

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

Complaint no.: 5143 of 2019
Date of filing: 19.11.2019
Date of Decision: 06.01.2026

1. Anjani Kumar Avasthi
2. Chhaya Sharma
3. Sanjay Kedar Sharma

Complainants

R/o:- R/o 281, Model town, Rewari, Haryana
123401

Versus

M/s Wonder City Buildcon Private Limited
Regd. Office at:- Godrej One, 5th floor,
Pirojshanagar, Eastern Express Highway,
Vikhroli, Mumbai-400079

Respondent

CORAM:

Shri Arun Kumar
Shri P S Saini

**Chairman
Member**

APPEARANCE:

Shri Deepak Kumar Khushalani (Advocate)
Shri Deepanshu Khanna & Utkarsh Tiwari (Advocates)

Complainant
Respondent

ORDER

1. This complaint has been filed by the complainant/allottees 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 provision of the Act or the Rules

and regulations made thereunder 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S.no.	Heads	Details
1.	Project name and location	'Godrej-Aria 101', Sector 79, Gurugram, Haryana.
2.	Nature of the project	Group Housing project
3.	DTCP license no	47 of 2013 dated 06.06.2013
4.	Name of the licensee	Sterling Infrastructure Pvt. Ltd & Ors
5.	RERA registered/not registered	Registered bearing registration no. 61 of 2017 dated 17.08.2017
6.	Unit no.	GODARA 0301, 3 rd floor, Tower A (at page no. 18 of complaint)
7.	Unit admeasuring	1401 Sq. Ft. (at page no. 18 of complaint)
8.	Allotment Letter	09.07.2015 (at page no. 18 of complaint)
9.	Buyer Agreement	04.08.2015 (at page 23 of compliant)
10.	Possession clause	"4.3 Possession time and Compensation" The developer shall endeavour to complete the construction of the apartment within 48 months from date of issue of Allotment letter along with a grace period of 12 months over and above this period. (Emphasis supplied) (Page no. 38 of complaint)
11.	Due date of possession	09.07.2020

		(calculated from allotment letter along with grace period)
12.	Total sale consideration	Rs.1,61,03,732/- (at page no. 21 complaint)
13.	Amount Paid by the complainants	Rs.49,99,512/- (as per SOA at page no 17 of complaint)
14.	Occupation certificate	01.10.2019 (page 99 of reply)
15.	Offer of possession	Not offered
16.	Surrender letter	10.08.2019 & 16.09.2019 (page 141 of reply)

B. Facts of the complaint.

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

- a. That the respondent is developing and constructing a Group Housing Colony located at village Naurangpur, Sector-79, Gurugram, Haryana under the name of 'Godrej Aria'. The respondent invited applications for the allotment of flats for their upcoming project, assuring that all necessary approvals/pre-clearances in regard to the project and construction had been obtained from DTCP, Haryana and from other concerned civic authorities and also projected 24-meter approachable road to the project in the layout plan/brochures. Accordingly, the complainant jointly booked a 3BHK unit in the project under possession linked plan.
- b. That at the time of booking vide application submitted on 27.02.2015 the respondent collected the initial earnest money amount of Rs.6,22,733/- from the complainants on 28.02.2015 through RGTS transfer, out of which service tax of Rs.22,273/- was

collected on 23.02.2015 i.e., even prior to the submission of application.

- c. That the complainants thereafter paid a sum of Rs.11,32,113/- as per invoice raised on 09.04.2015 i.e. within 2 months from the day of booking and another sum of Rs.10,61,400/- was also paid in terms of the 3rd invoice raised i.e., within 4 month from booking and lastly a sum of Rs.21,77,466/- was also paid by the complainants in condition to 4th invoice raised i.e., within 18 months from booking. That in total the complainants had paid a sum of Rs.49,99,512/- qua the unit in question.
- d. That the respondent after collection of 2nd payment instalment issued the allotment letter dated 09.07.2015, A Buyer's agreement was also sent by the respondent, so as to get it signed by the complainants, but upon receiving the same the complainants were astonished to note that the Housing License qua the project vide no.47 of 2013 had only been granted to M/s Sterling Infrastructure Private Limited jointly with M/s KJS Colonisers Private limited, who are the "Confirming parties/Licenses Companies" mentioning themselves the subsidiary companies of respondent.
- e. That the respondent was duty bound and were under obligation to disclose the name of the licensee along with the license details in its advertisement issued for launch of the present project, which they failed to do. The BBA was executed between parties on 04.08.2015 and according to clause 4.3, the possession was to be calculated 48 months from the date of issue of allotment letter along with grace period of 12 months. Hence the due date comes out to be 09.07.2020.

- f. That the complainants further submit that as per the representations made by the respondent that it is fully competent to develop, transfer and convey the right, title and interest of the residential apartment pursuant to which complainants booked the unit. Thus, the term as defined, requires that a colonizer to be as such under the provisions of Haryana Act, 1975, must necessarily hold the land in its ownership to apply and get a license under section 3 thereof. In the present case, undeniably, till date, the respondent is neither an owner of any part of land comprised of project nor any license has been granted by the DGTCP, Chandigarh to the respondent. Therefore, it meets none of the essential conditions of the expression "colonizer" as prescribed under section 2(d) of the Haryana Act, 1975.
- g. That in order to make illegal and unjust pecuniary benefit, the respondent in association with licensee companies devised a novelty to circumvent the law in the manner that the housing license no. 47 of 2013 had been granted in favour of licensee companies have unilaterally without any prior permission/approval from DGTCP, Chandigarh represents to have transferred the whole project to the respondent representing that by virtue of their alleged inter-se agreements between them, hence the respondent is empowered to act as the "colonizer".
- h. That the BBA had only been signed by the respondent also on behalf of land owing companies, in absence of valid relationship with them, which seems that no approval for change in developer in terms of policy dated 18.02.2015 had been applied or granted to respondent by DTCP, Haryana, which clearly proves the fact "that the project has been sold by the respondent, which is not a licensee

company in absence of documents regarding relationship of respondent with licensee companies terming project imperfection and defective, which is also a violation of agreement executed between DTCP, Haryana and Licensee Companies, which clearly says that no 3rd party rights can be created without prior approval of DTCP, Chandigarh.

- i. That the respondent be put to strict proof so, as to bring on record that approval in reference to Form LC-IV and LC-IVA had been given by Director Town & Country Planning, Haryana (Chandigarh), to the licensee companies for creating 3rd party rights in favour of respondent.
- j. The complainants also submits that at the time of advertising the project or receiving the earnest money whether a proper and valid license for carrying out the residential project was granted to respondent or it was competent and authorized with valid approvals/clearances from the DGTCP, Chandigarh to carry out with the project; failing which prima-facie proves that respondent was/is neither the owner for carrying out the residential project nor was competent to collect the money and to book/sell the flats thereof.
- k. The other fact that too had to be looked-into, that as to whether collaboration agreement executed between colonizers i.e. Respondent and landowners/licensee companies is registered before Sub-Registrar having territorial jurisdiction of the area in terms of separate order/guidelines dtd.3.1.2011 also issued by Department of Town & Country Planning, Haryana
- l. That respondent at the time of booking advertised the project with a 24-meter motorable access road approaching to the project;

further saying in para-No. 3.3 of apartment buyer's agreement that said 24-meter road exists at the time as also shown in lay-out plan at page No. 44 of the BBA. But, the respondent since inception and on every account had concealed the fact that no such 24-meter road exists or is developed by the respondent. Thus, non-existence of 24-meter-wide road had rendered the project imperfect suffers from material defects leading to deficiency in services. The respondent better chosen to collect money from the complainants by adopting unfair trade practice for promoting the sale in project, had adopted unfair and deceptive methods including making false statement in the form of visible representation which are misleading, false and farfetched from truth.

- m. The complainants re-iterate that no legal valid title of respondent over the land on which the development with no valid documents with authentication of title only owned by the licensee companies is being carried out and/or a false declaration in contravention to Section 4 (2) (I) of "The Real Estate (Regulation and Development) Act, 2016" & Rule 14 (ii) by respondent had been given before this Authority so, as to get project registered under the Act/RERA.
- n. That respondent being a Developer in terms of Section 4 (2) (I) (E) of Act 2016 was supposed to take all pending approvals on time, from the Competent Authorities; but in present scenario neither any permission for change in beneficial interest/change in developer seems to be applied by the licensee companies before competent authority i.e. DTCP, Chandigarh, nor had ever been any approval been granted in favour of respondent to deal with the project in any manner rather being a stranger to the project. Thus, respondent has no legal authority to deal with the said license

No.47/2013 and/or to book, allot, sell, transfer any flats made thereat with any third party and the entire transaction made by the respondent in league with licensee companies is totally illegal and unlawful based on misrepresentations and false statements.

- o. That the respondent in total disregard of the Act, 2016 and in violation of "The Haryana Development and Regulation of Urban Areas Act, 1975 had acted unilaterally without complying to the provisions of law and at present also the matrix position is the same as proved from the record itself that unfair practice & irregularities had been adopted by the respondent. That in continuation respondent cannot surpass to obtain mandatory licenses and necessary approvals from the concerned authorities; are now trying to shift their own negligence upon the complainants, who opt to withdraw from the project and had not paid the 5th payment demand raised "*on intimation of interim possession*" vide invoice dated.13.08.2019 and requested the respondent to return the amount paid by the complainants, which respondent vide their response dated 23.08.2019 threatened to forfeit 20% of the basic sale price also alleged to deduct other charges; such act of respondent instead of refund the amount are rather sending the payment reminders thus, the whole act of respondent is unwarranted, illegal, arbitrary, one-sided and against the principles of law.
- p. The complainants for their legitimate cause send the legal notice to the respondent on dated 16.09.2019 directing them for refund with interest which they failed to comply leading to filing of present complaint before this Authority.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- To direct the respondent to pay/refund to the complainants their paid-up sum of Rs. 49,99,512/- towards the unit No. A-0301 along with interest @ 15% per annum from day of remitting the respective payments; till its realization.
 - Any other relief to complainants which this Authority may deem fit.
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:
- That the present complaint pertains to a unit booked vide an application form dated 27.02.2015 wherein the complainant's booked a unit in the project 'Godrej Aria' situated at sector 79, Gurugram, Haryana, for a total consideration of Rs.1,61,03,732/-. The complainant's made the booking after carefully going through the terms and conditions as mentioned in the application form. The complainant's opted for a possession linked payment plan wherein they unequivocally agreed to make timely payments as provided in Schedule II of the application form.
 - That thereafter a unit bearing no. A0310 on the 3rd floor in tower A was allotted to the complainant's vide an allotment letter dated 09.07.2015. The unit was to be delivered to the complainant's in (48 months + 12 months) from the date of issuance of allotment letter dated i.e. 25.07.2020.
 - That BBA was executed between the complainants and respondent. That the clause 2.5 of the BBA, clearly states that 20% of the cost of

property shall be considered and treated as earnest money, which was meant to ensure performance, compliance and fulfilment of obligations and responsibilities of the buyer.

- d. That the BBA was executed between SILLP, KJS, respondent and the complainant's and all the pertinent information regarding transactions was dutifully enumerated in the BBA.
- e. That the Sterling Infrastructure LLP (SILLP) and KJS Colonizers LLP were granted license no 47 of 2013 dated 06.06.2013 for an area measuring 14.59 acres. Thereafter SILLP and KJS entered into a development agreement with the respondent herein on 02.05.2014. thereafter the respondent obtained RERA registration certificate on 17.08.2017.
- f. That in the meanwhile the DTCP issued a policy parameters for change in beneficial interest vide memo number PF5120152708 dated 18.02.2015 under section 9A of the Haryana Development and Regulation of Urban Areas Act. That in compliance of the policy, SILLP and KJS applied for change of developer for license no. 47 of 2013 in favour of the respondent herein. Thereafter DTCP raised few observations and several letters on were exchange in this regard.
- g. That the respondent is completing the project/ unit with all amenities as promised at a fast pace as per the layout plan approved by the authorities and has obtained the Occupation Certificate dated 01.10.2019. The respondent accordingly issued invoices as per the stages enumerated in the possession linked payment plan as agreed between the parties.
- h. That the respondent is completing the construction and has inter-alia also developed a 24-meter road as per the license conditions

on its licensed land. The respondent has duly received in-principle approval for change of developer dated 25.11.2020 and as such the respondent is duly complaint to the change of developer policy.

- i. That the complainant's had made default as they failed to pay the agreed installment as per the possession linked payment plan agreed between the parties in the BBA. The complainants were irregular in making payments and have always delayed the payments on several occasions. The complainants' have abjectly failed to honour its obligation regarding timely payment and has failed to clear the outstanding amount of Rs.1,16,56,766/- together with the interest amount of Rs.3,63,438/-.
- j. That instead of paying the outstanding amount due, the complainants abruptly sent a request seeking cancellation of the unit vide a cancellation request dated 21.08.2019. The cancellation request was made after the respondent raised the demand on 13.08.2019 of Rs.1,16,56,766/- as the complainant's appears to be not in a position to pay the said demand. The respondent has mischievously concealed the email dated 21.08.2019 in order to mislead the Authority. The complainant's also have mischievously attached a purported letter dated 10.08.2019 which was sent to the respondent only on 21.08.2019 as an attachment to the said email.
- k. That the respondent vide email dated 23.08.2019 clarified that the cancellation will be governed by the terms of BBA and sought complainant's consent for the same. Thereafter the complainants sent a legal notice dated 16.09.2019 inundated with incorrect facts. The said legal notice is based on misconceived understanding of the statutory provisions.

- l. That the respondent has sent various reminder letters dated requesting the complainants to clear the outstanding amount but to no avail. The respondent issued invoices as per the agreed payment plan, however the complainant's miserably failed to make payments against installment and started making vague frivolous excuses in order to evade the payment.
- m. That the respondent has not only lost the opportunity to sell the said unit to some other person, (at the time when complainants booked the flat) who would have adhered with the terms of the contract and paid the entire sale consideration in time. The non-payment by the complainant's has put great hardship on the respondent who is under pressure to ensure progress of the construction without any interim payment by the complainants.
- n. That the complainant in the instant complaint has challenged the terms and conditions of the BBA dated 04.08.2015. The details of license holders and the developers were clearly enumerated in the BA and at no point in the earlier the issue was raised by the complainants. The complainants have belatedly as an afterthought filed the present complaint. The present complaint is filed on 06.11.2019 and thus the present complaint is filed beyond the period of limitation.
- o. That the complainant's are trying to take advantage of its own wrong in as much as it is complainant's who has committed a serious default by not paying the instalments in timely manner. Thus, the instant complaint is liable to be dismissed on account of concealment of material facts and documents, besides being vitiated on account of the false, vexatious and unsubstantiated allegations levelled by the complainants. It is the complainants who

has violated section 19(6) of the RERA Act by not making timely payments. There are no misrepresentation or violations of any rules of RERA nor that the complainants have suffered any loss attributable to the respondent.

- p. Thus, the present complaint is not maintainable under the provisions of the RERA Act, as such this Authority has no jurisdiction to entertain the present complaint. That the complainant's have relied on inappropriate statutes as the said statutes are not applicable on the respondent. In the absence of any violations by the respondent the present complaint is not maintainable before this Authority.
 - q. All other averments made in the complaint were denied in toto.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

E. Jurisdiction of the Authority:

8. The authority observes that it has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.1 Territorial Jurisdiction:

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

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

Section 11(4)(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 complainants at a later stage.

F. Findings on the relief sought by the complainants.

F.I. To direct the respondent to pay/refund to the complainants their paid-up sum of Rs. 49,99,512/- towards the unit No. A-0301 along with interest @ 15% per annum from day of remitting the respective payments till its realization.

12. In the present matter the complainants were allotted the unit bearing no. GODARA 0301 on 3rd floor, admeasuring 1401 sq. ft. in Group Housing project known as "Godrej-Aria" situated at sector 79, Gurugram vide allotment letter dated 09.07.2015. The Buyer's Agreement was

duly executed on 04.08.2015 regarding the same. That the total sale consideration of unit was Rs.1,61,03,732/-. Further as per clause 4.3 of the agreement, the respondent was obligated to deliver the possession of the unit within 48 months from the date of issue of allotment letter along with grace period of 12 months over and above that period. Accordingly, the due date of possession comes out to be 09.07.2020. But the complainants were astonished to see that the Housing license is in the name of some other company and which led to their withdrawal from the project and seeking refund by filing of complaint. They also made request for surrender of the unit on 10.08.2019 which is evident from page no. 141 of reply and the same is before due date of handing over of possession seeking refund against the allotted unit.

13. The Authority vide order dated 31.05.2022, held that the allottee were entitled for refund and the promoter was directed to act accordingly. Refund was granted with interest 9.50% per annum. The relevant para of the order read as under:

"Therefore, taking note of all the circumstances, the authority holds its view that the complainants-allottees are entitled for refund and hereby, directs the respondent to return the amount received by it from the complainants-allottees along with interest at the rate of 9.50% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount within 90 days from the date of this order.

Matter stands disposed off. Detailed order will follow. File be consigned to the registry."

14. Thereafter, some vague application seeking mediation was moved by the respondent-promoter, which was treated as an application under section 39 of the RERA Act and the complaint was re-opened again. Subsequently the Authority, vide its order dated 23.02.2023, directs the respondent to refund the outstanding amount after deduction of 10% as earnest money from date of surrender i.e. 10.08.2019 at the prescribed rate of interest i.e. 10.70% per annum.
15. The detailed order was uploaded on 11.05.2023 on the official website of the Authority. The operative part of the same is reproduced below for ready reference:-

"51. Hence, the Authority hereby passes his 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 refund to the complainants the paid-up amount of Rs.49,99,512/- after deducting 10% as earnest money of the basic sale consideration of Rs.1,61,03,732/- with interest at the prescribed rate i.e., 10.70% is allowed, from the date of surrender i.e. 10.08.2019 till date of actual refund.

ii. A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow."

52. Complaint stand disposed of.

53. File be consigned to registry."

16. Furthermore, the complainant-allottee file an appeal before the Hon'ble Haryana Real Estate Appellate Tribunal bearing no. HREAT-220 of 2023 and same was decided on 25.09.2025 with direction to the Authority for

decision afresh after affording opportunity of hearing to the parties. The observation and direction passed on 25.09.2025 by the Hon'ble Tribunal is reproduced below for ready reference: -

"8. In our considered view, order dated 23.02.2023 which is under challenge is totally unsustainable, same having been passed purportedly in exercise of power under Section 39 of the Act. It is settled law that scope of Section 39 is limited wherein only mistake apparent from the record can be rectified. As a result, the consequent detailed order purported to have been passed on the same day i.e. 23.02.2023 would also not survive. It is pertinent to mention here that order dated 31.05.2022 was passed by two Members of the Authority sitting together while subsequent orders dated 23.02.2023 have been passed by the single Member.

9. Stand of the allottees before this Bench has been, that the entire approach adopted by the Authority is haphazard and cannot stand legal scrutiny. The procedure adopted by the Authority of passing one order after another is not contemplated by the statute. As per counsel, the Authority has to act within the ambit of law and procedural irregularity and statutory violation of this kind would vitiate the proceedings.

10. It is inexplicable as to how an application was maintainable after the disposal of the case vide order dated 31.05.2022.

11. Under these circumstances, the orders under challenge are set aside. The matter is remitted to the Authority for decision afresh after affording opportunity of hearing to the parties. They shall remain present before the Authority on 27.10.2025 at 11.00 a.m. sharp.

12. The appeal stands disposed of in the above terms."

17. That after the direction from the Hon'ble Appellate Tribunal, the present complaint was re-opened on 27.10.2025 and the complaint was referred to Double Bench on 18.11.2025. On 02.12.2025, Arguments heard and matter adjourned for 06.01.2026 for pronouncement of order.
18. The complainant has filed the present complaint on 19.11.2019 seeking refund of the paid-up amount as per proviso to section 18 (1) of the Act.

"Section 18: - Return of amount and compensation

"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".*

19. **Admissibility of refund along with prescribed rate of interest after deduction of earnest money:** The Haryana Real Estate Regulatory Authority, Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, states that-

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment/plot/building as the case may be in all cases where the cancellation of the

flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

20. The complainants are seeking refund the amount paid by them along with interest prescribed rate of interest. However, the allottee intend to withdraw from the project before due date of possession and are seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided 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."

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., 06.01.2026 is 08.85%. 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—

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

24. It is evident from the above-mentioned facts that the complainant paid a sum of Rs.49,99,512/- against the basic sale consideration of Rs.1,61,03,732/- of the unit allotted on 09.07.2015. The respondent was bound to act and respond the pleas for surrender/withdrawal and refund of the paid-up amount accordingly.
25. Thus, keeping in view the aforesaid factual and legal provisions, the respondent cannot retain the amount paid by the complainants against the allotted unit and is directed to refund the same in view of the agreement to sell for allotment by forfeiting the earnest money which shall not exceed the 10% of the basic sale consideration of the said unit and shall return the balance amount along with interest at the rate of 10.85% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date + 2%) as prescribed under the rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, from the date of surrender i.e. 10.08.2019 till the actual date of refund

of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

G. Directions of the Authority

26. 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):
- The respondents/promoters are directed to refund the paid-up amount of Rs.49,99,512/- after deducting 10% as earnest money of the basic sale consideration of Rs.1,61,03,732/- with interest at the prescribed rate i.e.,10.85%, from the date of surrender i.e. 10.08.2019 till date of actual refund.
 - A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.
27. Complaint stands disposed of.
28. File be consigned to registry.


(P S Saini)
Member
(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Date: 06.01.2026