BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	**:**	**2163 of 2025**
Date of filing	**:**	**25.04.2025**
Date of Order	**:**	**25.11.2025**

Ravinder Singh
R/o: -597, Gali no. 2, Keshav Nagar, Singhana road, Narnaul, Haryana - 123001 **Complainant**

Versus

M/s Neo Developers Pvt. Ltd.
Regd. Office at: - 32-B, Pusa Road, New Delhi-110005 **Respondent**

CORAM:

Ashok Sangwan **Member**

Phool Singh Saini **Member**

APPEARANCE:

Garvit Gupta (Advocate) **Complainant**

E. Krishna Dass and Dushyant (Advocates) **Respondent**

ORDER

1. This order shall dispose of the aforesaid complaint titled above filed before this authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations,

responsibilities and functions to the allottees as per the agreement for sale/MOU executed inter se between parties.

A. Project and unit related details.

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), 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	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	RERA Registered or not	Registered Vide no. 109 of 2017 dated 24.08.2017 valid upto 22.02.2024
5.	DTCP License no.	102 of 2008 dated 15.05.2008 valid upto 14.05.2025
6.	Buyer's agreement	04.04.2017 (As per pg. no. 40 of the Complaint)
7.	Unit no.	Priority No. 53 on the 5th Floor (As per pg. no. 42 of the Complaint)
8.	Unit area admeasuring	300 Sq. Ft. (As per pg. no. 36 of the Complaint)
9.	Date of MoU	04.04.2017 (As per pg. no. 36 of the Complaint)
10.	Possession Clause	*3.* *The company shall complete the construction of the said Building/Complex, within which the said space is located within 36 months from the date of execution of this Agreement or from the start of construction,*

		whichever is later and apply for grant of completion/ Occupancy Certificate.
11.	Due date of possession	04.10.2020 (As per clause 3 of the MoU – *3 years plus 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020*)
12.	Assured return clause in mou	Clause 5. *The company shall pay a monthly return of **Rs. 19,500/-** on the total amount received with effect from 17.04.2020 before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee(s) to the Company and the balance sale consideration shall be payable by the Allottees to the Company in accordance with the Payment Schedule annexed as Annexure-I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit...* *(As per page no. 62 of the complaint)* ➢ *Inadvertently, vide proceedings dated 14.10.2025 and 25.11.2025, the assured return clause is mentioned with the AR rate of @45,000/-.*
13.	Sale consideration	Rs. 18,34,500/- (As per pg. no. 42 of the complaint)
14.	Amount paid by the complainant	Rs. 20,54,298/- (As per 116 of the complaint in SOA)
15.	Occupation certificate /Completion certificate	14.08.2024 (as per the DTCP site)

16.	Offer of possession	27.11.2024 (As per page no. 107 of the complaint)
17.	Offer of possession – Revised one	04.04.2025 (As per pg. no. 114 of the Complaint)
18.	Reminders for payment	14.02.2025, 04.03.2025

B. Facts of the complaint.

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

i. That the present complaint has been filed by the complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 against the Respondent, who is a promoter within the meaning of Section 2(zk) of the Act, in respect of a commercial unit in the project namely *"NEO Square"* situated at Sector-109, Gurugram, Haryana.

ii. That the respondent is in right to exclusively develop, construct and build commercial building /Food Court, transfer or alienate the unit's floor space and to carry out sale deed, agreement to sell, conveyance deeds, letters of allotments etc.

iii. That the complainant was allotted a commercial unit bearing Priority No. 53 on the 5th Floor, admeasuring 300 sq. ft., vide Buyer's Agreement dated 04.04.2017, and the total sale consideration of the said unit was fixed at Rs. 21,26,752.50, inclusive of EDC, IDC, IFMS and applicable taxes.

iv. That the Complainant, pursuant to the representations and assurances made by the Respondent, paid a sum of Rs. 11,11,358/- towards booking and initial consideration between March and April 2017, which was duly acknowledged by the Respondent in the Buyer's Agreement.

v. That a Memorandum of Understanding (MOU) dated 04.04.2017 was also executed between the parties, wherein it was agreed that the balance sale consideration would be payable by the Complainant in 30 equal monthly

instalments of Rs. 25,700/-, and upon receipt of the entire instalment amount, the Respondent would pay an assured return of Rs.19,500/- per month till commencement of the first lease.

vi. That in furtherance of the Buyer's Agreement, the Respondent demanded External Development Charges (EDC) and Internal Development Charges (IDC), and the Complainant paid a sum of Rs. 1,42,200/- towards EDC/IDC vide cheque dated 10.04.2017, which payment was acknowledged by the Respondent.

vii. That the Complainant continued to make monthly instalment payments regularly from May 2017 till October 2019, paying Rs. 26,858/- per month inclusive of taxes, and by October 2019, the Complainant had paid a total sum of Rs. 20,59,298/- towards the unit.

viii. That as per law laid down by the Hon'ble Supreme Court in *Fortune Infrastructure vs. Trevor D'Lima*, in absence of a specified possession date, a reasonable period of three years from the date of allotment is to be considered, thereby fixing the due date of possession as 04.04.2020.

ix. That despite receipt of substantial sale consideration and expiry of the stipulated possession period, the Respondent failed to offer possession of the unit by the due date and also failed to pay the assured returns as agreed under the MOU.

x. That the Respondent vide letter dated 15.10.2020 informed the Complainant that it had applied for the Occupation Certificate and assured that pending dues, including assured returns, would be adjusted at the time of possession.

xi. That instead of issuing a valid offer of possession, the Respondent issued a demand letter dated 15.04.2024 demanding Rs. 10,50,000/- towards fit-out charges, which were neither provided for in the Buyer's Agreement nor in the MOU.

xii. That thereafter, the Respondent issued an Offer of Possession dated 27.11.2024 demanding an additional sum of Rs. 13,67,533/-, despite the fact that only Rs. 67,454/- remained payable as per the agreed sale consideration.

xiii. That the said demand included charges towards development charges, labour cess, FTTH and interest, even though amounts towards EDC and IDC had already been demanded and paid earlier and formed part of the pre-decided total sale consideration.

xiv. That the Respondent subsequently issued reminder letters dated 14.02.2025 and 04.03.2025 threatening cancellation of allotment for non-payment of the disputed amount, thereby coercing the Complainant to accept unlawful demands.

xv. That a revised offer of possession dated 04.04.2025 was issued by the Respondent reducing the demand to Rs. 7,99,893/-, however, the said revised demand continued to include charges which were disputed and not contractually payable.

xvi. That the Complainant, having already paid a substantial portion of the sale consideration and being aggrieved by the delay in possession, non-payment of assured returns and illegal monetary demands, has approached this Hon'ble Authority seeking appropriate reliefs under the provisions of the RERA Act, 2016.

xvii. That the respondent has committed grave deficiency in services by delaying the project, not paying the committed assured returns and further by demanding charges in contravention to the terms of the buyer's agreement, which is immoral, illegal and amounts to unfair trade practice.

C. Relief sought by the complainant.

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

I. Respondent be directed to make payment towards the assured return from October 2019 onwards till the commencement of the first lease of the unit along with interest as per law.

II. Respondent be directed to make payment of delayed interest on the amount paid by the Complainant from the due date of offer of possession i.e 04.04.2020 till the date of issuance of the valid offer of possession.

III. Direct the Respondent to issue a valid offer of possession of the unit with proper bifurcation of the demanded amount as per the specifications and terms as provided in the Buyer's Agreement.

IV. Direct the Respondent to revoke the letters dated 14.02.2025 and 04.03.2025.

V. Direct the Respondent to revoke the letter dated 24.03.2025 demanding Rs. 8,85,000/- as fitout charges.

VI. Respondent be directed not to charge any illegal demands under the garb of 'fitout charges', 'development charges', 'labour cess', 'FTTH' and 'Interest Payable'.

VII. Respondent not to raise any payment demand which is in contrary to the agreed terms of the allotment.

VIII. Respondent be directed to lease the unit in question after the offer of possession on behalf of the Complainant as per the terms of the allotment and make payment towards the guaranteed lease rental.

IX. In case the Respondent does not lease out the unit to any prospective allottee for one year from the date of receipt of occupation certificate, then the Respondent would be liable to make payment towards lease rental from the date of lapse of one year from the date of receipt of Occupation certificate or to demarcate the unit and handover the physical possession of the unit to the Complainant.

X. Respondent be directed not to terminate the allotment or create third party rights on the allotted unit/space.

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:

I. It is humbly submitted that post completion of project, M/s Neo Developers Pvt Ltd (hereinafter referred to as the *"Respondent"*) approached Directorate of Town and Country Planning, Haryana (hereinafter referred to as the *"DTCP"*), vide application dated 23.01.2023 & 15.05.2024 for grant of Occupation Certificate for Tower-C, in Project Neo Square.

II. That the upon the satisfaction of the DTCP with respect to public health services (Internal & External) with respect to the building and site area, which included services such as water supply, sewerage, SWD, Roads being operation and functional. Further upon the completion certificate issued by the Architect with respect to supervision on workmanship, material used for the construction, the DTCP granted Occupation Certificate bearing Memo No. ZP-484-Vol-A-1/JD(RD)/2024/26057 dated 14.08.2024 in favour of the Respondent for Tower -C (under joint development rights/marketing rights of Neo Developers Pvt Ltd) measuring 3.089 acres forming part of commercial colony over an area measuring 8.66964 acres (Licence No. 102 of 2008 dated 15.05.2008, 83 of 2014 dated 09.08.2014 & 25 of 2019 dated 26.02.2019) Sector – 109, Gurugram Manesar Urban Complex being developed by Shri. Maya Buildcon Pvt Ltd & others C/o Conscient Infrastructure Pvt Ltd.

III. That by no stretch of imagination it can be concluded that the complainant herein are "allottee/consumer." The complainant are simply investors who

approached the respondent for investment opportunities and for a steady assured returns and rental income. That the same was duly agreed between the parties in the documents executed therein.

IV. It is submitted that the Complainant with the intent to invest in the Real Estate sector as an investor, approached the Respondent and inquired about the project i.e., "NEO SQUARE", (*hereinafter referred to as the "Project")* situated at Sector-109, Gurugram, Haryana, being developed by the Respondent. That after being fully satisfied with the Project and the approvals thereof, the Complainant decided to apply to the Respondent by submitting a booking application form dated 17.03.2017, whereby seeking allotment of Priority No. 53, admeasuring 300 Sq. Ft Super Area on the 5th floor Food Court & Entertainment space of the Project having a Basic Sale Price of Rs. 21,27,000/- (hereinafter referred to as the *"Unit")* The Complainant, considering the future speculative gains, also opted for the Flexi Plan being floated by the Respondent for the instant Project.

V. That the present complaint has been filed by the Complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 against the Respondent, a promoter within the meaning of Section 2(zk) of the Act, in respect of a commercial unit in the project namely *"NEO Square"* situated at Sector-109, Gurugram, Haryana.

VI. That the Complainant applied for allotment of a commercial unit and a Buyer's Agreement dated 04.04.2017 was executed, whereby a unit bearing Priority No. 53 on the 5th Floor, admeasuring 300 sq. ft., was allotted to the Complainant.

VII. That as per the Buyer's Agreement, the total sale consideration of the said unit was fixed at Rs. 21,26,752.50, inclusive of External Development Charges (EDC), Internal Development Charges (IDC), IFMS and applicable taxes.

VIII. That the Complainant paid a sum of Rs. 11,11,358/- towards booking and initial consideration between March and April 2017, which payments were duly acknowledged by the Respondent and reflected in the Buyer's Agreement.

IX. That a Memorandum of Understanding (MOU) dated 04.04.2017 was also executed between the parties, wherein it was agreed that the balance sale consideration would be payable by the Complainant in 30 equal monthly instalments of Rs. 25,700/-, exclusive of taxes.

X. That as per the terms of the said MOU, upon receipt of all 30 instalments, the Respondent undertook to pay an assured return of Rs. 19,500/- per month to the Complainant till commencement of the first lease of the unit.

XI. That the Respondent further raised a demand towards External Development Charges and Internal Development Charges, and the Complainant paid a sum of Rs. 1,42,200/- vide cheque dated 10.04.2017, which payment was duly acknowledged by the Respondent.

XII. That the Respondent herein had been running behind the Complainant for the timely payment of dues towards the Unit in question. That in spite of being aware of the payment plans the Complainant herein has failed to pay the outstanding dues on time. It is humbly submitted that though the Complainant may have cleared the Basic Sale Price of the said Commercial Property, however, they are still liable to pay all other charges such as VAT, Interest, Registration Charges, Security Deposit, duties, taxes, levies etc. when demanded. The same has been clearly agreed to in various Clauses of the Buyer Agreement and MoU.

XIII. That the Complainant paid monthly instalments of Rs.26,858/- inclusive of taxes from May 2017 till October 2019 without any default, and by October 2019 had paid a total sum of Rs. 20,59,298/- towards the unit. It is further

pertinent to mention that the Complainant failed to clear the outstanding dues of Rs. 7,99,898/- payable against the unit.

XIV. That no specific date of possession was stipulated in the Buyer's Agreement or the MOU and, therefore, in view of the law laid down by the Hon'ble Supreme Court, a reasonable period of three years from the date of allotment, i.e., 04.04.2020, was the due date for offer of possession.

XV. That the Respondent cannot pay "Assured Return/Penalty" to the Complainant by any stretch of Imagination in view of the anomaly/confusion prevailing over the interpretation of definition of deposit under the BUDS Act and various promotional offers of the company offering discounts while promoting the sale of its properties. It is pertinent to note that none of the promotional offers qualify under the deposits or any other scheme as contemplated under any law, however, with introduction of BUDS Act, and anomaly in the definition of deposit thereof, company may be exposed to severe penalties and hence the Respondent had no other alternative but to stop the payment of any return etc.

XVI. Further, it pertinent to mention herein that the BUDS Act provides two forms of deposit schemes, namely Regulated Deposit Schemes and Unregulated Deposit Schemes. Thus, for any deposit scheme, for not to fall foul of the provisions of the BUDS Act, must satisfy the requirement of being a 'Regulated Deposit Scheme' as opposed to Unregulated Deposit Scheme. Hence, the main object of the BUDS Act is to provide for a comprehensive mechanism to ban Unregulated Deposit Scheme.

XVII. That the relief of Assured Return/Penalty is not maintainable before the Ld. Authority upon enactment of the BUDS Act. That any direction for payment of Assured Return/Penalty shall be tantamount to violation of the provisions of the BUDS Act.

XVIII. It is also pertinent to mention herein that a Writ Petition was filed before the Hon'ble High Court of Punjab & Haryana titled as *Vatika Ltd. vs Union of India & Anr. - CWP-26740-2022*, on similar grounds of directions passed for payment of Assured Return/Penalty being completely contrary to the BUDS Act. That the Hon'ble High Court after hearing the initial arguments vide order dated 22.11.2022 was pleased to pass direction with respect to not taking coercive steps in criminal cases registered against the Petitioner therein, seeking recovery of deposits till the next date of hearing. Further, a *Civil Writ Petition bearing no. 16896/2023 titled as "NEO Developers Pvt Ltd vs Union of India and Another"* has been filed by the Respondent on similar grounds as in the supra case before the Hon'ble Punjab and Haryana High Court and the same is been connected by the Hon'ble High Court with the Civil Writ Petition - 26740-2022 and is pending adjudication.

XIX. That the Respondent vide letter dated 15.10.2020 informed the Complainant that it had applied for the Occupation Certificate and assured that the pending dues would be adjusted or settled at the time of possession.

XX. That a valid offer of possession, the Respondent issued a demand letter dated 15.04.2024 raising a demand of Rs. 10,50,000/- towards fit-out charges.

XXI. That the Respondent, upon obtaining the Occupation Certificate (OC), further demonstrated its readiness and willingness by issuing a formal Offer of Possession dated 27.11.2024 to the Complainant. The said offer was made after fulfilling all statutory compliances and upon the project reaching a stage fit for possession. However, despite receipt of the said communication, the Complainant neither responded to the said offer nor took any consequential steps such as making the requisite payments or completing documentation. This non-responsive conduct of the Complainant indicates a clear lack of intent to perform his part of the contract and negates any allegation of

deficiency or delay attributable to the Respondent. The Respondent, having discharged its obligations in a timely and transparent manner, cannot be held liable for the inaction and default on the part of the Complainant.

XXII. That the Respondent, in furtherance of its continuous bona fide efforts and commitment to fulfil its contractual obligations, once again issued a Demand Notice cum Offer of Possession dated 14.02.2025 and 04.03.2025 to the Complainant. Through this communication, the Respondent reiterated its readiness and willingness to hand over possession of the unit upon receipt of the balance consideration and completion of formalities by the Complainant. This action on the part of the Respondent clearly reflects that there was no delay or default attributable to the Respondent at any stage. On the contrary, it was the Complainant who failed to act upon such repeated communications, thereby frustrating the process of possession. The said conduct of the Respondent establishes a continuous and consistent intention to perform its part of the agreement, and the Respondent cannot be held liable for the non-cooperation and inaction of the Complainant.

XXIII. That despite repeated communications and opportunities granted to the Complainant to fulfil his obligations, the Respondent, as a matter of last resort, issued a Revised Demand Notice and Offer of Possession dated 04.04.2025. However, despite receiving the same, the Complainant failed to take any steps or respond to the said communication. The issuance of the revised demand clearly demonstrates that the Respondent exhausted all reasonable measures to perform its part of the contract and provide possession, whereas the Complainant remained negligent, non-cooperative, and in breach of its contractual obligations. As such, the Respondent cannot be faulted in any manner for the consequences arising from the Complainant's deliberate inaction.

XXIV. That the Respondent has at all times diligently and in good faith performed its obligations under the terms of the Agreement executed between the parties. That the Respondent issued multiple reminders to the Complainant to fulfil his part of the obligation under the BBA/MOU. This clearly demonstrates the bona fide intention of the Respondent to honour the terms of the contract and to ensure transparent communication with the Complainant from the very inception.

XXV. It is submitted that as per the agreement so signed and acknowledged, the completion of the said unit was subject to the midway hindrances which were beyond the control of the Respondent. And, in case the construction of the said commercial unit was delayed due to such 'Force Majeure' conditions the Respondent was entitled for extension of time period for completion. It is to be noted that the development and implementation of the said Project have been hindered on account of several orders/directions passed by various authorities/forums/courts as has been delineated here in below:

S. no.	VI. Date of Order	Directions	Period of Restriction	Days affected	Comments
1.	07.04.2015	National Green Tribunal had **directed that old diesel vehicles (heavy or light) more than 10 years old would not be permitted to ply on the roads of NCR, Delhi**. It has further been directed by virtue of the aforesaid order that all the registration authorities in the State of Haryana, UP and NCT Delhi would not register any diesel	**7th of April, 2015 to 6th of May, 2015**	**30 days**	The aforesaid ban affected the supply of raw materials as most of the contractors/building material suppliers used diesel vehicles more than 10 years old. The order had abruptly stopped movement of diesel

		vehicles more than 10 years old and would also file the list of vehicles before the tribunal and provide the same to the police and other concerned authorities.			vehicles more than 10 years old which are commonly used in construction activity. The order had completely hampered the construction activity.
2.	**19th July 2016**	National Green Tribunal in O.A. No. 479/2016 had directed that no stone crushers be permitted to operate unless they operate consent from the State Pollution Control Board, no objection from the concerned authorities and have the Environment Clearance from the competent Authority.	Till date the order in force and no relaxation has been given to this effect.	**30 days**	The directions of NGT were a big blow to the real estate sector as the construction activity majorly requires gravel produced from the stone crushers. The reduced supply of gravels directly affected the supply and price of ready mix concrete required for construction activities.
3.	**8th Nov, 2016**	National Green Tribunal had directed all brick kilns operating in NCR, Delhi would be prohibited from working for a period of 2016 one week from the date of passing of the order. It had also been directed	8th Nov, 2016 to 15th Nov, 2016	**7 days**	The bar imposed by Tribunal was absolute. The order had completely stopped construction activity.

		that no construction activity would be permitted for a period of one week from the date of order.			
4.	**7th Nov, 2017**	Environment Pollution (Prevention and Control Authority) had directed to the closure of all brick kilns, stones crushers, hot mix plants, etc. with effect from 7th Nov 2017 till further notice.	**Till date the order has not been vacated**	**90 days**	The bar for the closure of stone crushers simply put an end to the construction activity as in the absence of crushed stones and bricks carrying on of construction were simply not feasible. The respondent eventually ended up locating alternatives with the intent of expeditiously concluding construction activities but the previous period of 90 days was consumed in doing so. The said period ought to be excluded while computing the alleged delay attributed to the Respondent by the Complainant. It is pertinent to mention that the aforesaid bar stands in force regarding brick kilns till date

					is evident from orders dated 21st Dec, 19 and 30th Jan, 20.
5.	9th Nov 2017 and 17th Nov, 2017	National Green Tribunal has passed the said order dated 9th Nov, 2017 completely prohibiting the carrying on of construction by any person, private, or government authority in NCR till the next date of hearing. (17th of Nov, 2017). By virtue of the said order, NGT had only permitted the competition of interior finishing/interior work of projects. The order dated 9th Nov, 17 was vacated vide order dated 17th Nov, 17.		**9 days**	On account of passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.
6.	29th October 2018	Haryana State Pollution Control Board, Panchkula has passed the order dated 29th October 2018 in furtherance of directions of Environmental Pollution (Prevention and Control) Authority dated 27th Oct 2018. By virtue of order dated 29th of October 2018 all the construction activities including the excavation, civil construction were directed to remain close in Delhi and other NCR Districts from 1st Nov to 10th Nov 2018.	**1st Nov to 10th Nov, 2018**	**10 days**	On account of the passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.

7.	24th July, 2019	NGT in O.A. no. 667/2019 & 679/2019 had again directed the immediate closure of all illegal stone crushers in Mahendergarh Haryana who have not complied with the siting criteria, ambient, air quality, carrying capacity, and assessment of health impact. The tribunal further directed initiation of action by way of prosecution and recovery of compensation relatable to the cost of restoration.		**30 days**	Th directions of the NGT were again a setback for stone crushers operators who have finally succeeded to obtain necessary permissions from the competent authority after the order passed by NGT on July 2017. Resultantly, coercive action was taken by the authorities against the stone crusher operators which again was a hit to the real estate sector as the supply of gravel reduced manifolds and there was a sharp increase in prices which consequently affected the pace of construction.
8.	11th October 2019	Commissioner, Municipal Corporation, Gurugram has passed an order dated 11th of Oct 2019 whereby the construction activity has been prohibited from 11th Oct 2019 to 31st Dec 2019. It was specifically mentioned in the aforesaid order that construction activity would be completely	**11th Oct 2019 to 31st Dec 2019**	**81 days**	On account of the passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been

		stopped during this period.			completely stopped during this period.
9.	04.11.2019	The Hon'ble Supreme Court of India vide its order dated 04.11.2019 passed in writ petition bearing no. 13029/1985 titled as "*MC Mehta vs. Union of India*" completely banned all construction activities in Delhi-NCR which restriction was partly modified vide order dated 09.12.2019 and was completely lifted by the Hon'ble Supreme Court vide its order dated 14.02.2020.	**04.11.2019 - 14.02.2020**	**102 days**	These bans forced the migrant labourers to return to their native towns/states/villages creating an acute shortage of labourers in the NCR Region. Due to the said shortage the Construction activity could not resume at full throttle even after the lifting of ban by the Hon'ble Apex Court.
10.	3rd week of Feb 2020	Covid-19 pandemic	**Feb 2020 to till date**	**To date (3 months Nation wide lockdown)**	Since the 3rd week of February 2020, the Respondent has also suffered devastatingly because of the outbreak, spread, and resurgence of COVID-19 in the year 2020. The concerned statutory authorities had earlier imposed a blanket ban on construction activities in Gurugram. Subsequently, the said embargo had been lifted to a

					limited extent. However, during the interregnum, large-scale migration of labor occurred and the availability of raw materials started becoming a major cause of concern.
11.	Covid in 2021	That period from 12.04.2021 to 24.07.2021, each and every activity including the construction activity was banned in the State	12.04.2021 - 24.07.2021	**103 days**	Considering the wide spread of Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew.
			Total days	**582 days**	

XXVII. **Cascading Impact of Default of the Complainant on Project Progress:** That the Complainant are supressing the fact that due to persistent and simultaneous defaults by several homebuyers including the Complainant, the Respondent faced severe financial constraints, which significantly hampered the timely progress of construction of the Project. The financial model of the project was structured on the timely inflow of funds from buyers, which was disrupted due to non-payment of dues. This led to a shortage of working capital, affecting procurement, labour payments, and statutory compliances

XXVIII. That due to the above reasons the project in question got delayed from its scheduled timeline. However, the respondent has completed the said project in all aspect and obtained the completion certificate from the office of DTCP.

7. All other averments made in the complaint were denied in toto.

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

E. Jurisdiction of the Authority

9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

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

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

> ***Section 11***
>
> .....
>
> *(4) The promoter shall-*
>
> *(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;*
>
> ***Section 34-Functions of the Authority:***
>
> *34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.*

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by

the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the objections raised by the respondent:

F.I Objection regarding maintainability of complaint on account of complainant being the investors.

13. The respondent took a stand that the complainant are the investors and not the consumers and therefore, they are not entitled to protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the MoU, it is revealed that the complainant are the buyers, and have paid a considerable amount to the respondent-promoter towards purchase of unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

> *"2(d) "**allottee**" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;"*

14. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the MoU executed between the parties, it is crystal clear that the complainant are the allottees as the subject unit was allotted to them by the promoter vide said MoU dated 04.04.2017. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of an "investor". Thus, the contention of the promoter that the allottees being the investors are not entitled to protection of this Act also stands rejected.

F. II Objection regarding the project being delayed because of force majeure circumstances.

15. The respondent/promoter has raised the contention that the construction of the project has been delayed due to force majeure circumstances such ban on construction due to orders passed by NGT, EPCA, Courts/Tribunals/Authorities, Covid-19 etc. As per MoU, the due date of possession was 04.04.2020. Further, an extension of 6 months on account is granted to the respondent in view of the HARERA notification no. 9/3-2020 dated 26.05.2020. It is observed that orders passed by NGT banning construction in the NCR region was for a very short period of time and thus, cannot be said to impact the respondent leading to such a delay in the completion. Moreover, some of the events mentioned above are of routine in nature happening annually and the promoter is required to take the same into consideration while launching the project. Thus, the promoter/respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrong.

G. Findings on the relief sought by the complainant.

1. **Respondent be directed to make payment towards the assured return from October 2019 onwards till the commencement of the first lease of the unit along with interest as per law.**
2. **Respondent be directed to make payment of delayed interest on the amount paid by the Complainant from the due date of offer of possession i.e., 04.04.2020 till the date of issuance of the valid offer of possession.**

G.1. Assured Returns

16. The complainant is seeking unpaid monthly penalty on as per the terms of the MoU dated 04.04.2017 at the rates mentioned therein. It is pleaded that the respondent has not complied with the terms and conditions of the said MoU.

17. The respondent has submitted that the complainant in the present complaint is claiming the reliefs on basis of the terms agreed under the MoU between the

parties which is a distinct agreement than the buyer's agreement and thus, the MoU is not covered under the provisions of the Act, 2016. Thus, the said complaint is not maintainable on this basis that there exists no relationship of builder-allottee in terms of the MoU, by virtue of which the complainant is raising her grievance.

18. It is pleaded on behalf of respondent/builder that after the Banning of Unregulated Deposit Schemes Act of 2019 came into force, there is bar for payment of assured returns to an allottee. But the plea advanced in this regard is devoid of merit. Section 2(4) of the above mentioned Act defines the word 'deposit' as *an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include:*

> *(i) an amount received in the course of, or for the purpose of business and bearing a genuine connection to such business including*
> *(ii) advance received in connection with consideration of an immovable property, under an agreement or arrangement subject to the condition that such advance is adjusted against such immovable properly as specified in terms of the agreement or arrangement.*

19. A perusal of the above-mentioned definition of the term 'deposit', shows that it has been given the same meaning as assigned to it under the Companies Act, 2013 and the same provides under Section 2(31) includes any receipt by way of deposit or loan or in any other form by a company but does not include such categories of, amount as may be prescribed in consultation with the Reserve Bank of India. Similarly Rule 2(c) of the Companies (Acceptance of Deposits) Rules, 2014 defines the meaning of deposit which includes any receipt of money by way of deposit or loan or in any other form by a company but does not include:

> (i) *as an advance, accounted for in any manner whatsoever, received in connection with consideration for on immovable property*
>
> *(ii) as an advance received and as allowed by any sectoral regulator or in accordance with directions of Central or State Government;*

20. So, keeping in view the above-mentioned provisions of the Act of 2019 and the Companies Act 2013, it is to be seen as to whether an allottee is entitled to assured returns in a case where he has deposited substantial amount of sale consideration against the allotment of a unit with the builder at the time of booking or immediately thereafter and as agreed upon between them.
21. The Government of India enacted the Banning of Unregulated Deposit Schemes Act, 2019 to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business and to protect the interest of depositors and for matters connected therewith or incidental thereto as defined in Section 2 (4) of the BUDS Act 2019.
22. The money was taken by the builder as a deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.
23. The builder is liable to pay that amount as agreed upon and can't take a plea that it is not liable to pay the amount of assured return. Moreover, an agreement defines the builder/buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allotee arises out of the same relationship and is marked by the addendum agreement.
24. It is not disputed that the respondent is a real estate developer, and it had obtained registration under the Act of 2016 for the project in question. However,

the project in which the advance has been received by the developer from the allottee is an ongoing project as per section 3(1) of the Act of 2016 and, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainant besides initiating penal proceedings. So, the amount paid by the complainant to the builder is a regulated deposit accepted by the later from the former against the immovable property to be transferred to the allottee later on. In view of the above, the respondent is liable to pay assured return to the complainant-allottee in terms of the MoU dated 04.04.2017.

25. In the present complaint, the complainant intends to continue with the project and are seeking possession of the subject unit and delay possession charges in G.II as provided under the provisions of 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. In the facts and circumstances of this case, the developer was obligated to complete the construction of the said unit within 36 months from the date of execution of this MoU or from the start of construction whichever is later. The period of 36 months is calculated from the date of BBA i.e., 04.04.2017 being later. The grace period of 6 months is included on account of Covid-19 as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020. Accordingly, the due date of possession comes out to be 04.10.2020.

27. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant are seeking delay possession charges. 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]*
> *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"*

28. The legislature in its wisdom in the subordinate legislation under the rule 15 of the rules has determined the prescribed rate of interest. 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%.

29. On consideration of documents available on record and submissions made by the complainant and the respondent, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. The possession of the subject unit was to be delivered within stipulated time i.e., by 04.10.2020.

30. However now, the proposition before it is as to whether the allottee who is getting/entitled for assured return even after expiry of due date of possession, can claim both the assured return as well as delayed possession charges?

31. To answer the above proposition, it is worthwhile to consider that the assured return is payable to the allottees on account of provisions in the MoU dated 04.04.2017. The assured return in this case is payable as per "MoU". The promoter had agreed to pay to the complainant allottee pay a monthly assured return of Rs.19,500/- on the total amount received with effect from 04.04.2017

till the possession. If we compare this assured return with delayed possession charges payable under proviso to section 18(1) of the Act, 2016, the assured return is much better i.e., assured return in this case is payable as Rs.19,500/- per month whereas the delayed possession charges are payable approximately Rs.18,574/- per month. By way of assured return, the promoter has assured the allottee that he would be entitled for this specific amount till the said unit is put on lease. Moreover, the interest of the allottees is protected even after the completion of the building as the assured returns are payable till the date of said unit/space is put on lease. The purpose of delayed possession charges after due date of possession is served on payment of assured return after due date of possession as the same is to safeguard the interest of the allottees as their money is continued to be used by the promoter even after the promised due date and in return, they are to be paid either the assured return or delayed possession charges whichever is higher.

32. Accordingly, the Authority decides that in cases where assured return is reasonable and comparable with the delayed possession charges under section 18 and assured return is payable even after the date of completion of the project, then the allottees shall be entitled to assured return or delayed possession charges, whichever is higher without prejudice to any other remedy including compensation.

33. In the present complaint, the assured return was payable as per clause 5 of the MoU dated 04.04.2017, which is reproduced below for the ready reference:

> *5.*
> *The Company shall pay a monthly assured return of Rs. 19,500/- before deduction of Tax at Source, cess or any other levy which is due and payable by the Allottee (s) to the Company and the balance sale consideration shall be payable by the Allottee(s) to the Company in accordance with Payment Schedule annexed as Annexure- I. The monthly assured return shall be paid to the Allottee (s) until the commencement of the first lease on the said unit...*

34. Thus, as per the abovementioned clause 5 the assured return was payable @Rs.19,500/- per month w.e.f. 04.04.2017, till commencement of first lease.

35. In the present complaint, as per clause 5 of the MOU dated 04.04.2017, the amount on account of assured returns was payable from 04.04.2017 up to the commencement of the first lease which was executed on 10.07.2020. The first lease of the concerned unit is not valid in the eyes of law as the same is been executed before the occupancy certificate. The Occupancy Certificate of the project in question has been obtained by the respondent on 14.08.2024. Possession of the unit has been offered by the respondent on 27.11.2024. Therefore, considering the facts of the present case, the respondent is directed to pay the assured return to the complainant at the agreed rate i.e., @Rs.9,500/- per month from the date i.e., 04.04.2017 till the commencement of the valid first lease after deducting the amount already paid on account of assured return to the complainant.

36. Accordingly, the respondent is directed to pay the outstanding accrued assured return amount at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainant and failing which that amount would be payable with interest @ 8.85% p.a. till the date of actual realization.

3. **Direct the Respondent to issue a valid offer of possession of the unit with proper bifurcation of the demanded amount as per the specifications and terms as provided in the Buyer's Agreement.**
4. **Direct the Respondent to revoke the letters dated 14.02.2025 and 04.03.2025.**
5. **Direct the Respondent to revoke the letter dated 24.03.2025 demanding Rs. 8,85,000/- as fitout charges.**
6. **Respondent be directed not to charge any illegal demands under the garb of 'fitout charges', 'development charges', 'labour cess', 'FTTH' and 'Interest Payable'.**

7. **Respondent not to raise any payment demand which is in contrary to the agreed terms of the allotment.**

37. The above five reliefs are interconnected, are being taken up together. The complainant has raised objection towards the fit-out charges, development charges, interest on delay payment charges, labour charges, FTTH, raised by the respondent vide letters dated 27.11.2024, 14.02.2025, 04.03.2025 and 24.03.2025 and has sought waiver of the same on the ground that such charges were not stipulated either under the Builder Buyer Agreement and the Memorandum of Understanding executed between the parties.

38. In the said leasing letter dated 24.03.2025, the respondent has raised a demand towards fit-out charges amounting to Rs.88,5000/- and has directed the complainant to make the said payment in favour of a third party, namely *H5 Hospitality LLP*, by providing bank details that do not pertain to the respondent company. The complainant has raised objection towards the fit-out charges raised by the respondent is seeking relief to waive off the demand of the same as they were not part of agreement nor the MoU executed between parties. However, on perusal of the MoU executed between the allottee and the promoter, the Authority finds that Clause 8(d) exists in the present MoU and is reproduced herein below:

> *"That the Allottee(s) further agrees and understand* ***that in case the tenant desires any infrastructural changes in the form if separate sewage arrangement or the gas pipeline or any other change which involves expenses on the part of allottee(s)*** *then in that event the same shall be paid by the Allottee, strictly within the period of 15 days from the day of written notification by the company on the registered e-mail address of the allottee(s). In case the allottee(s) fails to come forward to tender the payment as demanded by the Company then in that event the company shall bear the same from its own pocket and deduct the same from the rent payable to the allottee(s) with monthly interest of 2%. The allottee(s) shall not register any protest towards the deductions from the rental. The rent shall be paid to the allottee(s) in the above-mentioned arrangement defined at clause 8(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received."*

39. The Authority observes that clause 8(d) of the MoU clearly mandates that any expenditure incurred on account of infrastructural or any changes, if demanded by the tenant, can be recovered from the allottee only after issuance of a written notification by the promoter on the registered e-mail address of the allottee. The said clause does not confer any unfettered or unilateral right upon the promoter to incur expenses on its own accord and thereafter recover the same from the allottee without prior intimation. Such conduct is contrary to the express terms of clause 8(d) as well as the statutory obligations cast upon the promoter under Section 11(4)(d) of the Act, which require the promoter to act in a reasonable and responsible manner. In the present case, the respondent has failed to demonstrate that any prior written intimation or demand, as contemplated under clause 8(d), was issued to the complainant before incurring the alleged fit-out expenses. Consequently, the demand raised vide letter dated 24.03.2025 towards fit-out charges amounting to Rs.88,5000/- appears to be unilateral, arbitrary, and in violation of the principles of natural justice. In absence of any documentary proof demonstrating transparency, disclosure or lease agreement at the time of leasing between the parties, the arbitrary imposition of fit-outs charges by the respondent cannot be sustained in the eyes of law, hence the same is set-aside.

40. Further, complainant is seeking relief with regard to the waiver of the Development charges, Labour Cess, FTTH charges in terms of demands.

- **Labour cess**

41. Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.09.1996. It is levied and collected on the cost of construction

incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt with by the authority in complaint bearing no.962 of 2019 titled as ***"Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited"*** wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the demand of labour cess raised upon the complainant is completely arbitrary and the complainant cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

- **Development charges**

42. The undertaking to pay the development charges was comprehensively set out in the buyer agreement dated 04.04.2017 in clause 11. The said clause of the agreement is reproduced hereunder: -

> *"11. DEVELOPMENT CHARGES, TAXES, CESSES, LEVIES, ETC.*
> *That the Allottee agrees to pay all taxes, charges, levies, cesses, applicable as on dated under any name or category/heading and/or levied in future on the land and/or said the complex and/or the said space at all times, these would be including but not limited to GST,* ***Development Charges****, Stamp Duties, Registration Charges, Electrical Energy Charges, EDC Cess, IDC Cess, BOCW Cess, Registration Fee, Administrative Charges, Property Tax, Fire Fighting Tax and the like. These shall be paid on demand and in case of delay, these shall be payable with interest by the Allottee."*

43. In light of the aforementioned facts, the Authority is of the view that the said demand for development charges is valid since these charges are payable to various departments for obtaining service connections from the concerned departments including security deposit for sanction and release of such connections in the name of the allottee and are payable by the allottee. Hence,

the respondent is justified in charging the said amount. In case instead of paying individually for the unit if the builder has paid composite payment in respect of the development charges, then the promoter will be entitled to recover the actual charges paid to the concerned department from the allottee on pro-rata basis i.e. depending upon the area of the unit allotted to the complainant viz- à-viz the total area of the particular project. The complainant will also be entitled to get proof of all such payment to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid head.

- **FTTH Charges**

The respondent during proceedings dated 16.09.2025 apprised the Authority that the respondent is liable to raise the said demands under clause 11 as had been agreed between the parties. The Authority takes a note that Clause 11 as already elaborated above does not mention about the FTTH charges being payable by the complainant. Hence, the respondent shall only raise demand as per the agreed terms of the agreement and MoU executed between the parties.

- **Holding charges**

The term holding charges or also synonymously referred to as non-occupancy charges become payable or applicable to be paid if the possession has been offered by the builder to the owner/allottee and physical possession of the unit not taken over by allottee, but the flat/unit is lying vacant even when it is in a ready-to-move condition. Therefore, it can be inferred that holding charges is something which an allottee has to pay for his own unit for which he has already paid the consideration just because he has not physically occupied or moved in the said unit.

In the case of ***Varun Gupta vs Emaar MGF Land Limited, Complaint Case no. 4031 of 2019 decided on 12.08.2021***, the Hon'ble Authority had already decided that the respondent is not entitled to claim holding charges from the complainant at any point of time even after being part of the builder buyer agreement as per law settled by the ***Hon'ble Supreme Court in Civil Appeal nos.*** 3864-***3899/2020 decided on 14.12.2020***. The relevant part of same is reiterated as under-

> *"134. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the* ***holding*** *charges will not be payable to the developer.* ***Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed."***

Therefore, in view of the above the respondent is directed not to levy any holding charges upon the complainant.

- **VAT**

The complainant has contended that the respondent has illegally charged amount from him towards VAT, a demand notice of Rs.1,64,191/- towards 'VAT outstanding' was sent by the developer to the complainant. It is pertinent to mention that the respondent has not availed the amnesty scheme namely, Haryana Alternative Tax Compliance Scheme for Contractors, 2016, floated by the Government of Haryana, for the recovery of tax, interest, penalty or other dues payable under the said HVAT Act, 2003. It is further submitted that the demand of VAT is done as per clause 11 of the buyer's agreement. The Authority is of view that the promoter shall charge VAT from the allottees where the same was leviable, at the applicable rate, if they have not opted for composition scheme. However, if composition scheme has been availed, no VAT is leviable.

Further, the promoter shall charge actual VAT from the allottees/prospective buyers paid by the promoter to the concerned department/authority on pro-rata basis i.e. depending upon the area of the flat allotted to the complainant vis- à-vis the total area of the particular project. However, the complainant would also be entitled to proof of such payments to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid heads. Further, in case, the respondent has received excess amount towards VAT, then the same shall be refunded to the complainant.

8. **Respondent be directed to lease the unit in question after the offer of possession on behalf of the Complainant as per the terms of the allotment and make payment towards the guaranteed lease rental.**

44. The complainant is seeking additional reliefs w.r.t putting the unit on lease as well as lease rental as per MoU. The Authority observes that vide Clause 8(c) of the MoU dated 04.04.2017, it was agreed that the respondent would make payment of lease rentals at Rs.53.17/- per sq. ft. per month to the complainant from commencement of first lease. Further, vide clause 8(c) of the MoU that the respondent was to finalize the terms for leasing the premises with a perspective lessee. Since, the occupation certificate of the project in question has already been received by the respondent-promoter from the competent authority on 14.08.2024, the respondent is directed to put the unit allotted to the complainant on lease and to pay lease rental at the agreed rate as per the terms of the memorandum of understanding dated 04.04.2017.

9. **In case the Respondent does not lease out the unit to any prospective allottee for one year from the date of receipt of occupation certificate, then the Respondent would be liable to make payment towards lease rental from the date of lapse of one year from the date of receipt of**

Occupation certificate or to demarcate the unit and handover the physical possession of the unit to the Complainant.

45. The Authority observes that the Occupancy Certificate of the project has already been received by the respondent on 14.08.2024 and the offer of possession of the unit to the complainant by the respondent is already on record. As per Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

46. The respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.

H. Directions of the Authority

47. 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):

    1. The respondent/promoter is directed to pay the assured return to the complainant at the agreed rate per month as per the MoU i.e., @Rs. 19,500/- with effect from 04.04.2017 as per the MoU till the commencement of the valid first lease after deducting the amount already paid on account of assured return to the complainant. (Inadvertently, vide proceedings dated 25.11.2025, the assured return clause is mentioned with the rate of @45,000/- with effective date 01.06.2015).
    2. The respondent/promoter is directed to pay the outstanding accrued assured return amount at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, failing which that

amount would be payable with interest @8.85% p.a. till the date of actual realization.

3. The Fit-out charges demanded by the respondent are set-aside for the reasons discussed in paragraph 38 and 39 of this order.
4. The respondent shall charge development charges and VAT only on an actual and pro-rata basis, strictly supported by documentary proof of payments.
5. The respondent shall not charge anything from the complainant which is not part of the MoU or buyers' agreement. The respondent is not entitled to charge holding charges and labour cess from the complainant/ allottee at any point of time even after being part of the builder buyer's agreement as per law settled ***by Hon'ble Supreme Court in Civil Appeal nos. 3864-3889/2020 on 14.12.2020.***
6. The respondent is directed to supply a copy of the updated statement of account after adjusting Assured Returns within a period of 30 days to the complainant.
7. The respondent is directed to put the unit allotted to the complainant on lease and to pay lease rental at the agreed rate as per the terms of the memorandum of understanding dated 04.04.2017.
8. The respondent/promoter is directed to handover possession of the unit to the complainant/allottee in terms of the MoU as well as buyer's agreement executed between them on payment of outstanding dues if any, within 60 days. The respondent is further directed to get the conveyance deed of the allotted unit executed in their favour in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.

9. The complainant is directed to pay outstanding dues, if any, after adjustment of Assured Returns within a period of 60 days from the date of receipt of updated statement of account.

10. The complaint stand disposed of.

11. Files be consigned to registry.

(Phool Singh Saini)
Member

(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram
Dated:25.11.2025