

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

Complaint no.: 5850 of 2023
Date of filing: 02.01.2024
Order pronounced on: 12.08.2025

Rashmi Dhingra & Kinshuk Dhingra
Both RR/o:- 32, Sec-A, Pocket-C, Vasant Kunj, New
Delhi

Complainants

Versus

M/s Vatika Limited
Regd. Office at:- Vatika triangle, 4th floor, Sushant
Lok, Ph-1, Block-A, Mehrauli-Gurugram Road,
Gurugram-122002

Respondent

CORAM:

Shri Arun Kumar
Shri Ashok Sangwan

**Chairperson
Member**

APPEARANCE:

Shri Apoorv Yadav (Advocate)
Shri Dhruv Dutt Sharma (Advocate)

Complainants
Respondent

ORDER

1. This complaint has been filed by the complainant/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules

and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details.

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

S. N.	Particulars	Details
1.	Name and location of the project	"Vatika Express City" by Vatika India Next at Sector 88 - A&B, Gurugram.
2.	Project area	100.875 Acres
3.	Nature of Project	Plotted Colony
4.	DTCP license no. and validity status	94 of 2013 dated 31.10.2013 Valid up to 31.10.2019
5.	Name of Licensee	C/o M/s Vatika Ltd.
	Rera registered/ not registered and validity status	Registered (for Vatika Express City "Expression for Phase-1", area admeasuring 38640.48 sq. mtrs.) Vide registration no. 271 of 2017 dated 09.10.2017 Valid up to 08.10.2022
6.	Unit No.	Plot no. 20, Street no. G-17, Sector-88B. (As per page no.19 of complaint)
7.	Unit area admeasuring	301.39 sq. yds. (As per page no.19 of complaint)
8.	Expression of Interest	08.09.2014 (As per page no.96 of reply)
9.	Allotment letter	26.09.2014 (As per page no.19 of complaint)
10.	Date of buyer agreement	19.11.2014 (As per page no.19 of complaint)
11.	Possession clause	9. Schedule for possession of the said residential plot. "The company based on its present plans and estimates and subject to all

		<i>just exceptions, force majeure and delays due to reasons beyond the control of the company contemplates to complete development of the said residential plot within a period of 48 months from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in other clauses..."</i> [Emphasis supplied] (As per page no.28 of complaint)
12.	Due date of possession	19.11.2018 (Calculated from the date of execution of buyer's agreement.)
13.	Total Sale Consideration	Rs. 2,30,51,814/- (As per page no.24 of complaint)
14.	Amount paid by complainant	Rs.94,89,109/- (41% of sale consideration) (As per SOA dt. 31.10.2022 at page 43 of complaint) *Complainant have to pay 60% at the offer of possession as per payment plan at page 41 of the complaint.
15.	Completion Certificate	Not obtained (To be ascertained)
16.	Intimation of possession	13.09.2022 (As per page no.45 of complaint)
17.	Reminder for intimation of possession	18.11.2022 (As per page no.92 of reply)
18.	Final demand letter	02.12.2022 (As per page no.49 of complaint)
19.	Notice for Termination	14.11.2023 (As per page no.95 of reply)
20.	Letter for cancellation of expression of interest	19.07.2024 (As per page no.4 of application for early hearing)

B. Facts of the complaint.

3. The complainant has made the following submissions in the complaint:
 - a. That the Complainants believing the representation of the Respondent and being lured by the brochures and catalogues

shown by the representatives of the Respondent Company decided to buy residential plot in the Project 'Vatika Express City Plots' of the Respondent Company and allotment letter was issued in favour of the Complainants on 26.09.2014 whereby Plot No. 20, G-17, Sector-88B, admeasuring 300 sq. yds, in Vatika Express City, Vatika India Next 2 was allotted to the Complainants. That thereafter the payments as and when demanded were duly paid by the Complainants to the best of their capacity. That the Builder Buyer Agreement was signed and executed between the Complainants and the Respondent on 19.11.2014.

- b. That in terms of Clause 9 of the BBA dated 19.11.2014, the Respondent promised and assured that the plot of the Complainants would be delivered to the Complainant within 48 months from the execution of the BBA i.e., by 19.11.2018 the Respondent Company was due to hand over the possession of the residential plot which was allotted to the Complainants. It is submitted that the Respondent Company has till date failed to offer the Complainants the possession.
- c. That the BBA, also detailed the payment plan that was agreed between the Complainants and the Respondent whereby the last payment was due on offer of possession. That the total sale price for plot including the basic sale price, EDC and IFMSD was agreed at ₹2,30,51,814.15/-. That in terms of the agreement the Complainants duly paid a total of ₹94,89,109/- to the Respondent till 30.09.2015.

- d. That even though the due date of possession of the plot was 19.11.2018, yet the Respondent Company failed to give the possession of the plot to the Complainants. That thereafter on 13.09.2022 an 'Intimation for Possession' letter was issued by the Respondent Company alleging that the Respondent was commencing the process of handing over the project and demanded ₹1,53,13,044.47/-. That further as per the letter the Respondent stated vide the letter that the Offer of Possession would be dispatched to the Complainants subject to the fulfilment of the pre-requisites.
- e. That since the agreed terms dictated that the demand of the last instalment was due upon the offer of possession, the Complainants immediately contacted the Respondent Company who confirmed that the demand was due in terms of the BBA and payment was to be made after receiving the offer of possession. But to the utter surprise of the Complainants' another letter was received on 02.12.2022 claiming to be a Final Opportunity of Instalment due on Offer of Possession with a demand of ₹1,42,13,044.47/-.
- f. That the Complainants have made all payments in terms of the BBA dated 19.11.2014 yet till date no offer of possession has been received qua the plot. That further it is a matter of record and clarified in matter titled Deepak Kumar Tiwari & Shelja Tiwari vs Vatika Limited in Complaint No. 1534 of 2019 decided on 29.03.2023, that no Completion certificate has been obtained by the Respondent. That till date the Respondent has neither offered the possession of the plot nor provided the details qua the status of the

completion certificate to the Complainants. It is submitted that the Complainants are severely suffering since 2014 and have been running from pillar to post to get possession their plot. Thus, the Complainants have had no option but to knock the door of the Hon'ble Authority.

- g. That there being a delay of over 4 years and 9 months in delivery of possession, the Complainants humbly prays that the demand which is due at the time of offer of possession be raised by the Respondent only after adjustment of delayed possession charges which are continuing till date. Furthermore, the Respondent Company be directed not to impose any additional charges beyond the agreed terms of the BBA dated 19.11.2014 and also the Respondent be restrained from imposing any holding charges/interest on last instalment. Hence the present complaint.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- Restrain and direct the Respondent Company to set-aside/cancel the Intimation of Possession dated 13.09.2022
 - Restrain and direct the Respondent Company to set-aside/cancel the Final Opportunity letter issued against the Complainants dated 02.12.2022.
 - Direct the Respondent Company to issue the last instalment only after issuance of valid offer of possession.
 - Direct the Respondent Company to handover physical possession of the plot to the Complainants without imposing any illegal or unlawful conditions.

- e. Direct the Respondent Company to pay interest at the prescribed rate per annum on the delay in handing over the possession from due date of possession i.e., 19.11.2018 till actual possession.
 - f. Direct the Respondent Company to waive off illegal interest being charged to the Complainants.
 - g. Direct the Respondent Company to not create any third-party rights in the Plot in question.
 - h. Direct the Respondent Company to not to alienate the Plot in question.
 - i. Direct the Respondent Company to provide necessary documentation such as Occupation Certificate / BR-III / Completion Certificate to the Complainants.
 - j. Direct the Respondent Company to not charge holding charges in view of the Civil Appeal No. 3864-3889/2020 passed by the Hon'ble Supreme Court of India.
 - k. A Local Commissioner be appointed to bring on record the status of the project.
 - l. Direct the Respondent Company to execute conveyance deed in favour of the Complainants.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the act to plead guilty or not to plead guilty.
- D. Reply by the respondent.**
6. The respondent has contested the complaint on the following grounds:

- a. That apparently, the Complaint filed by the Complainants 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.
- b. That the Complainants have miserably and willfully failed to make payments in time or in accordance with the terms of the Builder Buyer Agreement. It is submitted that the Complainants have frustrated the terms and conditions of the Builder Buyer Agreement, which were the essence of the arrangement between the parties and therefore, the Complainants now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. That the Complainants have also misdirected in claiming interest on account of alleged delayed offer for possession.
- c. It has been categorically agreed between the parties that subject to the Complainants having complied with all the terms and conditions of the Builder Buyer 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 Company contemplates to complete development of the said Plot within a period of 48 months from the date of execution of the Agreement, unless there shall be delay due to force majeure events and failure of Allottee(s) to pay in time the price of the said Plot. Reference may be made to Clause 9 of the Builder Buyer Agreement.

- d. In the present case, it is a matter of record that the Complainants have not fulfilled their obligation and have not even paid the installments on time that had fallen due. Accordingly, no relief much less as claimed can be granted to the Complainants.
- e. 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. Further the Company may also suspend the Project for such period as it may consider expedient. Reference may be made to Clause 12 of the Builder Buyer Agreement.
- f. In the present case, there has been a delay due to various reasons which were beyond the control of the Respondent and the same are enumerated below:-
- g. Unexpected introduction of a new National Highway being NH 352 W (herein "NH 352 W") proposed to run through the project of the Respondent. Initially HUDA has to develop the major sector roads for the connectivity of the projects on the licensed land. But no development for the connectivity and movement across the sectors, for ingress or egress was done by HUDA for long time. Later on, due to the change in the master plan for the development of Gurugram, the Haryana Government has decided to make an alternate highway passing through between sector 87 and sector 88 and further Haryana Government had transferred the land falling in sector 87, 88 and others sectors to GMDA for constructing new highway 352 W. Thereafter in a process of developing the said highway 352 W, the land was uplifted by 4 to 5 mtrs. It is pertinent

to note that Respondent has already laid down its facilities before such upliftment. As a result, respondent is constrained to uplift the project land and re-align the facilities. Thereafter GMDA handed over the possession of the land properties/land falling in NH 352 W to NHAI for construction and development of NH 352 W. All this process has caused considerable amount of delay and thus hampered the project in question which are beyond the control and ambit of developer.

- h. The GMDA vide its letter dated 08.09.2020 had handed over the possession of said properties for construction and development of NH 352 W to the National Highway Authority of India (NHAI). This is showing that still the construction of NH 352 W is under process resulting in unwanted delay in completion of project.
- i. Further, initially, when HUDA had acquired the sector road and started its construction, an area by 4 to 5 mtrs was uplifted. Before start of the acquisition and construction process, the Respondent No. 1 had already laid down the services according to the earlier sector road levels, however due to upliftment caused by the HUDA in NH 352 W the company has been constrained to raise and uplift the same within the project, which not only result in deferment of construction of project but also attract costing to the Respondent.
- j. The Hon'ble National Green Tribunal (NGT)/Environment Pollution Control Authority (EPCA) issued directives and measures to counter deterioration in Air Quality in the Delhi-NCR region, especially during winter months. Among these measures were bans

- imposed on construction activities for a total period of 70 days between November, 2016 to December, 2019.
- k. Declaration of Gurgaon as a Notified Area for the purpose of Groundwater and restrictions imposed by the state government on its extraction for construction purposes.
 - l. The Government of India imposed lockdown in India in March 2020 to curb the spread of the Covid-19 pandemic. This severely impacted the Respondent as the Respondent was constrained to shut down all construction activities for the sake of workers' safety, most of the labour workforce migrated back to their villages and home states, leaving the Respondent in a state where there is still a struggle to mobilize adequate number of workers to start and complete the construction of the Project due to lack of manpower.
 - m. Further, it had been also agreed and accepted that in case the delay is due to the Force Majeure then the Company shall not be held responsible for delay in delivery of possession. Reference may be made to Clause 35 of the Builder Buyer Agreement.
 - n. It is not disputed that due to the outbreak of Covid 19, the entire world went into lockdown and all the construction activities were halted and no labors were available. The above has resulted in delay in development of the Plot for reasons that essentially were beyond the control of Respondent for which the Respondent cannot be held liable. That the Complainants have also failed to make payments in time in accordance with the terms and conditions as well as payment plan annexed with the Builder Buyer Agreement and as such the complaint is liable to be rejected. It is submitted

that out of the sale consideration of Rs. 2,40,35,984/-, the amount actually paid by the Complainants is Rs. 94,89,109/- i.e. around 40% of the total sale consideration of the Plot. It is further submitted that there was an outstanding amount of Rs. 1,52,42,423/- (including interest) payable by the Complainants as on 15.02.2024 as per the Payment Plan opted by the Complainants.

- o. It is pertinent to mention here that the Respondent has already offered possession of the Plot to the Complainants vide Letter dated 13.09.2022 and Reminder Letter dated 18.11.2022 and 02.12.2022, however, the Complainants have till date failed to make the payment of outstanding dues. That on 14.11.2023 the Respondent again called upon the Complainants vide Letter dated 14.11.2023 with an opportunity to make the payment within 07 days failing which the Respondent shall be constrained to cancel / terminate the Agreement, however, the Complainants did not bother to make the payment. The Complainants after defaulting in complying with the terms and conditions of the Builder Buyer Agreement, now wants to shift the burden on the part of the Respondent whereas the Respondent has suffered a lot financially due to such defaulters like the present Complainants.

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

E. Jurisdiction of the Authority:

8. The authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial Jurisdiction:

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by 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.

E.II Subject-matter Jurisdiction:

10. 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)

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.

11. 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 relief sought by the complainants.

F.I. Restrain and direct the Respondent Company to set-aside/cancel the Intimation of Possession dated 13.09.2022.

F.II. Restrain and direct the Respondent Company to set-aside/cancel the Final Opportunity letter issued against the Complainants dated 02.12.2022.

F.III. Direct the Respondent Company to issue the last instalment only after issuance of valid offer of possession.

F.IV. Direct the Respondent Company to handover physical possession of the plot to the Complainants without imposing any illegal or unlawful conditions.

F.V. Direct the Respondent Company to pay interest at the prescribed rate per annum on the delay in handing over the possession from due date of possession i.e., 19.11.2018 till actual possession.

F.VI. Direct the Respondent Company to waive off illegal interest being charged to the Complainants.

F.VII. Direct the Respondent Company to not create any third-party rights in the Plot in question.

F.VIII. Direct the Respondent Company to not to alienate the Plot in question.

F.IX. Direct the Respondent Company to provide necessary documentation such as Occupation Certificate / BR-III / Completion Certificate to the Complainants.

12. In the present matter the complainant was allotted the unit Plot no. 20, Street no. G-17, Sector-88B at sector 88, Gurugram in the project Vatika Express City vide allotment letter dated 26.09.2014. Thereafter a builder buyers' agreement was executed between the parties on 19.11.2014 for a total sale consideration of ₹2,30,51,814/-. As per clause 9 of the said agreement the respondent was obligated to deliver the possession of the unit within 48 months from the date of execution of the agreement. Accordingly, the due date of possession comes out to be 19.11.2018.

13. The respondent cancelled the subject unit vide cancellation letter dated 14.11.2023 due to non-payment of outstanding dues by the complainant. The authority before illustrating upon the relief sought by the complainants shall observe whether the cancellation letter issued by the respondent no. 1 is valid or not?
14. The authority has gone through the payment plan, which was duly signed by both the parties, which is reproduced for ready reference:

S. No	Payment Due	BSP (%)
1.	On booking	₹11,00,000/-
2.	Within 30 days of booking	10% of BSP
3.	Within 4 months of booking	15% of BSP
4.	By 31 st March 2015	15% of BSP+25% of EDC/IDC
5.	On offer of possession	60% of BSP + 75% of EDC/IDC

15. It is a matter of record that the complainants booked the aforementioned unit under the specified payment plan and paid a sum of ₹94,89,109/- towards the total sale consideration of ₹2,30,51,814/-, which amounts to approximately 41% of the total consideration. It is important to note that the respondent raised a demand of ₹1,36,13,032/- as an instalment due upon the offer of possession. As per the payment plan above, complainant was obligated to pay 40% of the total sale consideration before the offer of possession and the rest 60% was to be paid up on offer of possession. However, on 03.04.2025, the respondent's counsel admitted that the Completion Certificate (CC) or part thereof had not been received from the competent authority as of that date. Consequently, the possession intimation dated 13.09.2022 cannot be considered a valid offer of possession, and the demand raised

pursuant to it is therefore invalid. As such, the cancellation of the unit on this basis is legally untenable and is hereby set aside.

16. In light of these observations, the respondent is directed to restore the unit of the complainant and if the said unit is not deliverable the respondent is further directed to offer an alternative unit at similar location to the complainant at the same rate as per the agreed terms of the subject agreement and handover its physical possession after obtaining occupation certificate/completion certificate from the competent authority.

17. **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.

18. The legislature in its wisdom in the subordinate legislation under the 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.

19. 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%.
20. 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;"*
21. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.90% by the respondent /promoter which is the same as is being granted to them in case of delayed possession charges.
22. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the buyer's agreement. Buyer's agreement dated 19.11.2014 was executed between complainant and respondent in

respect of the floor on Plot no. 20, Street no. G-17, Sector-88B in the project namely "Vatika Express City" vide allotment letter dated 26.09.2014 for the total sale consideration of ₹2,30,51,814/- out of which the complainant has paid ₹94,89,109/-. By virtue of clause 9 of the buyer's agreement executed between the parties the possession of the said unit was to be delivered by 19.11.2018. The respondent has failed to handover possession of the subject unit till date of this order. Accordingly, it is the failure on the part of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.

23. As per the reasonings as stated above the authority has set aside the termination letter dated 14.11.2023. the respondent is directed to restore the unit of the complainant and if the said unit is not deliverable the respondent is further directed to offer an alternative unit at similar location to the complainant at the same rate as per the agreed terms of the subject agreement and handover its physical possession after obtaining occupation certificate/completion certificate from the competent authority.
24. 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 complainants are entitled to delay possession charges at prescribed rate of the interest @ 10.90% p.a. w.e.f. due date of possession i.e., 19.11.2018 till valid offer of possession after obtaining of OC from the competent authority plus two months 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.

F.X. Direct the Respondent Company to not charge holding charges in view of the Civil Appeal No. 3864-3889/2020 passed by the Hon'ble Supreme Court of India.

25. The respondent is not entitled to claim holding charges from the complainant at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

F.XI. Direct the Respondent Company to execute conveyance deed in favour of the Complainants.

26. Section 17 (1) of the Act deals with duties of promoter to get the conveyance deed executed and the same is reproduced below:

"17. Transfer of title.-

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate"

27. The authority observes that OC in respect of the project where the subject unit is situated has not been obtained by the respondent promoter till date. As on date, conveyance deed cannot be executed in respect of the subject unit, however, 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. In view of above, the respondent shall execute the conveyance

deed of the allotted unit within 3 months from the final offer of possession after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainants as per norms of the state government.

G. Directions of the authority

28. 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):

- a. The respondent is directed to restore the unit of the complainant and if the said unit is not deliverable the respondent is directed to offer an alternative unit at similar location to the complainant at the same rate as per the agreed terms of the subject agreement and handover its physical possession after obtaining occupation certificate/completion certificate from the competent authority as per obligations under section 11(4) (b) read with section 17 of the Act, 2016 within two months from the date of this order and thereafter, the complainants are obligated to take the physical possession within 2 months as per Section 19 (10) of the Act, 2016.
- b. The respondent is directed to pay the interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.90 % p.a. w.e.f. due date of possession i.e., 19.11.2018 till valid offer of possession after obtaining of OC from the competent authority plus two months 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.

- c. The arrears of such interest accrued from due date of possession till the date of this order 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 respondent-promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
- d. The respondent is directed to execute the conveyance deed of the allotted unit within 3 months after the receipt of the OC from the concerned authority and upon payment of requisite stamp duty by the complainant as per norms of the state government.
- e. The respondent shall not charge anything from the complainant which is not the part of the builder buyer agreement.
- f. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed.
29. Complaint stands disposed of.
30. File be consigned to registry.



(Ashok Sangwan)
Member



(Arun Kumar)
Chairperson

Haryana Real Estate Regulatory Authority, Gurugram

Date: 12.08.2025