

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

**Complaint no. :** 6087 of 2024  
**First date of hearing:** 27.03.2025  
**Date of decision :** 25.11.2025

Santosh Kumari

Pawan kumar

**R/o:** - 564/B, Old Gadda Khana, Patiala, Punjab-147001.

**Complainants**

**Versus**

M/s Sunraysia Heights Pvt. Ltd.

**Registered Office:** 211, 2<sup>nd</sup> floor, Ansal Bhawan, 16  
Kasturba Gandhi Marg, New Delhi-110001

**Respondent**

**CORAM:**

Shri Ashok Sangwan

**Member**  
**Member**

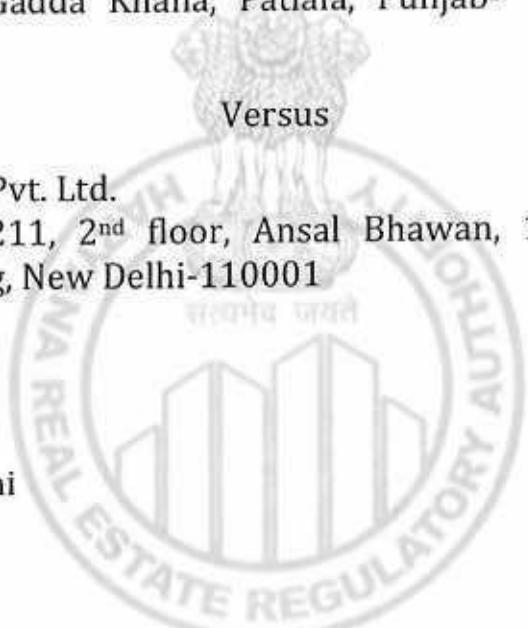
Shri Phool Kumar Saini

**APPEARANCE:**

Vijay Partap Singh

**Complainant**  
**Respondent**

Sh. Tushar Behmani



**HARERA  
ORDER**

1. The present complaint dated 16.12.2024 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made

there under or to the allottees as per the agreement for sale executed *inter se*.

**A. Project and unit related details**

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

S. N.	Particulars	Details
1.	Name of the project	"Sixty-Three Golf Drive", Sector 63A Gurugram
2.	Nature of the project	Affordable group housing
3.	RERA registered or not registered	249 of 2017 dated 26.09.2017 valid up to 25.09.2022
4.	DTCP license	82 of 2014 dated 08.08.2014 valid up to 31.12.2023
5.	Unit no.	101, Tower-F (page 19 of complaint)
6.	Unit admeasuring	356.18 sq. ft. (carpet area) 69.84 sq. ft. (balcony area) (page 19 of complaint)
7.	Allotment letter	30.06.2017 (page 19 of complaint)
8.	Date of execution of Buyers agreement	2016
9.	Possession clause	<b>4-Possession:</b> The developer shall endeavor to handover possession of the said flat within a period of four years i.e. 48 months from the date of commencement of project, subject to force majeure & timely payment by the allottee towards the sale consideration, in accordance with the terms as stipulated in the present agreement.

		<b>*Note: As per affordable housing policy 2013 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.</b> This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The license shall not be renewed beyond the said 4 years from the date of commencement of project.
10.	Date of building plan	10.03.2015 (taken from another file CR/3329/2023 of similar project)
11.	Date of environment clearance	16.09.2016 (taken from another file CR/3329/2023 of similar project)
12.	Due date of possession	16.03.2021 (16.09.2020 plus six months in lieu of covid-19) (calculated from the date of environment clearance)
13.	Total sale consideration	Rs.14,60,640/- (page 197 of reply)
14.	Amount paid by the complainant	Rs.13,29,590/- (page 197 of reply) 91.09% amount paid by the complainant
15.	Final reminder	27.08.2024 (page 124 of reply)
16.	Publication	16.10.2024 (page 126 of reply)
17.	Occupation certificate	31.12.2024 (page 130 of reply)
18.	Offer of possession	Not offered

## B. Facts of the complaint

3. The complainant has made following submissions in the complaint:
  - a) That in 2015, the complainant got information about an advertisement, in a local newspaper about affordable housing project "Sixty-Three Golf Drive" situated at Sector 63 A, Gurugram, Haryana. The marketing staff of the respondent showed a rosy picture of the project and invited the complainant for site visit. The complainant visited the project site and met with local staff of respondent who gave an application form and

assured that possession would be delivered within 36 months as it is a government project having fixed commencement of project for the purpose of this policy. The licences shall not be renewed beyond the said 4-year period from the date of commencement of project, payment instalment is to be given every 6 months and on the date of last instalment, the possession would be delivered.

- b) That the complainant applied for a 1-BHK residential unit vide application bearing no SGD6339 in the said project of respondent and paid an amount of ₹74,712/- towards booking a unit along with application form. On 30.06.2017, the respondent issued a provisional allotment-cum-demand letter against the allotted unit F-101, admeasuring 356.18 sq. ft., including a balcony area of 69.84 sq. ft. The unit was booked under the time linked payment plan as per the mandate under the affordable housing policy 2013 for sale consideration of ₹14,59,640/-.
- c) That on year 2017, a pre-printed, unilateral, and arbitrary buyer's agreement for allotted unit was executed between the parties. As per clause 4.1, the respondent had to complete the construction of unit and handover the possession within 4 years from the date of commencement of project.
- d) That till date the respondent has raised a demand of ₹13,29,590/-, and the same was paid by the complainant i.e., 100% of demand money but when the complainant observed that there is very slow progress in the construction of subject unit since long time, he raised his grievance to the respondent. The said affordable housing project was proposed to be developer under the affordable housing policy 2013, issued by the

government of Haryana, vide town and country planning department notification dated 19.08.2013 and the respondent as per the provisions of the affordable housing policy 2013, undertook and were obligated to handover the physical possession of the said affordable housing project in four years. The respondent was supposed to handover the actual physical possession of the flat to the complainant latest by 15.03.2021.

- e) That the complainant has always paid the instalment on time. The project is already delayed by more than 4 years and it is expected to take around 1-2 years more for the completion of the project. The OC applied by the respondent on dated 08.12.2023 is being rejected by the DTCP due to several non-compliance even the registration as on date of the said project is not valid and has expired.
- f) That it was promised by the respondent at the time of receiving payment for the unit that the possession of fully constructed unit as shown in newspaper at the time of sale, would be handed over to the complainant on and after the payment of last and final instalment. These instalments were due every six months from the commencement of construction work and the respondent was obligated to deliver the completed project as and when the respondent takes the last instalment or by maximum till 29.09.2020.
- g) That the facts and circumstances enumerated above would lead to the only conclusion that there is a deficiency of service on the part of the respondent and as such, they are liable to be punished and compensate the complainant.
- h) That due to above acts of the respondent and of the terms and conditions of the buyer's agreement and Affordable housing Policy 2013, the

complainant has been unnecessarily made liable to pay interest on the capital amount, which amounts to unfair trade practice.

- i) That the respondent is threatening and pressuring the complainant telephonically that the complainant has to make the payment as per the affordable housing policy as per agreed terms of BBA, without even raising the last demand against the consideration of the booked flat. The respondent is trying to pressurise the complainant to align the complainant's booked flat in cancellation pool without even caring the hard fact that as per the BBA terms the project is already delayed by more than 3 years from the date of promise of handing over the flat.
- j) That as per section 19 (6) the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) the complainant has fulfilled his obligations with respect to making timely payments. Therefore, the complainant herein is not in breach of any of the terms of the agreement. It is the respondent who is deliberately and wilfully refraining from raising the final demand as per the amended construction linked payment plan of the Haryana Affordable Policy, 2013.

### **C. Relief sought by the complainant**

- 4. The complainant has sought the following relief(s):
  - I. Direct the respondent to pay interest @ 8.65% per annum as per the prevailing MCLR plus 2% on the paid amount of ₹13,29,590/- for delay period starting from 15.03.2021 till the date of actual handing over of physical possession or offer of possession plus 2 months after obtaining OC, whichever is earlier.
  - II. Direct the respondent to handover actual physical possession of the booked unit.
  - III. To raise the last demand as per Haryana Affordable Housing Policy towards consideration of the said unit in order to make the payment.

- IV. To quash letter dated 15.03.2024 issued by the respondent demanding illegal arbitrary amount of ₹7,96,970/- without even raising the last tax invoice/demand letter.
  - V. The Authority to guide as to in which bank account complainant should deposit last demand if raised by respondent as escrow account of respondent is freezed by Authority vide its order dated 12.02.2024.
  - VI. Direct the respondent to get the copy of application for OC as such the respondent claims that they have applied for OC.
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 the complainant, vide application form applied to the respondent for allotment of the unit. Pursuant thereto residential flat bearing no. **F-101**, admeasuring carpet area of 356.18 sq. ft.(the "**Unit**") and a 69.84 sq. ft. balcony was provisionally allotted on 11.01.2016. The respondent had no reason to suspect the *bonafide* of the complainant and proceeded to allot the unit in question in their favor.
  - b) That the allottees duly executed the annexure - I mentioned in the allotment application which states that the entire project is governed by Affordable Housing Policy,2013 and that the development and handing over of the possession is strictly dealt with as per the provisions envisaged under the said annexure -I by way of an Affidavit. This clearly shows that the complainant, from day one at the time of applying the allotment, knew about the terms and conditions of the Affordable Housing Policy,2013, and chose to accept the same as it is resulting in default in payments as and when raised by the respondent.

- c) That as per clause 4.1 of the agreement, the due date of possession was subject to the allottee having complied with all the terms and conditions of the agreement. That being a contractual relationship, reciprocal promises are bound to be maintained. The respondent endeavored to offer possession within a period of 4 years from the date of obtainment of all government sanctions and permissions including environment clearance, whichever is later. The possession clause of the agreement is on par with clause 1(iv) of the Affordable Housing Policy, 2013.
- d) That the building plan of the project was approved on 10.03.2015 from DGTCP and the environment clearance was received on 16.09.2016. Thus, the proposed due date of possession, as calculated from the date of EC, comes out to be 21.08.2021. The Ld. Authority vide notification no.9/3-2020 dated 26.05.2020 had allowed an extension of 6 months for the completion of the project the due of which expired on or after 25.03.2020, on account of unprecedented conditions due to outbreak of Covid-19. Hence, the proposed due date of possession comes out to be 16.03.2021.
- e) That the offer of possession was also subject to the incidence of force majeure circumstances under clause 16 of the agreement. That additionally, even before normalcy could resume, the world was hit by the Covid-19 pandemic. The Ministry of Home Affairs, GOI vide notification dated March 24, 2020, bearing no. 40-3/2020-DM-I (A) recognized that India was threatened with the spread of the COVID-19 pandemic and ordered a complete lockdown in the entire country for an initial period of 21 days which started on March 25, 2020. By various subsequent notifications, the Ministry of Home Affairs, GOI further

extended the lockdown from time to time. Various State Governments, including the Government of Haryana, have also enforced various strict measures to prevent the pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of the Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention, that considering the wide spread of Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. That during the period from 12.04.2021 to 24.07.2021 (103 days), each and every activity including the construction activity was banned in the State. It is also to be noted that on the same principle, the Haryana Real Estate Regulatory Authority, Gurugram granted 6 months extension for all ongoing Projects vide Order/Direction dated 26th of May, 2020 on account of 1st wave of COVID-19 Pandemic. The said lockdown was imposed in March 2020 and continued for around three months. As such extension of only six months was granted against three months of lockdown.

- f) That as per license condition, developer are required to complete these projects within a span of 4 years from the date of issuance of environmental clearance since they fall in the category of special time bound project under Section 7B of the Haryana Development and Regulation of Urban Area Act 1975, for a normal Group Housing Project there is no such condition applied hence it is required that 4 years prescribed period for completion of construction of Project shall be hindrance free and if any prohibitory order is passed by competent

authority like National Green Tribunal or Hon'ble Supreme Court then the same period shall be excluded from the 4 years period or moratorium shall be given in respect of that period also.

- g) That it is safely concluded that the said delay of **422 days** in the seamless execution of the project was due to genuine force majeure circumstances and the said period shall not be added while computing the delay. Thus, from the facts indicated above and the documents appended, it is comprehensively established that a period of 422 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of aforesaid Orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of *force majeure* in terms with the agreement.
- h) That in a similar case where such orders were brought before the Ld. Authority was in Complaint No. 3890 of 2021 titled "Shuchi Sur and Anr. vs. M/s. Venetian LDF Projects LLP" which was decided on 17.05.2022, wherein the Hon'ble Authority was pleased to allow the grace period and hence, the benefit of the above affected 166 days need to be rightly given to the respondent.
- i) That even the UPRERA Authority at Gautam Budh Nagar has provided benefit of 116 days to the developer on account of various orders of NGT and Hon'ble Supreme Court directing ban on construction activities in Delhi and NCR, 10 days for the period 01.11.2018 to 10.11.2018, 4 days for 26.07.2019 to 30.10.2019, 5 days for the period 04.11.2019 to 08.11.2019 and 102 days for the period 04.17.2019 to 74.02.2020. The Authority was also pleased to consider and provided benefit of 6 months to the developer on account of the effect of COVID also.

- j) That the Hon'ble UP REAT at Lucknow while deciding appeal No. 541 of 2011 in the matter of Arun Chauhan Versus Gaur sons Hi- Tech Infrastructure Pvt Ltd vide order dated 02.11.2021 has also granted the extension of 116 days to the promoter on account of delay in completion of construction on account of restriction/ban imposed by the Environment Pollution (Prevention & Control) Authority as well vide order of Hon'ble Supreme Court Dated 14.11.2019.
- k) That Karnataka RERA vide notification No. K-RERA/Secy/04/2019-20 and No. RERA/SEC/CR-04/2019-20 has also granted 9 months extension in lieu of Covid-19 pandemic. Moreover, this Ld. Authority had in similar matters of the had allowed the benefit of covid grace period of 6 months in a no. of cases.
- l) That despite there being several defaulters in the project, the respondent had to infuse funds into the project and have diligently developed the project in question. Despite the default caused, the respondent got sanctioned loan from SWAMIH fund of Rs. 44.30 Crores to complete the project and has already invested Rs. 35 Crores from the said loan amount towards the project. The respondent has already received the FIRE NOC, LIFT NOC, the sanction letter for water connection and electrical inspection report.
- m) That the respondent has applied for occupation certificate on 08.12.2023. Once an application for grant of occupation certificate is submitted for approval in the office of the statutory authority concerned, respondent ceases to have any control over the same. The grant of sanction of the occupation certificate is the prerogative of the concerned statutory authority over which the respondent cannot exercise any influence.

Therefore, the time utilized by the statutory authority to grant occupation certificate to the respondent is required to be excluded from computation of the time utilized for implementation and development of the project.

- n) That the complainant has been allotted unit under the Affordable Housing Policy, 2013 clearly stipulated the payment of consideration of the unit in six equal installments. The complainant is liable to make the payment of the instalments as per the government policy under which the unit is allotted. At the time of application, the complainant was aware of the duty to make timely payment of the installments. Not only as per the Policy, but the complainant was also under the obligation to make timely payment of installments as agreed as per the BBA.
- o) That the complainant has failed to make any payment of installment at "within 36 months from the due date of Allotment" along with partial payment towards previous instalments. The complainant cannot rightly contend under the law that the alleged period of delay continued even after the non-payment and delay in making the payments. The non-payment by the complainant affected the construction of the project and funds of the respondent. That due to default of the complainant, the respondent had to take loan to complete the project and is bearing the interest on such amount. The respondent reserves the right to claim damages before the appropriate forum.
- p) That it is the obligation of the complainant under the Affordable Housing Policy, 2013 (as on the date of Allotment) and the Act to make timely payments for the unit. In case of default by the complainant the unit is liable to be cancelled as per the terms of Affordable Housing Policy, 2013.

- q) That the respondent sent a first reminder letter dated 27.08.2024 to clear the outstanding dues, mentioning the relevant clauses of the AHP, 2013, wherein if the installments are not paid timely, the respondent can cancel the unit allotted to the complainant.
- r) That the complainant, despite the issuance of both above-mentioned final reminders, the complainant intentionally and willfully evaded the matter, and chose not to clear his outstanding dues as requested by the respondent. Thereafter, the respondent, after giving the complainant sufficient opportunity to settle the outstanding dues, proceeded further in accordance with the terms and conditions of the Affordable Housing Policy, 2013, and published the complainant's details in the local newspaper dated 16.10.2025 and again requested him to clear the outstanding dues in 15 days from the date of the said publication, else, the allotment will be cancelled purely as per the said policy.
- s) That the respondent, even after publication dt. 16.10.2024, sent a letter showing generosity to the complainant and requested them to clear the outstanding dues.
- t) That the Respondent has duly received its Occupation Certificate from the Director, Town and Country Planning, Chandigarh on 31.12.2024. Since the OC has been received, the complainants is legally bound to settle all outstanding payments and come forward to take possession of the unit, subject to clearing outstanding dues, following the offer of possession of the unit.
- u) That to add to the misery of the respondent, the hundreds of allottees of the project in dispute have filed a claim petition having no. IB/48(ND)/2025 under section 7 of the IBC,2016, and have claimed Rs.

26 crores interest of 24% and declared the respondent insolvent as per the provisions of the IBC,2016. The allottees in this claim petition have admitted the date of default, i.e., the due date of handing over the possession, as 31.03.2023.

- v) That the stand of the allottees is contradictory with respect to the due date of possession in two different competent authorities, i.e., before HARERA, Gurugram, they are claiming interest on delayed possession from September 2020, whereas before Ld. NCLT admitted the due date of possession as 31.03.2023. Hence, there is a huge discrepancy in the admitted due date of possession and therefore, the due date of possession in the present case, which is alleged as 16.09.2020, is false and wrong.
- w) That the complainant, despite all the reminders, failed to make payment against the instalment. The respondent earnestly requested the complainants to make payment. However, the complainant did not pay any heed to the legitimate, just, and fair requests of the respondent. All requests of the respondent to make payment fell on the deaf ears of the complainants. The respondent has not yet cancelled the unit in dispute till date and the complainants should clear all his outstanding dues as per the BBA and take the possession of the unit.
- x) That the complainant has intentionally distorted the real and true facts in order to generate an impression that the respondent has reneged from its commitments. No cause of action has arisen or subsists in favour of the complainants to institute or prosecute the instant complaint. The complainant has preferred the instant complaint on absolutely false and extraneous grounds in order to needlessly victimize and harass the respondent.

- y) That in light of the *bona fide* conduct of the respondent, the fact that no delay has been caused to the complainants. The non-existence of cause of action this complaint is bound to be dismissed with costs in favour of the respondent.
  - z) Without prejudice, assuming though not admitting, relief of delayed possession charges, if any, cannot be paid without adjustment of the outstanding instalment from the due date of instalment along with the interest at the rate of 15%.
- aa) That moreover, without accepting the contents of the complaint in any manner whatsoever, and without prejudice to the rights of the respondent, the unit of complainants can be retained only after payment of Interest on delayed payments from the due date of instalment till the date of realization of the amount. Further delayed interest if any has to be calculated only on the amounts deposited by the complainants towards the sales consideration of the unit in question and not on any amount credited by the respondent, or any payment made by the complainants towards delayed payment charges or any taxes/statutory payments, etc.
  - bb) That in light of the bona fide conduct of the respondent and no delay for development of the project as the respondent was severely affected by the force majeure circumstances and no cause of action to file the present complaint, this complaint is bound to be dismissed in favour of the respondent.
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 submission made by the parties.

**E. Jurisdiction of the authority**

8. 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**

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 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**

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) 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(j) 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 complainant at a later stage.

**F. Findings on the objections raised by the respondent.**

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

12. 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.
13. 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"*

14. 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 ₹13,29,680/- for delay period starting from 15.03.2021 till the date of actual handing over of physical possession or offer of possession plus 2 months after obtaining OC, whichever is earlier.
- G.II** Direct the respondent to handover actual physical possession of the booked unit.
- G.III** Direct the respondent to get the copy of application for OC as such the respondent claims that they have applied for OC

15. The factual matrix of the case reveals that the complainant was allotted unit no. F-101, Tower-F admeasuring carpet area of 356.18 sq. ft. and a balcony area of 69.84 sq. ft., in the respondent's project at sale price of ₹14,59,640/- 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 ₹13,29,590/- towards the subject unit.

16. A final reminder letter dated 27.08.2024 was being sent to the complainant wherein it was specified that your failure to clear the outstanding dues has resulted in classifying your allotment under the category of default as per AHP, 2013. Hence, the complainant was requested to pay the total outstanding amount of Rs. 6,20,156/- at the earliest as you have already made grave delay in clearing the outstanding dues. Thereafter, the respondent made a publication in the newspaper "AAJ SAMAJ" on 16.10.2024 as required under Affordable Group Housing Policy, 2013. The said publication also stated that failure to make payment within the stipulated period would lead to automatic cancellation of the allotment, without any further notice or communication by the respondent. Thereafter a letter dated 27.11.2024 was sent by the respondent giving an opportunity to the

complainant to clear the outstanding dues and upon non-payment of the same.

17. The foremost question which arises before the authority for the purpose of adjudication is that "whether the said publication would tantamount to a valid cancellation in the eyes of law or not?"
18. Clause 5(iii) (i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below:-

*"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list."*

19. The Authority observes that the respondent issued "Final Reminder Letter" dated 27.08.2024, directing the complainant to clear the outstanding dues amounting to ₹6,20,156/-. It is pertinent to mention here that the complainant had already paid an amount of ₹13,29,590/-(i.e., 91.09%) against the total consideration of ₹14,59,640/- to the respondent. Perusal of case file reveals that the demand raised by the respondent via letter dated 27.08.2024 was towards the payment of last instalment accompanied with interest on delay payments.
20. Further, the Authority takes serious note of the conduct of the respondent in wilfully violating the directions issued to it vide order dated 23.04.2024 in M.A. No. 233/2024 in CR/1244/2022 titled "*Sixty-Three Golf Drive Flat Buyers Association vs. Sunrays Heights Private Ltd.*", wherein a clear directive

was issued restraining the respondent from cancelling the allotment of any unit in cases where more than 85% of the sale consideration had already been paid by the allottee, and without adhering to the due process stipulated under the Affordable Housing Policy.

21. The Authority notes that the complainant has paid approximately 91.09% 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, the possession was to be handed over by 16.03.2021, however, the respondent has failed to complete the project. Thereafter, 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. Despite this, the respondent chose to cancel the unit on grounds of non-payment, while neglecting its own obligations. Such actions by the respondent displays bad faith, as it failed to adjust the delay period interest.

22. 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)*

23. In the present case, the respondent-promoter was obligated to complete the construction by 16.03.2021, including a six-month extension due to the Covid-19 pandemic. However, the respondent-promoter failed to complete the project within this timeline. Thus, in accordance with Clause 9.2, the allottee was fully justified in stopping further payments.
24. Considering the above findings, the cancellation of the allotment is deemed invalid and is hereby quashed as issued in bad faith. Thus, the respondent is directed to reinstate the unit allotted to the complainant.
25. 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."*

26. **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)*

27. 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***.

**28. 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."*

29. 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.

30. 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., 25.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

31. 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;"*

32. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent which is the same as is being granted to them in case of delayed possession charges.

33. 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.

34. 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., @ 10.85% 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.II Direct the respondent to handover actual physical possession of the booked unit.**

35. 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.

36. 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.
37. 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.
38. 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.III Direct the respondent to get the copy of application for OC as such the respondent claims that they have applied for the OC.**

39. As per the submissions made by the counsel for the respondent, the Authority finds that the respondent has obtained the occupation certificate for the said project on 31.12.2024.
40. As per Section 11(4)(b) of Act of 2016, the respondent is under an obligation to supply a copy of the occupation certificate/completion certificate or both to the complainant-allottee. The relevant part of section 11 of the Act of 2016 is reproduced as hereunder: -

**"11(4)....**

***(b) The promoter shall be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be."***

41. Even otherwise, it being a public document, the allottee can have access to the it from the website of DTCP, Haryana.

#### **H. Directions of the authority**

42. 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 reinstate the subject unit. Further, the respondent is directed to pay interest on the amount paid by the complainant at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession, whichever is earlier.

- 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., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.
- 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 Affordable Housing Policy, 2013.

43. The complaints stand disposed of.

44. Files be consigned to the registry.



**(P.S. Saini)**  
Member



**(Ashok Sangwan)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 25.11.2025**



**HARERA**  
GURUGRAM