tower No.- A1, having a Carpet Area of 512.5 sq.ft. in the project of the respondent for a total consideration amount of Rs.21,21,000/-.
- III. That on 22.01.2019, the complainant had paid an amount of Rs.1,05,758/- as a booking amount and the respondent had issued an acknowledgement receipt dated 22.01.2019 for the same. Subsequently, an Allotment Letter dated 01.07.2019 was issued to the complainant by the respondent.
- IV. That the respondent issued Demand Letters as per the payment plan, and the complainant made the payment of Rs.18,40,125 /- out of the total sale consideration of Rs.21,21,000/-
- V. That pursuant to Clause 7.1 of the Agreement, the possession was slated for delivery by August 2023. However, as a result of Covid-19, the Force Majeure clause was invoked, thereby leading to an unavoidable delay in delivering the possession of the unit, which was entirely beyond the control of the respondent.
- VI. That Clause 7.1 of the Agreement provides an exemption if the delay is caused beyond the control of the respondent, such as due to force majeure, which will be excluded from the calculated time period. Due to the disruption caused during the first wave of the Covid-19 outbreak, various relief measures were granted to the Real Estate industry by the State Government. Due to the worldwide pandemic, there was general shortage of the labour and material resulting in delay and same amounting to the force majeure conditions.
- VII. That on 12.01.2017, the Environment Pollution (Prevention and Control), Authority for the National Capital Region implemented the **Graded Response Action**. The authority based on the forecast and prediction has decided that the measure put into the place for very

poor/ severe category of GRAP from 15.10.2019 would be lifted because the region is expected to stay in moderate/poor category in terms of the air quality. However, same through the urgent notice put further ban from 15.10.2019 and directing to enforce poor/severe category measures under GRAP which consequently delay in the construction of the flat/unit.

- VIII. That the complainant also did not adhere to the payment schedule, the respondent sent various Demand letters dated 02.08.2019, 21.09.2019, 04.10.2019, 06.01.2020, 01.07.2020, 11.01.2021, 13.04.2021, 10.07.2021, 03.09.2021, 23.09.2021, 22.10.2021, 07.02.2022, 17.10.2022, 25.11.2022 to pay the outstanding dues.
- IX. That on 30.11.2021, the Government of the National Capital Territory (NCT) of Delhi issued directions pursuant to the Writ Petition Aditya Dubey v. Union of India and Ors., Writ Petition (Civil) No. 1135 of 2020. The Commission for Air Quality in NCT and adjoining areas convened a meeting on 21.11.2021 and issued directions under Section 5 of the Environment Protection Act, 1986. These directions include stopped the entry of trucks into NCT of Delhi, except for those carrying essential commodities, until 7th December 2021, and the closure of all GNCT offices, autonomous bodies, and other offices till 26.11.2021. Moreover, the Hon'ble Supreme Court, in its order dated 24.11.2021, imposed a ban on all construction activities within the NCR as part of its interim order. These restrictions further contributed to the delay in construction activities, thereby impacting the timely possession of the unit.
- X. That the project was also affected by adverse weather conditions due to bad air quality all over the NCR region which caused delays in construction activities. The respondent took all possible measures to

mitigate the impact of such weather conditions, but the delays were inevitable due to the safety concerns of the labour.

- XI. That in 2022, the Commission for Air Quality Management in National Capital Region and adjoining areas vide its order dated 29.10.22, implemented the actions under Stage-III of GRAP for Severe plus category of AQI in Delhi NCR and revoked the order of Stage-III GRAP vide its order dated 14.11.2022, in same manner the commission implemented and imposed Stage-III of GRAP through orders dated 04.12.2022, 30.12.2022, 06.01.2023, 02.11.2023, 22.12.2023, 14.01.2024, 14.11.2024, 03.01.2025 and 09.01.2025 and revoked the same through revocation orders dated 07.12.2022, 04.01.2023, 15.01.2023, 28.11.2023, 01.01.2024, 18.01.2024, 27.12.2024, 05.01.2025 and 12.01.2025 respectively, due to these reasons the construction work in Delhi NCR had stopped for approximately 129 days between 29.10.2022 to 12.01.2025. It is pertinent to mention here that Stage-III of GRAP clearly states "Enforce strict ban on construction and demolition activities in the entire NCR".
- XII. That the possession of the unit was scheduled for August, 2023. However, due to unprecedented and unforeseen circumstances beyond the control of the respondent, such as the onset of the COVID-19 pandemic, the government-imposed moratorium period of 8 months, and various legal restrictions and bans, including construction bans due to environmental and health concerns, the completion of the project was unavoidably delayed. The combined effect of these external factors necessitated the extension of the project timeline. As a result, the delivery of possession has to be exempted from the original timeline and is reasonably be extended to

March 2026. Therefore, the present complaint is premature, not maintainable, and liable to be dismissed.

E. Jurisdiction of the authority

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

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

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

Section 11

.....

(4) The promoter shall-

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

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

F. Findings on the objections raised by the respondent.

F.I Objection regarding delay caused due to Force Majeure circumstances.

11. 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 29.08.2019. As per clause 1(iv) of the Affordable Housing Policy, 2013

*All such projects shall be required to be necessarily completed **within 4 years from the approval of building plans or grant of environmental clearance, whichever is later.** This date shall be referred to as the „date of commencement of project" for the purpose of this policy. The licences shall not be renewed beyond the said 4 years period from the date of commencement of project*

[Emphasis supplied]

12. The possession of the unit was to be offered with 4 years from approval of building plans (06.07.2018) or from the date of environment clearance (20.08.2019) and whichever is later which comes out to be

20.08.2023. Further, as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 04.08.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession comes out to be 20.02.2024.

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 reliefs sought by the complainant:

- G.I Direct the respondent to pay Delayed possession Charges from the due date i.e., 31.08.2023 till 30.11.2024.**
G.II Direct the respondent to complete the development of the apartment along with all facilities and amenities like water, electricity, roads, parks, club, etc. immediately.
G.III. Direct the respondent to handover the legal and rightful possession of the apartment to the complainant, after receiving

all the required permissions and approvals from the competent authorities.

G.IV Direct the respondents to provide a definite fixed date of delivery of possession, as the complainant cannot be made to wait till eternity for enjoying the rights over the apartment.

G.V Direct the respondent to pay the arrears of delay of possession charges.

G.VI. Direct the respondents not to charge anything beyond the charges stipulated in the Buyer's Agreement.

14. The complainant is seeking delay payment charges at the prescribed rate of interest. However, proviso to section 19 (7) provides that where an allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount to charges to be paid under sub-section (6) 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.

15. 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.
16. 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 08.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85% per annum.

17. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

18. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent /promoter which is the same as is being granted to the complainant in case of delay possession charges.
19. 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 1(iv) of the Affordable Housing Policy, 2013, the due date of possession comes out to be

20.02.2024 including grace period of six months granted in favour of the respondent on account of Covid-19.

20. The respondent has failed to obtain the Occupation Certificate from the concerned authorities till date despite a lapse of almost more than a year from the date as was promised for delivery of possession of the subject unit.
21. 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., 20.02.2024 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.

22. 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.VII Direct the respondents to pay legal expenses of Rs.1,00,000/-

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

H. Directions of the authority

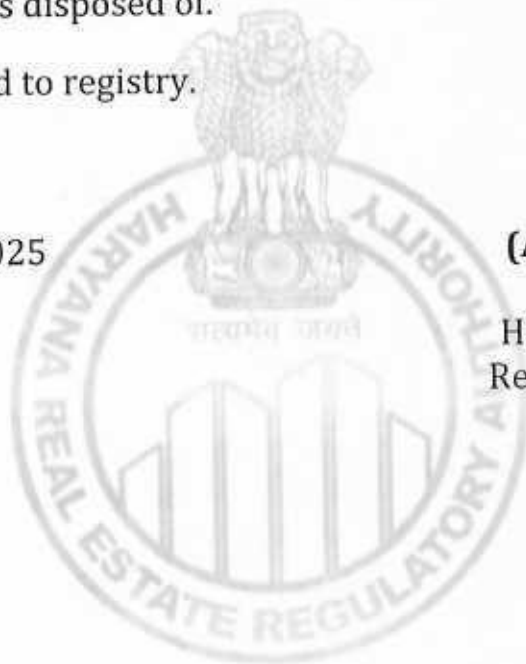
24. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of interest i.e., 10.85% p.a.

- for every month of delay from the due date of possession 20.02.2024 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 complainant is 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 allottee 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 allottee, 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.
25. Complaint stands disposed of.
26. File be consigned to registry.

Dated: 08.10.2025




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

HARERA
GURUGRAM