



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	2998 of 2022
Date of filing:	11.11.2022
First date of hearing:	31.01.2023
Date of decision.:	28.10.2025

Beerinder Singh

R/o VPO -Madauthi ,Tehsil Bahadurgarh

District Jhajjar, Haryana 124507

....COMPLAINANT

VERSUS

Ruhil Promoters Pvt. Ltd.

Office at Ruhil Residency,

Sector-3, Village Sarai, Aurangabad,

Bahadurgarh, District Jhajjar, Haryana-124507

....RESPONDENT 1

AND

Kashi Promoters Private Ltd

Ruhil Tower, 2nd Floor , MIE Part B,

Delhi Rohtak Road,

Bahadurgarh 124507

....RESPONDENT 2

Rathore

Present: - Mr. Amninder Singh Mann, Advocate, counsel for the complainant through video conference
Mr. Kamal Dahiya, Advocate, counsel for respondents through video conference

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaint was listed for hearing on 30.09.2025. However, due to the re-constitution of benches, complaint is taken up today for hearing.
2. Present complaint has been filed by complainant under Section 39 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with relevant rules of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project.	Ruhil Residency, Sector 3, Village Sarai Aurangabad, Bahadurgarh, Haryana
2.	Nature of the project.	Residential Complex.

Dr. Geeta Rathee

3.	RERA Registered/not registered	Registered vide Registration No. 139 of 2017
4.	Details of the unit.	C-201, Tower C-1, 3BHK+3T, 2 nd Floor measuring super area of 1708 sq.ft.
5.	Date of Allotment	11.12.2012
6.	Date of plot buyer agreement	12.12.2012
7.	Possession clause in floor buyer agreement	Clause 9(i): Subject to force majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOC etc and further subject to allottees having complied with all his obligations under terms and conditions of this agreement and the allottees not being in default under any part of Agreement including but not limited to the timely payment of total Sale Consideration and other charges /fees/taxes/levies and also subject to allottee(s) having complied with all formalities or documentation as prescribed by developer. The developer proposes to complete the construction within the period of 36 months from date of execution of this Agreement with further grace period of 180 days under normal circumstances.
8.	Due date of possession	12.06.2016
9.	Total sale consideration	₹49,00,168/-



10.	Amount paid by complainant	₹44,34,238/-
11.	Whether occupation certificate received or not.	Occupation certificate received on 17.03.2022
12.	Offer of possession.	10.05.2022

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

4. Complainant had booked a unit in the project of the respondents namely, "Ruhil Residency" situated in Village Sarai, Sector 3, Aurangabad, Bahadurgarh, Haryana on 25.10.2012 by paying booking amount of ₹13,06,620/-. Vide allotment letter dated 11.12.2012 unit bearing C-201, Block/ Tower C-1, Type 3 BHK+3T on 2nd floor measuring 1708 sq ft. super area and built up area of 1141 was allotted to the complainant.

5. That an apartment buyer agreement qua the unit was executed between the complainant and the respondents on 12.12.2012. Complainant paid an amount of ₹44,34,238/- against the total sale consideration of ₹49,00,168/- for the unit. As per clause 9(i) of the agreement, respondents had committed to deliver possession of the unit within 36 months along with a grace period of 180 days i.e., 42 months from the date of execution of the agreement, which comes to 12.06.2016.

6. That the complainant had opted for construction linked payment plan and had made total payment of ₹44,34,238/- till 29.03.2016. However, only the last



two instalments are left to be paid as per the payment schedule. Complainant regularly visited the site of construction and it was revealed that the construction of Tower C-1, in which the unit of the complainant is situated, has not been completed and was delayed without any reason at all. The complainant was not allowed to enter the project area and no person was present at the site to address the concerns of the complainant. The complainant also made phone calls at the customer care number but no reply was ever given by customer care representatives. Respondents have cheated and defrauded the complainant. As per the agreement, possession of the unit should have been delivered by 12.06.2016, however, till date, the respondents have failed to complete the construction of the project and deliver the possession of the unit to the complainant despite receiving the payments as per installment demands.

7. That respondents have illegally added ₹3,00,000/- under the head additional cost of allotted flat (staircase) and demanded it from the complainant whereas it was not the part of agreed consideration amount as per the buyers agreement. Moreover, respondents have demanded monthly maintenance cost at the rate of ₹2.5/- per sq ft. per month but the said unit is not ready yet and no possession has been handed over till date. Such conduct of the respondents amounts to serious deficiency. Respondents have been unfairly utilizing the huge amount paid by the complainant. Therefore, complainant has filed the present complaint seeking refund of paid amount along with interest in terms of

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RERA, Act 2016 and Rules therein or in alternative delayed possession charges be paid to him till the possession is actually delivered.

C. RELIEF SOUGHT

8. That complainant seeks following relief and directions to the respondents:-

- i. Ordered to refund the principal total amount of ₹44,34,238/- only as paid as consideration including taxes.
- ii. Ordered to pay an amount of ₹47,90,573/- only being the amount of interest till 10th October, 2022 on the above said principal amount paid as consideration.
- iii. Ordered to pay interest pendente -lite on the aforesaid principal amount of ₹44,34,238/- at the rate of 12% per annum calculated on daily basis till the date of actual refund.
- iv. Ordered not to claim interest @ 18% per annum calculated on daily basis on delayed payment of installment (if any) from complainant as the rate of interest is one sided, unjust, arbitrary and against law.
- v. Ordered to provide compensation of ₹10,00,000/- for causing injury to complainant's financial interest and reputation and causing harassment and mental agony and for resorting to fraudulent and unfair trade practices.
- vi. Ordered to pay ₹1,00,000/- cost of forced litigation.



- vii. Ordered to quash the basic demand of ₹3,00,000/- under the head 'cost of allotted flat (staircase).

ALTERNATIVE RELIEF SOUGHT:

- i. Ordered to pay delayed possession charges at the rate of 12% per annum calculated on daily basis on the total amount paid from the agreed date of delivery of possession till the possession is actually delivered.
- ii. Ordered not to claim interest @ 18% per annum calculated on daily basis on delayed payment of installment (if any) from complainant as the rate of interest is one sided, unjust, arbitrary and against law.
- iii. Ordered to refund the per square feet charges along with interest at the rate of 11% for the reason of providing lesser area as super area and carpet area than the agreed area as per buyer's agreement.
- iv. Ordered to provide compensation of ₹10,00,000/- for causing injury to complainant's financial interest and reputation and causing harassment and mental agony and for resorting to fraudulent and unfair trade practices.
- v. Ordered to pay ₹1,00,000/- cost of forced litigation.
- vi. Ordered not to claim any maintenance charges till the time the possession is physically handed over and during the pendency of this complaint.

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- vii. Ordered to quash the basic demand of ₹3,00,000/- under the head 'cost of allotted flat' (staircase).

D. REPLY SUBMITTED ON BEHALF OF RESPONDENTS

Learned counsel for the respondents filed detailed reply on 02.05.2023 pleading therein:

9. That the complaint is not maintainable on account of relief sought by the complainant as the relief claimed is of compensation and hence Authority has no jurisdiction to adjudicate said matter and same is liable to be dismissed.
10. That no agreement as referred to under the provisions of RERA Act, 2016 and Haryana Real Estate (Regulation and Development) rules, 2017 has been executed between the respondent company and the complainant. Rather, the agreement that has been referred to for the purpose of getting adjudication of the complaint is the apartment buyer agreement executed much prior to coming into force of 2016 Act.
11. That the complainant had booked a unit in the project of the respondents namely 'RUHIL RESIDENCY' situated at Sector-3, Sarai Aurangabad Village, Bahadurgarh, Distt. Jhajjar, Haryana-124507. Complainant was allotted apartment no. C-201, situated at 2nd floor in Tower C-1 admeasuring 1708 sq. ft.
12. That the project of the respondents consists of two phases i.e. Phase I and Phase II. Phase I includes Tower A, B, C, D, EWS and commercial shops and Phase II includes Tower E, F, G, H, I, J and low rise and primary school. The

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construction of the entire project including both the phases has been completed and the occupation certificate has also been issued from the concerned department on 17.03.2022.

13. That the complainant's apartment comes under phase-II. It has been submitted that the complainant stopped making payment against his unit after 2016, last payment being made on 05.10.2016 and had not turned to clear outstanding against him till date. It is important to mention here that the respondents had completed the project despite non-payment by the complainant and several other allottees like him and the Occupation Certificate of the project in question has been received by the respondents on 17.03.2022. The Copy of Occupation Certificate of project is annexed herewith as Annexure R-2.

14. That there was delay in construction of the project because of some circumstances which were beyond the control of the respondents. As per clause 9(vii) of the agreement, if there is delay due to reasons beyond the control of the developer then the allottee(s) do not have any right to claim the compensation of whatsoever nature. Moreover, the complainant himself agreed upon the terms of the agreement and also gave his full consent over such terms. For ease, clause 9(vii) is reproduced herein below:

"The developer as a result of such contingency arising reserves the right to alter or vary the terms and conditions of this agreement or if the circumstances beyond the control of the developer so warrant, the developer may suspend /abandon the project or any of its part for such

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period as it may consider expedient and the Allottee(s) agrees not to claim compensation of any nature whatsoever including the compensation stipulated in clause 9(iii) of this agreement during the period of suspension of the scheme".

15. That the construction of the said unit is complete and the respondents are ready to give the possession as the Occupation Certificate from the concerned department has been issued. It is further submitted that despite force majeure situations which were beyond the control, respondents were able to complete the unit.

16. That the complainant has not approached the Hon'ble Authority with clean hands and had not disclosed that the possession had already been offered to him vide letter dated 10.05.2022 but he had not come forward either to clear outstanding amount or to take possession of the unit in question. Complainant is only interested in getting wrongful enrichment in the form of interest and is not interest in taking possession. Hence, he is liable for breach of provision of Section 19(6), 19(7) and 19(10) of the RE(R&D) Act 2016 and is accordingly, liable to pay interest and holding charges for delay in making payments. Request has been made that since the complainant has not approached the Authority with clean hands and concealed the important facts, present complaint needs to be set aside with costs.



E. ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANT AND RESPONDENTS

17. Learned counsel for the complainant and respondents reiterated the submissions as were made in complaint and reply.

F. ISSUES FOR ADJUDICATION

1. Whether the complainant is entitled to relief of refund with interest or delayed possession charges along with interest?

G. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

18. Facts set out in the preceding paragraph demonstrate that the complainant booked an apartment bearing no. C-201, 2nd Floor, Tower C-1 measuring 1708 sq.ft. in respondent's project i.e., "Ruhil Residency", Bahadurgarh" in the year 2012. An apartment buyer agreement was executed between the parties on 12.12.2012. Admittedly, an amount of ₹44,34,238/- has been paid against the total sale consideration of ₹49,00,168/- by the complainant in lieu of the booked unit till date.

19. Respondents have challenged the maintainability of the present case on the ground that the relief of the complainant is compensation. In this regard it is observed that the complainant is seeking refund of the amount deposited by him along with interest or in alternative delayed possession charges with interest along with compensation. Hence, Authority is well within its jurisdiction to



proceed with the reliefs other than compensation. Therefore, plea of the respondents is not allowed.

20. Another averment of the respondents is that provisions of the RERA Act of 2016 will not apply on the agreements executed prior to coming into force of RERA Act, 2016. Accordingly, respondents have argued that relationship of builder and buyer in this case will be regulated by the agreement previously executed between them and the same cannot be examined under the provisions of RERA Act. In this regard, Authority observes that after coming into force the RERA Act, 2016, jurisdiction of the civil court is barred by Section 79 of the Act. Authority, however, is deciding disputes between builders and buyers strictly in accordance with terms of the provisions of flat-buyer agreements. After RERA Act of 2016 coming into force the terms of agreement are not re-written, the Act of 2016 only ensure that whatever were the obligations of the promoter as per agreement for sale, same may be fulfilled by the promoter within the stipulated time agreed upon between the parties. Issue regarding opening of agreements executed prior to coming into force of the RERA Act, 2016 was already dealt in detail by this Authority in complaint no. 113 of 2018 titled as **Madhu Sareen v/s BPTP Ltd** decided on 16.07.2018. Relevant part of the order is being reproduced below:

“The RERA Act nowhere provides, nor can it be so construed, that all previous agreements will be re-written after coming into force of RERA. Therefore, the provisions of the Act, the Rules and the Agreements have



to be interpreted harmoniously. However, if the Act or the Rules provides for dealing with certain specific situation in a particular manner, then that situation will be dealt with in accordance with the Act and the Rules after the date of coming into force of the Act and the Rules. However, before the date of coming into force of the Act and the Rules, the provisions of the agreement shall remain applicable. Numerous provisions of the Act saves the provisions of the agreements made between the buyers and seller."

Further, as per recent judgement of Hon'ble Supreme court in **Newtech Promoters and Developers Pvt. Ltd Civil Appeal no. 6745-6749 of 2021** it has already been held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act, 2016 shall be applicable to such real estate projects, furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation cast upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder, therefore this Authority has complete jurisdiction to entertain the captioned complaint.

Execution of floor buyer agreement is admitted by the respondents. Said agreement is binding upon the parties. As such, the respondents were under an obligation to hand over possession as stipulated in the agreement and in case, the respondents failed to offer possession on the due date of possession.



21. Complainant in his complaint alleged that possession has not been offered by respondents till date whereas respondents have claimed that complainant was informed about the completion of the project and receipt of OC and offer of possession of possession was made to him on 10.05.2022. Respondents have averred that complainant was requested to take possession and to clear outstanding dues, however the complainant had not turned either to make payment or to take possession of the unit in question. In this regard it is observed that respondents have annexed with its reply Annexure R-3 which depicts the offer of possession and demand letter dated 10.05.2022, however said documents pertained to some other allottee and respondents were directed to file correct annexure. Respondents vide application dated 18.10.2023 had filed correct Annexures depicting offer of possession and demand letter dated 10.05.2022 made to the complainant. However, perusal of the same reveals that there is no proof of service/ dispatch record affixed with this letter dated 10.05.2022 to prove that the same had actually been received by the complainant. Therefore, Authority is unable to rely on this letter.

22. As per clause 9(i) of the flat buyer agreement executed between the parties on 12.12.2012, respondents were under an obligation to hand over the possession of the unit within 36 months along with a grace period of 180 days i.e. 42 months from the date of execution of the agreement, which comes to 12.06.2016. Fact remains that respondents have failed to handover possession of the unit within the prescribed timeframe. Respondents have attributed this

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delay in delivery of possession to force majeure conditions i.e situations beyond his control but no specific reasons causing delay in the construction of the project have been mentioned by the respondents. There is no document placed on record by respondents to show or to prove that any force majeure condition occurred or existed during the 42 months' period from execution of agreement for sale that could have contributed to any delay in completion of construction and handing over of possession. Hence, plea of the respondents cannot be accepted.

Although respondents have completed the project and had received OC for the same but onus of proving the fact that after receiving OC offer of possession was made to the complainant and he had denied to accept the same was on the respondents and said burden of proof has not been discharged by the respondents.

23. Complainant in his complainant is primarily seeking refund of the amount deposited by him along with interest. On the other hand respondents have averred that complainant was offered possession on 10.05.2022 but he has neither come forward to clear outstanding payment nor to take the possession and is liable for breach of provision of Section 19(6), 19(7) and 19(10) of the RE(R&D) Act 2016 and therefore cannot seek relief under RERA. Sections 19(6), 19(7) and 19(10) impose obligations on the buyer to make timely payments and take possession when the promoter issues a notice of possession. In the present case, the complainant opted for construction linked plan and made



maximum payment till 12.03.2016. The remaining two installments were to be made on the start of internal fittings and offer of possession which was due on 12.06.2016. However, the respondents did not complete the project as per agreed timelines and offer the possession on due date and hence post due date of possession complainant was not obligated to make further payments unless the possession of the unit was offered to him. Hence, there is no default on the complainant's part. Therefore, the respondents claim that the complainant is not entitled to relief under RERA is unsustainable. It is observed that as per Section 18 of RERA Act, once the respondents fails to deliver possession within the stipulated time frame, the complainant has the option to withdraw from the project and seek a refund. Under RERA Act, 2016 the promoter is responsible for completing the project on time and obtaining all necessary approvals. In the present case, respondents had promised to deliver possession latest by 12.06.2016. This implied that the project should have been completed by that date, and the respondents should have applied for and obtained the Occupation Certificate (OC) from the competent authority to ensure timely possession. However, the respondents only received the Occupation Certificate on 17.03.2022, which was six years after the deemed date of possession. Failure to meet these obligations allows the buyer to seek relief under RERA, such as compensation for delays or even refund with interest.

Authority concludes that, the respondents objection under Sections 19(6), 19(7) and 19(10) of RERA is invalid, as the complainant has fulfilled payment



obligations. On the other hand, the respondent's failure to deliver possession by the agreed date is in breach of provisions of RERA Act. Further, in the present case, the provisions of Section 18(1)(a) of the Act clearly come into play by virtue of which the complainant is seeking refund of paid amount along with interest on account of default in delivery of possession of booked unit within a reasonable period of time. The complainant is, therefore, entitled to seek relief of refund under RERA provisions.

24. Further, Hon'ble Supreme Court in the matter of "Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others " in CIVIL APPEAL NO(S). 6745 - 6749 OF 2021 has observed that in case of delay in granting possession as per agreement for sale, allottee has an unqualified right to seek refund of amount paid to the promoter along with interest. Para 25 of this judgement is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the



period of delay till handing over possession at the rate prescribed."

25. Since, in the present case respondents could not prove the service of offer of possession and complainant has exercised his right to seek refund after lapse of due date of possession and before valid offer of possession, so, the Authority finds it to be a fit case for allowing refund in favour of complainant. The complainant will be entitled to refund of the paid amount along with interest from the dates of various payments till actual realization of the amounts. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

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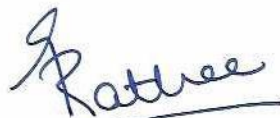
“Rule 15: “Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%:

Provided that in case the State Bank of India marginal cost of lending rate (NCLR) 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”..”

26. Consequently, as per website of the state Bank of India i.e. <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e. 28.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.85%.

27. Hence, Authority directs respondents to pay refund to the complainant on account of failure in timely delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e., at the rate of SBI highest marginal cost of lending rate (MCLR) + 2% which as on date works out to 10.85% (8.85% + 2.00%) from the date of various payments till actual realization of the amount.

28. Authority has got calculated the interest on the total paid amount from the date of respective payments till the date of this order i.e., 28.10.2025 at the rate of 10.85% and said amount works out to ₹1,02,55,402/-. Complainant shall be entitled to further interest on the paid amount till realization beginning from 28.10.2025 at the rate of 10.85%:



Sr. No.	Principal Amount (in ₹)	Date of payment	Interest Accrued till 28.10.2025 (in ₹)
1	13,06,620/-	25.10.2012	15,45,706/-
2.	41,000/-	18.12.2012	57,258/-
3.	5,57,374/-	06.04.2013	7,60,329/-
4.	5,58,000/-	22.06.2013	7,48,411/-
5.	3,36,221/-	15.10.2013	4,39,459/-
6.	4,45,120/-	27.01.2014	5,68,035/-
7.	4,48,300/-	17.06.2014	5,53,303/-
8.	4,48,294/-	19.09.2014	5,40,769/-
9.	31,666/-	22.06.2015	35,600/-
10.	2,61,643/-	29.03.2016	2,72,294/-
Total:	44,34,238/-		58,21,164/-

H. DIRECTIONS OF THE AUTHORITY

29. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- Respondents are directed to refund the entire amount of ₹1,02,55,402/- (till date of order i.e., 28.10.2025) to the complainant. Interest shall be paid up till the time period as provided under Section 2(z) of the RERA Act, 2016.



- ii. A period of 90 days is given to the respondents to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

Hence, the complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.



.....
DR. GEETA RATHEE SINGH
[MEMBER]