

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

Complaint no. : 4272 of 2024
Date of complaint : 02.09.2024
Date of order : 09.01.2026

Rakhi Gupta,
R/o: - Flat No. 396, Diamond Square Apartments,
Plot No. 13A, Sector 6, Dwarka, Delhi-110075.

Complainant

Versus

M/s Manish Buildwell Pvt. Ltd.
Regd. Office at: - S-1, 2nd Floor, Usha Chambers,
37-38, Central Market, Ashok Vihar, Delhi-110052.

Respondent

CORAM:

Arun Kumar

Chairman

APPEARANCE:

Jagdeep Kumar (Advocate)
Garvit Gupta (Advocate)

**Complainant
Respondent**

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 thereunder or to the allottee as per the agreement for sale executed *inter se*.



A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name and location of the project	"Manish Gallexie91", Sector-91, Gurugram, Haryana
2.	Nature of the project	Commercial complex
3.	Project area	3.725 acres
4.	DTCP license	28 of 2009 dated 24.06.2009 Valid up to 23.06.2026 Licensed area- 3.73 acres
5.	RERA Registered & validity status	Registered vide no. 382 of 2017 dated 12.12.2017 Valid up to 11.12.2022
6.	Date of Welcome letter	14.02.2019 [Page 33 of complaint]
7.	BBA	16.03.2019 [page 40 of compliant]
8.	Unit no.	T-321, Ground Floor, admeasuring 503 sq. ft. [Page 51 of the complaint]
9.	Possession clause	Clause 15.1 of BBA 15.1 The Company based upon its present plans and estimates, and subject to all exceptions, proposes to handover possession of the Commercial Unit by end of 2021 (Commitment period). Should the possession of the Commercial Unit not be given within the Commitment Period, the Allottee agrees to an extension of One Hundred and Eighty (180) days ("Grace period") after expiry of the Commitment Period.....
10.	Due date of possession	01.06.2022 (Note: 31.12.2021 + 180 days grace period)

11.	Sale Consideration	Rs.36,96,663/- (Page 79 of complaint)
12.	Amount paid by complainant	Rs. 16,81,871 /- (As per receipt on page 35-38 of complaint)
1.	Occupation certificate	Not obtained
2.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -

- I. That somewhere in the January 2019, the respondent through its business development associate approached the complainant with an offer to invest and buy a retail space/commercial space in the proposed project of respondent namely "Manish Gallexie91" in the Sector-91, Gurugram. On 13/02/2019 complainant had a meeting with respondent at the respondent branch office where the respondent explains the project details and highlights the amenities of the project. The respondent had further assured to the complainant that the respondent has already processed the file for all the necessary sanctions and approvals from the appropriate and concerned authorities for the development and completion of said project on by end of 2021 with the promised quality & specification and all leading banks are providing commercial loan to this project as all sanctions are duly obtained by the respondent. The complainant while relying upon those assurances and believing them to be true booked a retail space shop bearing shop no. T-321, Third Floor, Food Court, in the said project of the respondent measuring approximately super area of 503 sq. ft. Accordingly, the complainant has paid Rs.224000/- through cheque bearing No 000003 dt 13/02/2019 as booking amount on 13/02/2019.



- II. That in the said application form, the price of the said shop was agreed at the rate of Rs. 5814/- per sq. ft. mentioned in the said application form. At the time of execution of the said application form, it was agreed and promised by the respondent that there shall be no change, amendment or variation in the area or sale price of the said shop from the area or the price committed by the respondent in the said application form or agreed otherwise.
- III. That the respondent issued the welcome letter dated February 14, 2019 for confirming the booking of retail space shop No. T-321, Third Floor, Food court, Gallexi91, Sector 91, Gurgaon, Haryana.
- IV. That on 16th March 2019 builder buyer's agreement was executed between the respondent and complainant and as per the Clause 15.1 of the said agreement, the respondent had agreed and promise to complete the construction of the said commercial unit and deliver its possession by end of 2021 with 180 days of grace period thereon. However, the respondent has breached the terms of said buyer agreement and failed to fulfill its obligations and has not delivered possession of said commercial unit within the agreed time frame of the builder buyer agreement.
- V. That as per the buyer's agreement executed between the parties, the sales consideration for said shop was Rs.36,96,662/- exclusive of service tax and GST.
- VI. That from the date of booking till 6th June 2024, the respondent had raised various demands for the payment of installments on complainant towards the sale consideration of said commercial unit and the complainant have duly paid and satisfied all those demands as per the buyers agreement without any default or delay on their part and have also fulfilled otherwise also their part of obligations as

agreed in the buyers agreement. The complainant was and have always been ready and willing to fulfill their part of agreement, if any pending.

- VII. That the complainant has already paid Rs.16,81,871/- towards sale consideration and applicable taxes as on today to the respondent as demanded time to time and now nothing is pending to be paid on the part of complainant. Although the respondent not sharing the project development status and nor raising and further demands.
- VIII. That the complainant visited the office of respondent at various occasions between December 2021 to February 2022 to enquire the status of project but respondent never pay any heed to it.
- IX. That the conduct on part of respondent regarding delay in delivery of possession of the said shop has clearly manifested that respondent never ever had any intention to deliver the said shop on time as agreed. The respondent had made all those false, fake, wrongful and fraudulent promises just to induce the complainant to buy the said shop basis its false and frivolous promises, which the respondent never intended to fulfill.
- X. That the respondent has criminally misappropriated the money paid by the complainant as sale consideration of said shop by not delivering the unit on agreed timelines.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- I. Direct the respondent to handover possession and to pay delay possession charges as per the Act.
 - II. Direct the respondent to pay litigation cost.
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 Authority observes that vide proceedings dated 28.11.2025, the counsel for the respondent had supplied a copy of reply to the counsel for the complainant and submitted that he will file reply in registry of the Authority on the same date. However, as per record, the copy of reply has not been submitted in registry of the Authority till date. In view of the above, the Authority is proceeding forward to decide the complaint on the basis of documents available on record as well as submissions made by the complainant.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submission made by the complainants.

E. Jurisdiction of the authority

The Authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

8. 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

9. 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.

10. 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.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to handover possession and to pay delay possession charges as per the Act.

11. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 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, —*

.....

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."

12. Clause 15.1 of the buyer's agreement provides for handing over of possession and is reproduced below:

"Clause 15.1 of BBA

15.1 *The Company based upon its present plans and estimates, and subject to all exceptions, proposes to handover possession of the*



*Commercial Unit by end of 2021 (**Commitment period**). Should the possession of the Commercial Unit not be given within the Commitment Period, the Allottee agrees to an extension of One Hundred and Eighty (180) days ("**Grace period**") after expiry of the Commitment Period..."*

13. The respondent/promoter has proposed to handover possession of the subject unit by the end of 2021 i.e. 31.12.2021 plus 6 months of grace period. The said grace period of 6 months is allowed to the respondent being unqualified. Thus, the due date of possession come out to be 01.06.2022.
14. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules. Rule 15 has been reproduced as under:
- Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]**
- (1) *For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:
Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*
17. 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.
18. 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., 09.01.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.

19. On consideration of documents available on record as well as submissions made by the parties, 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 15.1 of the agreement executed between the parties on 16.03.2019, the possession of the subject unit was to be delivered by 01.06.2022. However, the respondent has failed to handover possession of the subject unit to the complainant till the 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. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.
15. 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 the respondent is established. As such, the allottee shall be paid, by the promoter, interest at prescribed rate i.e. 10.80% p.a. on the amount paid, for every month of delay from due date of possession i.e., 01.06.2022 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

16. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to handover possession of the unit and to get the conveyance deed executed in favour of the allottee. 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. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the unit and execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

F.II Cost of litigation.

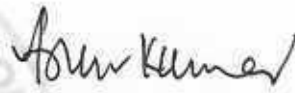
17. The complainants are seeking above mentioned relief w.r.t compensation. *Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.* has held that an allottee is entitled to claim compensation and litigation 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 and 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 and legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

G. Directions of the authority

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

- i. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.80% per annum for every month of delay from due date of possession i.e., 01.06.2022 till offer of possession plus two months or actual handing over of possession, whichever is earlier, as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act.
- ii. The arrears of such interest accrued from 01.06.2022 till the date of order by the authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules.
- iii. The respondent is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainant.
- iv. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- v. The respondent shall handover possession of the unit and execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

- vi. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement dated 16.03.2019.
 - vii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
 - viii. A period of 90 days is given to the respondent/promoter to comply with the directions given in this order and failing which legal consequences would follow.
25. Complaint stands disposed of.
26. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.01.2026

HARERA
GURUGRAM