

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

Complaint no. : 5370 of 2024
First date of hearing: 27.02.2025
Date of decision : 12.08.2025

Jagdish Chander - C/o- Sh. Surat Singh
R/o - 175/B Gali o.9, Jawahar Nagar, Hisar, Haryana-
125001

Complainant**Versus**

M/s Sunrays Heights Pvt. Ltd.
Registered Office: 211, 2nd floor, Ansal Bhawan, 16
Kasturba Gandhi Marg, New Delhi-110001

Respondent**CORAM:**

Shri Arun Kumar
Shri Ashok Sangwan

**Chairman
Member****APPEARANCE:**

Sh. Vijay Pratap Singh (Advocate)
Sh. Tushar Behmani (Advocate)

**Complainant
Respondent****ORDER**

1. This order shall dispose of the aforesaid complaint titled above filed before this authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Sixty-Three Golf Drive" situated at Sector-63 A, Gurugram being developed by the same respondent/promoter i.e., "Sunrays Heights Private Limited." The terms and conditions of the allotment letter, buyer's agreements and the fulcrum of the issue involved in all these cases pertain to failure on the part of the promoter to deliver timely possession of the units in question, seeking possession of the unit along with delayed possession charges.

A. Project and unit related details

3. The particulars of the project, the details of 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	"Sixty-Three Golf Drive", Sector 63-A, Gurugram"
2.	Project area	5.90 acres
3.	Nature of the project	Affordable Group Housing
4.	DTPC License no. and validity	82 of 2014 dated 08.08.2014 valid upto 07.08.2019
5.	Name of licensee	Sunrays Heights Pvt. Ltd., Smt. Kiran W/o Dharam
6.	RERA registration details	Registered Registration no. 249 of 2017 dated 26.09.2017
7.	Provisional Allotment letter – um demand letter	24.09.2016 (Page 18 of complaint)
	Builder Buyer Agreement (BBA)	02.11.2016 as per stamp paper f BBA (Date not specified on buyer's agreement at page 21 of complaint)
8.	Unit no.	D -52, Tower D (Allotment letter at page 18 and BBA at page 34 of complaint)



9.	Unit area admeasuring	Carpet Area- 604.83sq. ft Balcony Area- 95.10 sq. ft. (Allotment letter at page 18 and BBA at page 34 of complaint)
10.	Possession clause	4. Possession "4.1 The developer shall endeavour to handover possession of the said flat within a period of four years i.e., 48 months from the date of commencement of the project , subject to force majeure and timely payment by the allottee towards the sale consideration, in accordance with the terms stipulated in the present agreement." (BBA at page 24 of complaint) <i>*As per affordable housing policy 2013 -</i> "1(iv) 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)
11.	Date of building plan approval	10.03.2015 (taken from another file of the same project)
12.	Date of environment clearance	16.09.2016 (taken from another file of the same project)
13.	Due date of possession	16.03.2021 (Calculated from date of environment clearances i.e., 16.09.2016 being later, which comes out to be 16.09.2020 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for projects having completion date on or after 25.03.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic)
14.	Basic sale consideration	₹24,66,870/- (Allotment letter at page 18 and BBA at page 34 of complaint)

	Total sale consideration	₹24,66,870/- + taxes as per Allotment (Allotment letter at page 18 and BBA at page 34 of complaint)
15.	Amount paid by the complainant	₹22,96,314/-
16.	Final Reminder letter sent by respondent to complainant	19.10.2024 (Page 69 of reply)
19.	Occupation certificate	31.12.2024 (Taken from another file of the same project) (Applied on 08.12.2023)
20.	Offer of possession	Not offered

B. Facts of the complaint

4. The complainant has made following submissions in the complaint:

- a) The respondent made advertisement in the newspaper ' Hindustan Times' with regard to the location, specification and amenities and time of completion of the project under the name "affordable group housing colony " commonly known as" 63 GOLF DRIVE" floated under Haryana Government's Affordable Housing Policy, located at Sector 63A, Gurgaon, Haryana. That the complainant approached to the respondent for booking of a 2-BHK Apartment vide application bearing no SGD(B)3555, in accordance with the affordable housing policy 2013 issued by the Govt. of Haryana, having carpet area of 604.83 sq ft and balcony area of 95.10 sq ft.
- b) The draw of the said project was held, wherein the complainant was allotted Flat No D-52 at tower D.
- c) That the respondent to dupe the complainant in their nefarious net even executed a one-sided builder buyer agreement Signed between complainant and respondent through their authorized representative in year 2016, just to create a false belief that the project shall be completed

in time bound manner, and in the garb of this agreement persistently raised demands due to which they were able to extract huge amount of money from the complainant.

- d) **Possession 4.1** The developer shall endeavour to handover possession of the said flat within a period of 4 years i.e. 48 months from the date Of commencement of project. There is delay of approx. 4 years in handing over the actual physical possession of the said flat and the delay still continues. The registration certificate of the said project was valid for a period commencing from 26/09/2017 till 25/09/2022 and the RERA registration till date is not extended by this Authority for the serious non compliances of the Rera Act.
- e) It is pertinent to mention here that the said project is already a lapsed project as per the RERA Act wherein the promoter is black listed by this Authority.
- f) That the respondent with all its malafide intention has not even drafted the builder buyer agreement as per the prescribed model agreement for sale (Annexure -A) of the Haryana Real Estate (Regulations and Development Rules 2017) which is a major violation of the Para (ix) of the terms and conditions agreed and affirmed by the respondent at the time of getting the project registration certificate from this Authority and the Rera Act. The builder has raised 6 demand letter out of 7 demand as per the payment plan against the sales consideration to the buyers, and the complainant has paid the demand as and when raised ,thereafter after 2021 the Respondent remain silent on the said subject and suddenly in year 2024 the Respondent with all its malafide intention and also in order to extort huge amount of money from buyers came with a self-imaginary story under presumption that the buyer was supposed to

make the payment themselves and the respondent was not obligated to raise any demand letters. It is also categorically stated that whenever the complainant asked for the last demand letter the respondent stated that the last demand letter shall be raised at the time of handing over possession. this all shows that the Respondent wants to encash the appreciation in price of the flats, but forgets that that as on date the buyers has more than 90% stake on the said project and the whole structure being made from the capital paid by the buyers. The syphoning of money and diverting the said project money to another project is not hidden by the anyone.

- g) The Apartment Buyer's Agreement was executed on dated 02/11/2016 between the complainant and the authorised representative of the respondent. That the total consideration of the flat was Rs.24,66,870/- and applicable taxes payable. The complainant has paid Rs.22,96,314/- (As per the demand letter 24/6/2020 and the payment dated 26/06/2020 vide cheque no. 129234) against demand of Rs.22,96,314/- from the builder till date of filing of case Before Authority, as and when the demand was raised by the respondent in time bound manner.
- h) That the complainant paid the demands notices raised by the respondent against the total flat consideration amount in time bound manner. That as per clause 4.1 of the BBA the respondent was liable to hand over the possession of a said unit before 16 September, 2020 considering the project commencement date from the date of Environment Clearance date 16/09/2016.
- i) As per the slow pace construction status and absence of basic amenities respondents are delayed heavily in giving possession. That as per section 19 (6) the Real Estate (Regulation and Development) Act, 2016

(hereinafter referred to as the Act) complainant has fulfilled his responsibility in regard to making the necessary payments in the manner and within the time specified in the said agreement. Therefore the complainant herein is not in breach of any of its terms of the agreement.

- j) That the respondent has indulged in all kinds of tricks and blatant illegality in booking and drafting of BBA with a malicious and fraudulent intention and caused deliberate and intentional huge mental and physical harassment of the complainant and his family who has been rudely and cruelly dashed the savoured dreams, hopes and expectations of the complainant to the ground and the complainant is eminently justified in seeking delayed possession charges. The builder buyer agreement consists very stringent and biased contractual terms which are illegal, arbitrary, unilateral and discriminatory in nature. As every clause of the agreement is drafted in a one sided way, even a single breach of unilateral terms of builder buyer agreement by complainant, will cost him forfeiting of earnest money and about delay payment charges 15%. Respondent has not prepared the builder buyer agreement as per the terms and conditions mentioned under the Haryana Affordable Policy 2013 and also the builder buyer agreement not drafted as per the RERA act 2016.
- k) That keeping in view the snail-paced work at the construction site and half-hearted promises of the respondent, the inconsistent and lethargic manner, in which the respondent conducted its business and their lack of commitment in completing the Project on time, has caused the complainant great financial and emotional loss.

C. Relief sought by the complainant

5. The complainant has sought the following relief(s):

- i. Direct the respondent to pay amount paid Rs22,96,314/-against demand of Rs 22,96,314/- (As per the demand letter 24/6/2020 and the payment dated 26/6/2020 vide cheque no. 129234).
- ii. Direct the respondent to pay interest @ 8.65% per annum as per the prevailing MCLR plus 2% on the paid amount of ₹22,96,314/- for delay period starting from 16.09.2020 till the date of actual handing over of physical possession and and wave off the illegal demand raised by the respondent like the interest etc.
- iii. Direct the respondent to ensure the project is in habitable condition with all amenities mentioned in brochure after getting Occupancy Certificate.
- iv. Direct the respondent to not create any third party interest and maintain the status quo of the said unit as such the respondent is forcefully with all its malafide intentions is making publications in the newspaper of various allottees for cancellation by raising illegitimate demands.
- v. Direct the Respondent to not create any third party interest and maintain the status quo of the said unit as such the respondent is forcefully with all its malafide intentions is making publications in the newspaper of various allottees for cancellation by raising ill.
- vi. Direct the respondent to pay litigation expenses of Rs.50,000/-.
6. 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

7. The respondent has contested the complaint on the following grounds.
 - a) That at the outset, respondent humbly submits that each and every averment and contention, as made/raised in the Complaint, unless specifically admitted, be taken to have been categorically denied by respondent and may be read as travesty of facts.
 - b) That the complaint filed by the complainant before this Authority, besides being misconceived and erroneous, is untenable in the eyes of law

- c) That further, without prejudice to the aforementioned, even if it was to be assumed though not admitting that the filing of the complaint is not without jurisdiction, even then the claim as raised cannot be said to be maintainable and is liable to be rejected for the reasons as ensuing.
- d) That the reliefs sought by the complainant appears to be on misconceived and erroneous basis. Hence, the complainant is estopped from raising the pleas, as raised in respect thereof.
- e) That apparently, the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. No relief much less any interim relief, as sought for, is liable to be granted to the complainant.
- f) That the complainant has miserably and willfully failed to make payments in time or in accordance with the terms of the builder buyer's agreement. It is submitted that the complainant has frustrated the terms and conditions of the builder buyer's agreement, which were the essence of the arrangement between the parties and therefore, the complainant now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. It is further submitted that timely payment was the essence to ensure timely completion of construction & handover of the apartments as per the terms of the policy. The 'Pith & Substance' of the Affordable Housing Policy is clearly captured in its essence, wherein the 'Intended Beneficiaries' were given Thirty-Six (36) months to pay the entire cost of the apartment (25% upfront and rest 75% in 6 equal monthly instalments), against which the Developer (respondent) was provided with the timeline of Forty-Eight (48) months to complete the project subject to timely payment.

- g) It has been categorically agreed between the parties that subject to the complainant having complied with all the terms and conditions of the Buyer's Agreement and not being in default under any of the provisions of the said Agreement and having complied with all provisions, formalities, documentation etc., the developer contemplates to complete construction of the Project within a period of 48 (Forty Eight) months from the date of commencement of project subject to force majeure and timely payment by the allottee toward the sale consideration.
- h) That the present complaint is liable to be dismissed on the sole ground that the complainant has concealed the true and necessary facts from the Authority. It is submitted that the complainant is chronic defaulter in timely payment of the installments as per the payment plan annexed with the builder buyer agreement. It is pertinent to mention here that respondent has sent many payments reminder letter to complainant but There after the Complainant never approached the respondent to made payment.
- i) It is further imperative to note that despite many undulations such as Covid (loss of 6 months), GRAP Restrictions and most importantly non-compliance on the part of the 'Intended Beneficiaries'/allottees/complainant(s); i.e. non-payment, the respondent has still fulfilled our obligations in terms of completing the construction, and has already applied for the OC in the month of December 2023; even whilst facing the disruption in supply chain, migration of labourers due to Covid-19, and without seeking any escalation linked to escalated cost of construction due to inflation. Further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the company then

the company shall be automatically entitled to the extension of time for delivery of possession.

- j) That it is pertinent to mention here that as per law of Affordable housing policy whom can apply this scheme only who have no house their name and his spouse but in this case, applicant are trying to put the curtain on this fact. Because complainant has grab the shelter of a needy person due to field the Affordable housing scheme because complainant has his own house and enjoying his life in a highly expensive society.
 - k) That it is pertinent to mention here that complainant has put the certain on real fact that he has gone in NCLT to demand refund from respondent.
 - l) That it is crystal and clear case of payment defaulter and complainant want to ruin and wipe out the images of respondent in society, and want to put the curtain her illegal act and conduct.
 - m) That, moreover the applicant somehow wants to harass the answering respondent as the plea of the applicant is mere a façade/pretense through the real intentions are otherwise and such a calculative and cunning act of the applicant has conveyed not only a wrong message to mislead but also posed a threat in mind of answering respondent so as to succumb to the illegal, illogical and unjustified demand of the applicant
 - n) That, thus the application under reply is not maintainable in law and facts as the same is false, frivolous, vexatious, uncalled for, unwarranted, without any cause and justification and has been presented with sole intention to mislead the court only
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 these undisputed documents and submission 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 complaint for the reasons given below.

E.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 purposes with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has a complete territorial jurisdiction to deal with the present complaint.

E.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) 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;*

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

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.

F. Findings on the objections raised by the respondent.

F.I Objection regarding delay due to force majeure circumstances.

13. It is contended on behalf of respondent that due to various circumstances beyond its control, it could not speed up the construction of the project, resulting in delays such as various orders passed by NGT and Hon'ble Supreme Court, lockdown due to outbreak of Covid-19 pandemic.

14. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

"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 licenses shall not be renewed beyond the said 4-year period from the date of commencement of project"

15. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. The Authority notes that the construction ban cited by the respondent, was of a short duration and is a recurring annual event, usually implemented by the National Green Tribunal (NGT) in November. These are known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Similarly, the various orders passed by other Authorities cannot be taken as an excuse for delay as it is a well-settled principle that a person cannot take benefit of his own wrong.

G. Findings on the relief sought by the complainant

- G.I. Direct the respondent to pay interest @ 8.65% per annum as per the prevailing MCLR plus 2% on the paid amount of ₹22,96,314/- for delay period starting from 16.09.2020 till the date of actual handing over of physical possession and wave off the illegal demand raised by the Respondent like the interest etc.**
- G.II. Direct the respondent to not create any third-party interest and maintain the status quo of the said unit as such the respondent is forcefully with all its malafide intentions is making publications in the newspaper of various allottees for cancellation by raising ill.**

16. The factual matrix of the case reveals that the complainant was allotted unit no. D-52, Tower-D admeasuring carpet area of 604.83 sq. ft. and a balcony area of 95.10 sq. ft., in the respondent's project at basic sale price of ₹24,66,870/- under the Affordable Group Housing Policy 2013. A buyer's agreement was executed between the parties in 2016. The possession of the unit was to be offered by 16.03.2021 as delineated hereinbelow. The complainant paid a sum of ₹22,96,314/- towards the subject unit.
17. The complainant is seeking a direction to direct the respondent to not create any third-party interest and maintain the status quo of the said unit. A final reminder letter dated 19.10.2024 was being sent to the complainant, thereby affording him an opportunity to clear the outstanding dues.
18. The Authority notes that the complainant has paid approximately 93.04% of the sale consideration, and the respondent was required to hand over the project by 16.09.2020 under the Affordable Housing Policy, 2013, excluding the COVID-19 grace period. Even with a six-month grace period in lieu of Covid-19 pandemic to 16.03.2021, the respondent failed to complete the project. More than three years later, the project remained incomplete, and the respondent has obtained the occupation certificate from the competent authority on 31.12.2024. The interest accrued during the delay period significantly reduces the amount payable by the complainant. Upon

adjustment of this interest, the respondent would, in fact be liable to pay the complainant.

19. Additionally, as per Clause 9.2 of the Agreement for Sale, annexed as Annexure A to the Rules, 2017, the allottee has the right to stop making further payments if the promoter defaults on its obligations. The relevant portion is reproduced below:

9.2 In case of Default by Promoter under the conditions listed above, Allottee is entitled to the following:

(ii) Stop making further payments to Promoter as demanded by the Promoter. If the Allottee stops making payments, the Promoter shall correct the situation by completing the construction/development milestones and only thereafter the Allottee be required to make the next payment without any interest for the period of such delay; or...

(Emphasis Supplied)

20. In the present case, the promoter was obligated to complete the construction within four years from the date of either the environment clearance or the building plan approval, whichever was later, i.e., by 16.09.2020. However, the promoter failed to complete the project within this timeline. Even after granting a six-month extension due to the Covid-19 pandemic, extending the deadline to 16.03.2021, the promoter did not complete the construction. Thus, in accordance with Clause 9.2, the allottee was fully justified in stopping further payments.

21. Herein, the complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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.***

22. Due date of handing over possession: As per clause 4.1 of the BBA executed inter se parties, the respondent proposed to handover possession of the subject unit ***within a period of four years i.e. 48 months from the date of commencement of project.*** It is pertinent to mention here that the project was to be developed under the Affordable Housing Policy, 2013. However, the respondent has chosen to disregard the policy provision. Clause 1(iv) of the Affordable Housing Policy, 2013 deals with the date of possession of the unit and completion of the project. The relevant clause is reproduced as under:

"1(iv) 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)

23. In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is 16.09.2016. The due date of handing over of possession is reckoned from the date of environment clearance being later. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as per **HARERA notification no. 9/3-2020 dated 26.05.2020**, an extension of 6 months is granted for the projects having a 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 16.09.2020 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 the outbreak of Covid-19. As such the due date for handing over of possession comes out to be **16.03.2021**.

24. Admissibility of delay possession charges at prescribed rate of interest:

The complainant is seeking delay possession charges till the date of delivery of possession to the complainant. 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, *ibid*. 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."

25. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, has determined the prescribed rate of interest. The rate of interest, determined by the legislature, is reasonable and if the said rule is followed to award interest, it will ensure uniform practice in all cases.

26. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 12.08.2025 is 8.90%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.90%.

27. 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;"*

28. 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 them in case of delayed possession charges.

29. 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 agreement.

30. It is the failure of the promoter to fulfil its obligations and responsibilities as per the 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 Section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at the prescribed rate of interest i.e., @ 10.90% p.a. w.e.f. 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession,

whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

G.III Direct the respondent to handover actual physical possession of the booked unit.

31. In the present complaint, the grievance of the complainant is that the physical possession has not been handed over by the respondent to the complainant.
32. The authority observes that the respondent-promoter has obtained occupation certificate of the said project from the competent authority on 31.12.2024. Further, Section 17(1) of the Act of 2016 obligates the respondent-promoter to handover the physical possession of the subject unit to the complainant complete in all respect as per specifications mentioned in BBA and thereafter, the complainant-allottee is obligated to take the possession within 2 months as per provisions of Section 19(10) of the Act, 2016.
33. In view of the above, the respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the occupation certificate for the project has already been obtained by it from the competent authority.
34. Further, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the occupation certificate/completion certificate from the competent authority. Whereas as per Section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question. In view of above, the respondent shall execute the conveyance deed

of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.

G.IV Litigation cost

35. The complainants are seeking the above-mentioned relief with respect to compensation. The Hon'ble Supreme Court of India in *Civil Appeal nos. 6745-6749 of 2021 titled as "M/s Newtech Promoters and Developers Ltd. V/s State of UP and Ors."* has held that an allottee is entitled to claim compensation and 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 and litigation expense shall be adjudged by the adjudicating officer having due regards to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses.

H. Directions of the Authority

36. 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):

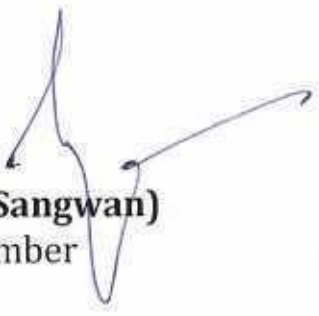
- I. The respondent is directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate of interest i.e., 10.90% p.a. for every month of delay from the due date of possession 16.03.2021 till offer of possession plus 2 months or actual handing over of possession whichever is earlier, as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

- II. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules, *ibid*.
- III. 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(z) of the Act.
- IV. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainants are directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 30 days.
- V. The respondent is directed to handover the possession of the allotted unit to the complainant complete in all aspects as per specifications of buyer's agreement within one month from date of this order, as the occupation certificate in respect of the project has already been obtained by it from the competent authority.
- VI. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act, failing which the complainant may approach the adjudicating officer for execution of order.

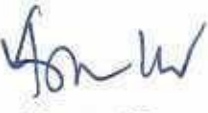
VII. The respondent shall not charge anything from the complainant which is not part of the buyer's agreement and the provisions of the

VIII. The complaints and application stand disposed of.

37. Files be consigned to the registry.



(Ashok Sangwan)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.08.2025



HARERA
GURUGRAM