

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

Complaint no.: 2911 of 2025
Date of decision:- 28.11.2025

Devender Sharma
R/o: - 74, GF, Greenwood City, Sector-46,
Gurugram.

Complainants

Versus

M/s. DSS Buildtech Pvt. Ltd.
Regd. office: 506, Floor-5th, Time Square Building,
Block-B, Sushant Lok-1, Gurugram.

Respondent

CORAM:

Arun Kumar

Chairman

APPEARANCE:

Gagan Sharma (Advocate)

Complainant

Harshit Batra (Advocate)

Respondent

ORDER

1. The present complaint dated 10.06.2025 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 as provided under the provision 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 the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession and delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	"The Melia", Sector-35, Sohna, Gurugram, Haryana.
2.	Area of the project	17.41 acres
3.	Nature of project	Group Housing Complex
4.	DTCP license no.	77 of 2013 Dated-09.08.2023
5.	RERA registered	Registered Registration no. 288 of 2017 Dated-10.10.2017
6.	Allotment letter	Not on record
7.	Unit No.	G-1504, Tower-G (As on page no. 37 of complaint)
8.	Unit Area	1350sq.ft. (As on page no. 37 of complaint)
9.	Date of execution of Apartment Buyer Agreement	19.03.2016 (As on page no. 34 of complaint)

10.	Sanction of Building Plans	21.04.2015 (As on page no. 29 of reply)
11.	Approvals of fire-fighting scheme.	09.02.2016 (As on page no. 47 of reply)
12.	Possession clause	<p>Clause 14</p> <p>COMPLETION AND POSSESSION OF THE APARTMENT</p> <p>14.1 Within 48 months from the date of receiving the last of the approvals required for commencement of construction of the project or the Date of signing the agreement whichever is later.</p> <p>However, this Committed period will automatically stand extended by for a further grace period of 180 days for issuing the possession notice and completing other required formalities.</p>
13.	Due date of possession	19.03.2021 [Calculated 48 months from the date of execution of the agreement plus 180 days grace period is allowed]
14.	Payment plan	Construction linked
15.	Basic sale consideration	Rs.65,47,500/- (As per Payment plan on page no. 48 of complaint)
16.	Total amount paid by the complainant	Rs.76,49,463/- (As per Applicant Ledger on page no. 52 of complaint)

17.	No objection (Consent Letter of the complainant regarding revision of the approved building plans)	Part of the agreement dated 19.03.2016 (As on page no. 50 of complaint)
18.	Occupation certificate	04.07.2025 (As on page no. 77 of reply)
19.	Offer of possession	17.07.2025 (As on page no. 44 of reply)

B. Facts of the complaint:

3. The complainant has made the following submissions in the complaint:
 - I. That after going through advertisement published by respondents in the newspapers and as per the brochure /prospectus provided by respondents, the complainant booked a 2 BHK, measuring 1350 sq.ft. in the said project on 24.10.2013 with a booking amount of Rs.3,00,000/- and at total basic sale price of Rs.80,00,000/-.
 - II. Accordingly, a cleverly drafted a Flat Buyer's Agreement was executed on 19.03.2016 between the complainant and the respondent. The payments for the flat were "construction linked" as per the payment plan and till 05.06.2018 an amount of Rs.76,24,475/- had been paid by the complainant.
 - III. According to Clause 14.1 of the Flat buyer's Agreement, the respondents were required to offer possession of the flat to the allottee within a period of 48 months from the date of agreement, subject to certain conditions. Secondly, the respondent has allowed himself a concession of 6 months over and above the period of 48 months. However, even after giving the benefit of 6 months to the respondent, the possession ought to have been offered latest by 18.09.2019.

IV. That the respondent had paid almost 93% the amount but the respondent did not deliver the flat till date even after passing of 69 months and now the respondent is sending mischievous demand letter without obtaining Occupation Certificate, thus, causing anxiety and mental harassment to the complainant.

V. Hence, the present complaint.

C. Relief sought by the complainant:

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

- Direct the respondent to pay the Delayed Possession Charges at the prevailing interest as per the provisions of the Act.
- Grant cost of litigation of Rs.2,50,000/- to the complainant.
- Investigate whether the project is registered as per the provisions of Section 3 of the Act, 2016 or not. If not registered as per Section-3 then penalise the respondent as per Section-59 of the Act.
- Grant liberty to claim refund/DPC of entire amount with interest and compensation in case of possession not being handed over by fresh committed date.

D. Reply by respondent:

5. The respondent by way of written reply made following submissions.

- That the respondent is developing a residential group housing complex approximately over 17.418754 acres of land situated in village Mohamadpur Gujjar, Sector 35, Sohna, Gurugram (Haryana), privately named as "The Melia".
- That the said project of the respondent is duly registered under the Real Estate (Regulation and Development) Act, 2016, and the Haryana Real Estate (Regulation and Development) Rules, 2017 vide HRERA

Registration No. 288 of 2017 dated 10.10.2017. Pertinent to note that the respondent had applied for extension of RERA Registration Certificate before the Authority, and the same is extended dated 28.11.2022 and is valid up to 25.04.2024

III. That the complainants have approached the respondent for booking apartment / flat bearing no. 1504, Tower- G, admeasuring 1350 sq. ft. carpet area, in the project named "The Melia", Village Mohamadpur Gujjar, Sector-35, Sohna, District Gurugram, Haryana, for a total price of Rs.80,69,850/-.

IV. That on 19.03.2016, the Buyer's Agreement was executed between the parties with free will and without any undue coercion or undue influence, therefore, the same is binding upon the parties thereto. Further, Clause 14.1 of the Buyer's Agreement states that the Promoter commits to handing over possession of the Apartment within 48 months from either the date of final construction approvals or the signing of the Agreement. The relevant clause 14.1 is reproduced hereunder for ready reference:

"Subject to the terms hereof and to the Buyer having complied with all the terms and conditions of this Agreement, the Company proposes to handover possession of the Apartment within a period of 48(forty eight months) from the date of receiving the last of Approvals required for commencement of construction of the Project from the Competent authority or the date of signing the agreement whichever is later and to this period to be added for the time taken in getting Fire Approvals and Occupation certificates and other Approvals required before handing over the possession of the Apartment or for such other requirements/conditions as may be directed by the DGTCP. The resultant period will be called as "Commitment period". However, this Committed period will automatically stand extended by for a further grace period of 180 days for issuing the Possession Notice and completing other required formalities ("Due Date of possession").

V. It is to be noted that the construction was banned for 163 days in the state of Haryana, details of which are provided hereinafter.

Dated	Authority	Order	Days
16.11.2021- 21.11.2021	CAQM Direction	All the construction activity in the entire NCR to remain closed	06 days
24.11.2021- 20.12.2021	Supreme Court Writ Petition (C) No. II35/2020 r/w CAQM Direction	Ban imposed by Supreme Court on construction activities	26 days
23.03.2020 to 19.04.2020	Ministry of Home Affairs	Ban imposed by MHA due to covid 19 pandemic	27 days
01.01.2020 to 10.02.2020	Newspaper Report	Ban imposed by on construction activities	40 days
04.11.2019 to 16.12.2019	Supreme court in CWP No. 13029/1985	All the construction activity in the entire NCR to remain closed	42 days
01.11.2018 to 10.11.2018	EPCA	All the construction activity in the entire NCR to remain closed	10 days
24.12.2018 to 26.12.2018	Environment pollution control authority	Construction activities in Delhi, Gurugram, Ghaziabad and Noida to remain closed till 26.12.2018	03 days
09.11.2017 to 17.11.2017	OA 21/2014 NGT	All the construction (Structural) activity in the entire NCR is hereby prohibited till the next date of hearing	09 days
Total no's of days			163Days

Therefore, the period of handing over of possession should be further extended by 343 days.

VI. That the Fire Clearance/NOC was obtained by the respondent on 09.02.2016, and the same was submitted to DTCP Haryana. It is pertinent to mention that Section 15 of the Haryana Fire Safety Act, 2009, makes it mandatory for a Builder/Developer to obtain the approval of the Fire Fighting Scheme conforming to the National

Building Code of India and obtain a No Objection Certificate (NOC) before commencement of construction.

VII. That on 20.09.2016, the respondent received the Environmental Clearance from the State Environment Impact Assessment Authority (SEIAA). It is pertinent to mention that Clause 1 of the Environment Clearance stipulates that the Developer has to obtain "Consent to Establish" from the Haryana State Pollution Control Board under the Air and Water Act, and a copy shall be submitted to the SEIAA before the start of any construction works at the site.

VIII. Thereafter, in terms of the provisions of the Environmental Clearance dated 20.09.2016, the respondent applied for the 'Consent to Establish' from the Haryana State Pollution Control Board, and was granted the same on 12.11.2016. It is submitted that 'Consent to Establish' is, in fact, the last approval necessary prior to commencement of construction work.

IX. That the complainants have till date paid only Rs.76,24,475/- as per the Applicant Ledger. The possession of the residential unit was offered to the complainants vide Possession Letter dated 17.07.2025.

X. That on 17.08.2023, vide application before the DTCP, the respondent has also applied for the Occupation Certificate for towers A, D, E & F of the said project. Thereafter, the respondent was granted an Occupation Certificate on 10.12.2024 by the DTCP, Haryana. Further, vide application dated 11.10.2024, the respondent has also applied for the OC for towers B, C, G, S1, and S2.

XI. That since the commencement of the development of the project, the respondent has been sending regular updates regarding the progress of the project to all the buyers including the complainants and also the

customer care department of the respondent is in regular touch with the buyers for providing them assistance and updates on the progress of the project.

6. 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:

7. 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

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 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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

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

F. Findings on objections raised by the respondent:

F.I Objection regarding delay due to force majeure circumstances

11. The respondent-promoter has raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed imposing ban on the construction activities, Environment Pollution (Prevention & Control) Authority, Environment Pollution (prevention & Control Authority)-EPCA, Orders of Hon'ble Supreme Court, due to outbreak of Covid-19 pandemic. Since there were circumstances beyond the control of respondent, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which his construction activities came to stand still, and the said period be excluded while calculating the due date. In the present case, the 'Apartment Buyer's Agreement' was executed between the parties on 19.03.2016. The Authority vide notification no. 9/3-2020 dated 26.05.2020 have provided

an extension of 6 months for projects having completion date on or after 25.02.2020, on account of force-majeure condition due to the outbreak of Covid-19 pandemic. The respondent is seeking the benefit of Covid-19, and in lieu of the notification of the Authority dated 26.05.2020, the benefit of the same is granted to the respondent. Thus, the due date comes out to be 19.03.2021. The respondent have submitted that due to various orders of the Authorities and court, the construction activities came to standstill. The Authority observes that though there have been various orders issued to curb the environment pollution, but these were for a short period of time. The event of demonetization was in accordance with government policy and guidelines. Therefore, the Authority is of the view that the outbreak of demonetization cannot be used as an excuse for non-performance of a contract.

G. Findings on the relief sought by the complainants

G.I Direct the respondent to pay the Delayed Possession Charges at the prevailing interest as per the provisions of the Act.

14. In the present complaint, the complainant booked a unit in the project of the respondent namely "The Melia" situated at Sector-35, Village-Sohna, Gurugram. The Apartment Buyer's Agreement was executed between the complainant and the respondent on 19.03.2016. As per Clause 14.1 of the agreement dated 19.03.2016, the respondent had to hand over possession of the unit to the complainant within a period of 48 months from the date of execution of the agreement. Also, a period of six months is granted to the respondent in lieu of the notification of the Authority dated 26.05.2020

due to the Covid-19 outbreak. Thus, the due date of possession comes out to be 19.03.2021.

15. The complainant intend to continue with the project and is seeking possession and delay possession charges along with interest on the amount paid. 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.

"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."

16. Clause 14.1 of the Agreement dated 19.03.2016 provides for due date of possession and is reproduced below:

CLAUSE 14. COMPLETION AND POSSESSION OF THE APARTMENT

14.1 Subject to the terms hereof and to the Buyer having complied with all the terms and conditions of this Agreement, the Company proposes to hand over possession of the Apartment within a period of 48 (forty eight) months from the date of receiving the last of Approvals required for commencement of construction of the project from the Competent Authority and or the date of signing of the Agreement whichever is later and to this period to be added for the time taken in getting Fire Approvals and occupation certificates and other Approvals required before handing over the possession of the Apartment or of such other requirements/conditions as may be directed by the DGTCP. The resultant period will be called as "Commitment Period". However, this Committed period will automatically stand extended by for a further grace period of 180 days for issuing the possession Notice and completing other required formalities ("Due Date of Possession").

[Emphasis supplied]

17. **Admissibility of grace period:** The promoter has proposed to hand over the possession of the unit on or before 19.03.2021. The grace period of six months is allowed to the promoter on account of Covid-19.
18. **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."
19. 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.
20. 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., 28.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
21. 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;"

22. 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.
23. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 14 of the Agreement dated 19.03.2016, the possession of the subject apartment was to be delivered within a period of 48 months from the date of receiving the last of the approvals required for construction of the project or the date of signing of the agreement, whichever is later. Since, the date of receiving all the necessary approvals is not available, the aforesaid period is calculated on the basis of the signing of the agreement. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession is 19.03.2021. The respondent has obtained the Occupation Certificate from the competent authorities on 04.07.2025 and

thereafter offered the possession of the subject apartment to the complainant on 17.07.2025, which is delayed than the due date of possession of the unit. 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 stipulated period.

24. The non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainants are entitled to delayed possession at prescribed rate of interest i.e., 10.85% p.a. from the due date of possession 19.03.2021 till the offer of possession plus 2 months after obtaining the occupation certificate from the competent authorities or actual handover, 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.
25. The respondent is directed to handover possession of the unit to the complaints within 30 days of this order. Also, in terms of Clause 17(1) of the Act, 2016, the respondent is directed to execute registered Conveyance Deed in favour of the complainant within a period of 60 days from this date and the complainants are directed to pay the registration charges, stamp duty, requisite fees, as applicable.

G.II Grant cost of litigation of Rs.2,50,000/- to the complainant.

26. The complainant is seeking the above mentioned relief w.r.t compensation. The Hon'ble Supreme Court of India in Civil Appeals no. 674445-679 of 2021 titled as **M/s Newtech Promoters and Developers Ltd. V/s State of UP (Supra)** has held that an allottee is entitled to claim compensation and litigation charges under Section 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 charges shall be adjudicated by the

adjudicating officer having due regards to the factors mentioned in Section 72. Therefore, the complainant may approach the adjudicating officer for seeking the relief of compensation.

G.III Investigate whether the project is registered as per the provisions of Section 3 of the Act, 2016 or not. If not registered as per Section-3 then penalise the respondent as per Section-59 of the Act.

27. The Authority observes that the project is registered vide Registration no. 288 of 2017 dated-10.10.2017 as per the provisions of Section 3 of the Act, 2016.

G.IV Grant liberty to claim refund/DPC of entire amount with interest and compensation in case of possession not being handed over by fresh committed date.

28. The Authority is of the view that the above said relief is vague as the complainant is claiming refund or in the alternate DPC of the amount with interest and compensation in case possession is not handed over by the fresh committed date.

H. Directions of the authority

26. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoters as per the functions entrusted to the authority under section 34(f):

- i. The respondent is directed to share an updated statement of accounts after adjusting the delayed possession charges with the complainant within a period of 15 days of this order and the complainant shall make the balance payments within 30 days of receiving the updated SOA.
- ii. The respondent is directed to handover physical possession of the unit to the complainants within 30 days of this order.

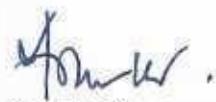
iii. The respondent is directed to pay the interest at the prescribed rate i.e., 10.85% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 19.03.2021 till offer of possession plus two months or actual handing over of possession after obtaining occupation certificate from the competent authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

iv. The respondent is directed to execute conveyance deed in favour of the complainants in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within 60 days of the order.

v. The respondent shall not charge anything from the complainants which is not the part of the agreement.

41. Complaint stands disposed of.

42. File be consigned to registry.



Arun Kumar
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 28.11.2025