

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

Complaint no. : 2149 of 2025
Date of decision : 10.10.2025

Sarita
R/o: 1183, Urban Estate, Jind.

Complainant

Versus

1. M/s Pivotal Infrastructure Pvt. Ltd.
2. M/s Ridhi Sidhi

Both Regd. Office at: 309, 3rd Floor, JMD
Pacific Square, Sector-15, Part-II,
Gurugram-121001.

Respondents

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Vinay Gaur (Advocate)
Sh. Ankit Vohra (Advocate)

Complainant
Respondents

ORDER

1. The present complaint 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. Unit and project related details

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

S.No.	Particulars	Details
1.	Name and location of the project	"Ridhi Sidhi" at sector 99, Gurgaon, Haryana
2.	Nature of the project	Affordable Group housing
3.	Project area	6.19375 acres
4.	DTCP license no.	86 of 2014 dated 09.08.2014 Valid up to 31.03.2026
5.	RERA Registered/ not registered	Registered vide no. 236 of 2017 dated 19.09.2017 valid upto 08.08.2019
6.	Registration extension vide no.	Harera/GGM/REP/RC/236/2017/EXT/177/2019 dated 30.12.2019 Valid upto 31.08.2020
7.	Unit no.	1102, 11 th Floor, Tower-T4 (As per page no. 30 of the complaint)
8.	Unit area admeasuring	487 sq. ft. (Carpet area) (As per page no. 30 of the complaint)
9.	Date of allotment	28.04.2016 (As per page no. 19 of the complaint)
10.	Date of builder buyer agreement	17.10.2016 (As per page no. 27 of the complaint)
11.	Date of building plan approval	17.10.2014 (As per page no. 19 of the reply)
12.	Environmental clearance dated	22.01.2016 (As per page no. 25 of the reply)
13.	Possession clause	8.1 EXPECTED TIME FOR HANDING OVER POSSESSION <i>"Except where any delay is caused on account of reasons expressly provided for under this Agreement and other</i>

		<p><i>situations beyond the reasonable control of the Company and subject to the Company having obtained the occupation/completion certificate from the competent authority(ies), the Company shall endeavour to complete the construction and handover the possession of the said Apartment within a period of 4 years from the date of grant of sanction of building plans for the Project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the Project, whichever is later, subject to timely payment by the Allottee of all the amounts payable under this Agreement and performance by the Allottee of all other obligations hereunder."</i></p> <p>(Emphasis Supplied)</p>
14.	Due date of possession	<p>22.01.2020</p> <p>[Due date of possession calculated from the date of environmental clearance dated 22.01.2016, being later]</p>
15.	Total sale consideration	<p>Rs.19,98,000/- (exclusive of taxes)</p> <p>(As per page no. 44 of the complaint)</p>
16.	Amount paid by the complainant	<p>Rs.21,83,450/-</p> <p>(As payment receipts on page no. 61-69 of the complaint)</p>
17.	Offer for fit out	<p>24.06.2023</p> <p>(page 59 of complaint)</p>
18.	Occupation certificate	Not obtained
19.	Offer of possession	Not offered

B. Facts of the complaint:

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

- i. The complainant is a law-abiding citizen, who is filing the present complaint as the respondents are causing fraud with the public at large.
- ii. That respondent no. 1 is a partnership firm involved in the business of real estate development which proclaims and professes to the public at large to be a prominent and reputed real estate firm engaged in developing real estate projects with the intent to deceive the innocent general public.
- iii. That the respondent no. 2 is a housing colony project in the name of "Ridhi Sidhi" Affordable Housing Colony by the respondent no. 1 at village Kherki Majra, Dhankot, Sector-99, Gurugram, Haryana-122006.
- iv. That the complainant who is owner of the unit bearing number T4-1102, in Tower No. T4, In the Group Housing Ridhi Sidhi at Village Kherki Majra, Dhankot, Sector-99, Gurugram purchased from respondent no. 1 for his residential purpose and thus falls within the definition of allottee under section 2(d) of the Haryana Real Estate (Regulation and Development) Act, 2016.
- v. That the respondent no. 1 as a part of their business venture decided to develop a residential colony under the Affordable Housing Scheme under the name and style of "Ridhi Sidhi" by M/s Pivotal Infrastructure Private Limited situated in Village Kherki Majra, Dhankot, Sector-99, Gurugram. The respondent no. 1/builder had published various web and news advertisements as well as visual advertisements so as to attract the public at large to purchase flats in the said project.
- vi. That the complainant applied/ booked a flat Ridhi Sidhi Housing Group on dated 28.04.2016 and paid an amount of Rs. 1,99,800/- That the respondent no. 1 has also issued an allotment form called booking form with the complainant on dated 28.04.2016.

- vii. That the complainant entered into an agreement called buyers agreement with the respondent no. 1 i.e., M/s Pivotal Infra Pvt. Limited vide agreement dated 09.08.2016 whereby a unit bearing number T4-1102 in Tower T4 was allotted to the complainant. The total price of the said unit was fixed at Rs. 19,98,000/- for the saleable area of 487 Sq. feet.
- viii. That the complainant earlier deposited an amount of Rs. 7,49,250/- after booking and before entering into an agreement from the complainant. Respondent no. 1/builder entered into an agreement with the complainant called buyers agreement vide agreement dated 09.08.2016 whereby a unit bearing number T4-1102 was allotted to the complainant.
- ix. That as per clause 8.1 of the agreement dated 09.08.2016, the opposite party promised to deliver the possession within the commitment period from the date of execution of the above-said agreement.
- x. That the complainant was assured by respondent no. 1 that the possession of the above-said unit shall be given within the stipulated time i.e., 4 years and respondent no. 1 also assured the complainant that construction of the project is in full swing with double shift but they were all vague and false assurances given by respondent no. 1/builder to the complainant.
- xi. That despite promising several times and despite the written commitments made in the buyer agreement, respondent no. 1 failed to deliver the possession as promised and a new date for the delivery of the unit was informed to the complainant whenever the complainant visited their office.
- xii. That it is worthwhile to mention here that respondent no. 1/builder has not received any completion certificate from the Haryana Country Town Planning Department to date nor a calculation certificate from the Government Architect.

xiii. That thereafter, a fit-out possession letter dated 24.06.2023 was sent by the respondent no. 1 to the complainant. However, it is clearly mentioned/admitted by the respondent no. 1 in the fit-out possession letter dated 24.06.2023 that the respondent no. 1 has not received the occupation certificate. It is pertinent to mention here that in reality, the complainant was never offered/ provided the actual physical possession of his Unit and only a notional possession was offered and provided to eyewash the complainant. Therefore, from the above, it is evident that the complainant was only offered notional possession of the unit, and was never offered the actual and physical possession of his share in the unit. No actual possession was ever handed to the complainant, and only notional possession was offered and granted. it is pertinent to mention here that the providing actual physical possession as required under the law cannot be provided in the present unit because the respondent no. 1 has not received the occupation certificate till date.

xiv. It is pertinent to mention here that the complainant has made the full payment till date and despite the possession is delayed more than 3 years from the date of possession as promised by the respondent no. 1 in builder-buyer's agreement dated 09.08.2016.

xv. That it is most respectfully submitted that the respondent no. 1 is liable to give compensation to the complainant along-with interest as a subsequent delay has been caused by respondent no. 1 in giving/handing over the actual possession of the unit bearing no. T4-1102 because as per the builder-buyer's agreement dated 09.08.2016 it was agreed/promised by respondent no. 1 that the possession of the said flat will be delivered within the stipulated time period i.e., 4 years from the execution of the builder-buyer's agreement. However, it is quite surprising that till date no physical possession has been

given by respondent no. 1 and even no occupation certificate has been received by the builder till date.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
 - i. Respondent no. 1 be directed to provide actual possession to the complainant and not notional possession in the unit as provided under the act.
 - ii. To direct the respondents to give compensation for delay in possession to the complainant to tune of 12% interest on the amount deposited till 09.08.2020, date of possession as per the builder buyer's agreement.
 - iii. Award a compensation of Rs. 7,00,000/- on account of causing financial risk, hardship, mental agony, harassment and emotional disturbance caused to the complainant.
 - iv. To direct the respondents to pay Rs. 1,00,000/- as litigation expenses.
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 respondents:

6. The respondents have contested the complaint on the following grounds:
 - i. It is most respectfully submitted that by way of instant complaint, the complainant has sought for a direction to the answering respondent to pay delayed possession charges @ prescribed rate of interest; and with a further direction to hand over the physical possession of the unit/flat bearing no.T4-1102, admeasuring 487 square feet in in the affordable group housing project by the name "Riddhi Siddhi" in the revenue village of Kherki Majra Dhankot, Sector-99, Gurugram. and for consequent execution of the conveyance deed in favour of the complainant.
 - ii. At the outset, the answering-respondent deny all the averments, as made in the complaint, which are contrary to what is stated herein. Nothing shall be

deemed to be admitted on answering-respondent's part unless the same is specifically admitted herein.

- iii. that the complainant approached the answering-respondent for purchase of the premises, whereby, the complainant and the answering-respondent entered into a builder buyer's agreement dated 09.08.2016.
- iv. That as per the terms of the BBA, the answering-respondent was liable to deliver the possession of the premises and subsequent execution of the conveyance deed in favour of the complainant, only on the complainant having discharged all the due obligations he is bound to pay as per the terms of the BBA. That the answering respondent has on several occasions requested and reminded the complainant to fulfil his due obligations as per the terms of the BBA, but to no avail, the complainant has been persistent in his default.
- v. It is very humbly submitted that only after obtaining the necessary approvals and NOCs from the concerned competent authorities, a fit-out possession was offered to the answering-respondent on 24.06.2023 stating that the building was safe and fit to be inhabited and the Respondent-Allottee was requested to take over the possession of the Unit in view of deemed issuance OC as per regulation 4.10 of Building Code, 2017. Along with the offer of possession the answering-respondent had also requested the complainant to pay the outstanding demand as stipulated in the demand letter. It is also pertinent to submit the complainant has till date failed to pay the outstanding demand.
- vi. Furthermore, the question relating to Assured Return along with Delayed Possession Charges is pending before the Hon'ble Appellate Authority in HREAT-444-2024 titled as 'Landmark Apartment Pvt. And others Vs. Girish Kumar Aggarwal' as well as the Hon'ble Punjab and Haryana High Court in

CWP-26740 of 2022 titled as 'Vatika Ltd. Vs. Union of India and Anr.' Which is pending for 25.08.2025.

vii. The complainant booked a unit/flat in 2016 and filed a complaint in 2024, is barred by limitation as the Complainant failed to take timely legal action. The Complainant failed to prove limitation. It is submitted that there is no postal receipt, POD, tracking report etc. which prove that the complainant sent the legal notice or alleged legal Notice was ever received by answering Respondent.

7. 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 those undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

8. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.

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 objections raised by the respondent:

F.I Objection regarding delay due to force majeure circumstances

12. The respondents-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as certain orders/restrictions of the NGT and other authorities in NCR region, increase in cost of construction material and shortage of labour, demonetization and implementation of GST and outbreak of Covid-19 pandemic, etc. All the pleas advanced in this regard are devoid of merit. Firstly, the events taking place such as orders of NGT in NCR region on account of the environmental conditions are for short duration, and thus, cannot be said to impact the respondent leading to such an inordinate delay in the completion. Secondly, the events of demonetization and the implementation of GST are in

accordance with government policy and guidelines. Therefore, the respondent cannot categorize them as force majeure events. Thus, the same is devoid on merits and lastly, the respondent is claiming benefit of lockdown in lieu of Covid-19, which came into effect on 23.03.2020 whereas the due date of completion was prior to the event of outbreak of Covid-19 pandemic. Therefore, the authority is of the view that outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself. Therefore, it is nothing but obvious that the project of the respondent was already delayed as the possession of the unit in question was to be offered by 22.01.2020, and no extension can be given to the respondent in lieu of Covid-19, which is after the due date of completion. Thus, the promoter/respondent cannot be given any leniency based on aforesaid reasons, the plea advanced in this regard is untenable and it is well settled principle that a person cannot take benefit of its own wrong.

G. Findings on the relief sought by the complainant:

G.I Respondent no. 1 be directed to provide actual possession to the complainant and not notional possession in the unit as provided under the act.

G.II To direct the respondents to give compensation for delay in possession to the complainant to tune of 12% interest on the amount deposited till 09.08.2020, date of possession as per the builder buyer's agreement.

13. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

14. In the present complaint, the complainant was allotted a unit bearing no. T-4, 1102, 11th floor, admeasuring 487 sq. ft. vide allotment letter dated 28.04.2016. Thereafter, a builder buyer agreement was executed between the complainant-allotees and the respondent-promoter on 09.08.2016.

15. Clause 8.1 of the apartment buyer's agreement provides for handing over of possession and is reproduced below for ready reference:

8. Handing over of possession

8.1 Expected Time for Handing over Possession

"Except where any delay is caused on account of reasons expressly provided for under this agreement and other situations beyond the reasonable control of the company and subject to the company having obtained the occupation/completion certificate from the competent authority(ies), the company shall endeavor to complete the construction and handover the possession of the said apartment within a period of 4 years from the date of grant of sanction of building plans for the project or the date of receipt of all the environmental clearances necessary for the completion of the construction and development of the project, whichever is later, subject to timely payment by the allottee of all the amounts payable under this agreement and performance by the allottee of all other obligations hereunder."

(Emphasis supplied)

16. The due date of possession of the apartment as per clause 8.1 of the apartment buyer's agreement is to be calculated as 4 years from the date of environmental clearance i.e., 22.01.2016 being later. Therefore, the due date of possession comes out to be 22.01.2020. However, offer of possession was made by the respondent to the complainant on 24.06.2023.
17. It is necessary to clarify whether intimation of possession dated 24.06.2023 made to complainant-allottees tantamount to a valid offer of possession or not? The authority is of considered view that a valid offer of possession must have following components:
 - a. *Possession must be offered after obtaining occupation certificate.*
 - b. *The subject unit should be in a habitable condition.*
 - c. *The possession should not be accompanied by unreasonable additional demands.*
18. In the present matter, the respondent has issued intimation of possession with respect to the allotted unit on 24.06.2023 i.e., before obtaining completion certificate (CC)/ part CC from the concerned department. Therefore, no doubt that the offer of possession has been sent to the complainants but the same is for fit outs. Thus, the offer of possession dated 24.06.2023 is an invalid offer of possession as it triggers component (a) of the above-mentioned definition.

19. Further, the complainant intends to continue with the project and are seeking delay possession charges as provided under the proviso to Section 18(1) of the Act. Section 18(1) proviso 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, — in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

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."

20. **Admissibility of delay possession charges at prescribed rate of interest:**

The complainant is seeking delay possession charges at the prescribed rate as per the Act of 2016. Section 18 provides that where an allottee does not intend to withdraw from the project, she 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.

21. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable

and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

22. 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., 10.10.2025 is **8.85%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.85%**.

23. 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—

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 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;"

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

25. On consideration of the documents available on record and submissions made by both the parties 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. By virtue of clause 8.1 of the buyer's agreement, the due date of

handing over of possession of the unit in question is 22.01.2020 (calculated from the date of environmental clearance, being later). Therefore, the respondent has failed to handover possession of the subject apartment till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The authority is of the considered view that there is delay on the part of the respondent to offer the possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement dated 09.08.2016 executed between the parties.

26. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of respondent is established. As such the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 22.01.2020 till offer of possession of the said unit after obtaining the occupancy certificate from the concerned authority plus two months or actual handing over of possession, whichever is earlier, at prescribed rate i.e., 10.85 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

G.III Award a compensation of Rs. 7,00,000/- on account of causing financial risk, hardship, mental agony, harassment and emotional disturbance caused to the complainant.

G.IV To direct the respondents to pay Rs. 1,00,000/- as litigation expenses.

27. The above-mentioned reliefs sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

28. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors.* (*supra*) has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the

adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

H. Directions of the Authority:

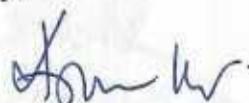
29. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondents are directed to pay delay interest on the paid-up amount of Rs.21,83,450/- 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., 22.01.2020 till valid offer of possession of the said unit after obtaining the occupancy certificate from the concerned authority plus two months or actual handing over of possession, whichever is earlier.
- ii. The arrears of such interest accrued from 22.01.2020 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
- iii. The respondents are directed to issue a revised account statement after adjustment of delayed possession charges within 30 days and complainant are directed to pay outstanding dues, if any remains after adjustment of interest for the delayed period, the respondents shall handover the possession of the allotted unit after obtaining of occupation certificate.

- iv. The respondents shall not charge anything from the complainant which is not the part of the builder buyer's agreement.
- v. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondents/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.

30. Complaint stands disposed of.

31. File be consigned to registry.



Arun Kumar
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram

Date: 10.10.2025