



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

|                         |              |
|-------------------------|--------------|
| Complaint no.:          | 2956 of 2022 |
| Date of filing.:        | 17.11.2022   |
| Date of first hearing.: | 01.02.2023   |
| Date of decision.:      | 11.12.2025   |

Veena Jain & Hitesh Jain  
Both R/o A-3/132-136, 3<sup>RD</sup> Floor  
Rohini, Sector-11,  
North West Delhi-110085

....COMPLAINANTS

VERSUS

1.M/S BPTP Limited  
28, ECE House, 1<sup>st</sup> floor,  
K.G.Marg, New Delhi-110001  
2.M/s Countrywide Promoters Pvt Ltd  
OT-4, 3<sup>rd</sup> floor, Next Door, Parklands  
Sector-76, Faridabad

....RESPONDENTS

**CORAM:** Parneet Singh Sachdev

**Chairman**

Nadim Akhtar

**Member**

Dr. Geeta Rathee Singh

**Member**

Chander Shekhar

**Member**

**Present:** - Mr. Rajan Kumar Hans, Counsel for complainant through VC

Mr. Tejeshwar Singh, Counsel for the respondent through VC.

**ORDER (PARNEET S. SACHDEV-CHAIRMAN)**

1. Present complaint has been filed by complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

**A. UNIT AND PROJECT RELATED DETAILS**

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

| S.No. | Particulars                    | Details                          |
|-------|--------------------------------|----------------------------------|
| 1.    | Name of the project.           | Parklands, Sector-76, Faridabad. |
| 2.    | Nature of the project.         | Residential                      |
| 3.    | RERA Registered/not registered | Not Registered                   |
| 4.    | Details of unit.               | W-11-30, 302 sq. yds.            |

|     |   |  |
|-----|---|--|
| 5.  | Date of Allotment                       | 05.03.2008   |
| 6.  | Date of builder buyer agreement         | 31.10.2008   |
| 7.  | Due date of possession                  | 31.10.2010   |
| 8.  | Possession clause in BBA ( Clause 22.1) | That the possession for the said plot as proposed to be delivered by the Seller/Confirming party to the purchaser(s) within about 24 months from sanctioning of the service plans of the entire colony, simultaneous to the execution of sale deed subject however to force majeure and the purchaser making all payments within the stipulated period and complying with the terms and conditions of the agreement. |
| 9.  | Total sale consideration                | ₹ 28,43,038/-  |
| 10. | Amount paid by complainants             | ₹40,42,095/-   |
| 11. | Offer of possession.                    | Not made   |
| 12. | Cancellation letter                     | 30.10.2012   |

### B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of complaint are that the complainants had booked a unit in the project of the respondent namely "Parklands" situated at Sector 76, Faridabad, Haryana by paying booking amount of Rs 4,00,000/- on

21.10.2005. Allotment letter for the unit no. W-11-30 (plot). 302 sq. yds was issued to complainants. A builder buyer agreement was executed between the parties on 31.10.2008 and as per clause 22.1 of the agreement possession of the unit was to be delivered within a period of twenty four (24) months from the date of sanctioning of service plans of the entire colony. As such, date for sanctioning of service plans has not been mentioned. Taking the period of 24 months from the date of execution of the floor buyer agreement expired on 31.10.2010.

4. The total sale consideration of the plot was fixed at ₹ 28,43,038 /- against which an amount of ₹ 40,42,095/- already stands paid. Copy of payment receipts is annexed as Annexure P-3. That the tripartite agreement was executed on 28.01.2010 between complainants, respondents and axis bank ltd on an amount of Rs 10,94,380/-. Further, the complainants had already prepaid the home loan from Axis Bank from his own resources. Copy of Tripartite agreement dated 28.01.2010 is annexed as Annexure P-4.
5. That the respondent was supposed to provide possession of the plot by 31.12.2010 but has miserably failed in its commitment. Complainant wrote many mails and had various verbal discussions with the staff of the respondent builder on many occasions but the respondent was unable to provide the clarity on the possession status of the plot of the complainant.

On 04.03.2017 the respondents through its mail replied to the query stating that 'we request you to please wait for some time'. Thereafter, the complainants had visited the site of the plot many times and has found that the work in the particular block and line of plot is far from being over.

6. That the grievance of the complainants is that respondents have failed to provide the possession of the plot on time, even after many years have passed as per the pot buyer agreement. Respondents have also failed to provide the proper utilities like road and sewage in the particular block. Therefore, the complainants have filed the present complaint seeking possession of the booked unit along with delay interest for delay caused in delivery of possession.

### **C. RELIEF SOUGHT**

7. That the complainants seeks following relief and directions to the respondent:-
  - i. Pass an appropriate award directing the respondent the builder to provide the possession of the same or any other alternative plot upto the satisfaction of the complainant at the earliest.
  - ii. Pass an appropriate award directing the respondent to pay interest @ prescribed rate on delayed possession since due date of possession till



date of actual possession. (Justification Section 18 (1) of the Act ) on paid amount of Rs 46,29,314/- .

- iii. Any other relief which the Hon'ble Authority deems fit and proper in the facts and circumstances of the present complaint.

#### **D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed detailed reply on 23.08.2023 pleading therein:

8. That the plot buyer agreement makes it evident that respondent no. 2 is a mere licensee and a confirming party to the said agreement. It further clarifies that respondent no. 2 has empowered BPTP Ltd, i.e. respondent no. 1 to develop, market and sell the independent residential floor/units. In such circumstance, there is no obligation whatsoever of the licensee as against the complainant. In the present case, it is prima facie and ex facie evident that neither has any cause of action arisen against the respondent no. 2 nor any relief has been sought by the complainant. Accordingly, the name of respondent no. 2 should be dismissed from the array of parties.
9. That the due date of offer of possession as per clause 22.1 as computing from date of plot buyer agreement, is to be computed from 24 months from sanctioning of the service plan of the entire colony. Subject to the force majeure and making all the payments within the stipulated time.

10. With regard to the delay in offering possession of the unit in question, it is submitted that the project in question has been marred with serious defaults and delays in the timely payment of instalments by the majority of customers including complainant. Further, certain other force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab and Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of environmental conditions, restrictions on usage of water. It was almost for two years that the scarcity as detailed aforesaid continued, despite which all efforts were made and materials were procured at 3-4 times the rate and the construction of the project continued without shifting any extra burden to the customer. It is to be noted that despite the default caused, the respondent no.2 applied for part completion certificate on 07.01.2014 and the same was pending in concerned statutory authority.

11. That the complainants were under an obligation to pay the demand raised by the respondent on account of clause 12 of agreement and Section 19 (6) and 19(7) of RERA Act, 2016. However, complainant defaulted in making payment of Rs 4,03,669/-, for which multiple reminders dated 31.05.2012, 27.09.2012 and final opportunity letter dated 30.10.2012 was issued to the complainant. It is to be noted that the complainants were



categorically informed that their act of non payment will lead to automatic/ deemed termination of the unit. The act of partial payment by the complainants post the issuance of the letter of final opportunity dated 27.09.2012 does not absolve the complainants from their obligations of making complete payments along with outstanding interest.

12. That after deemed termination of the unit, the complainants have no right/lien over the same and the prayer of the complainants seeking delay possession charges cannot be considered.

**E. ADDITIONAL DOCUMENTS FILED BY THE PARTIES**

13. Additional documents filed by the respondent in registry on 26.05.2025- Respondent has placed on record additional documents as Annexure R-12 to R-20, along with additional affidavit of respondent. Said affidavit seeks to demonstrate that the demarcation cum zoning plan had been duly obtained and all basic services were made operational in accordance with applicable departmental policies and further that individual plot owners are legally entitled to initiate construction based on the self certification scheme and other enabling office orders issued by the competent authority.
14. Affidavit filed by the respondent in registry on 26.05.2025 in compliance of order dated 25.03.2025 whereby respondent was directed to submit by way of affidavit the details of the legal status and title of plot W-11/30, Parklands; whether the said plot forms part of the licensed area and

whether the respondent has legal capacity to offer the said plot to the complainants. It is submitted that the land/plot in question is under valid title and ownership of the respondent. Plot in question is part of the licensed area, which is evident from the demarcation cum zoning plan dated 30.11.2011, copy is annexed as Annexure R-11. Respondent is the lawful owner of the said plot, which forms part of the duly licensed area. Further, there is no legal impediment with respect to the subject plot. complainants have no subsisting right, title, interest as their allotment stands validly cancelled in accordance with terms and conditions of agreement.

**F. ARGUMENTS OF COUNSEL FOR COMPLAINANTS AND RESPONDENTS**

15. Ld. counsel for complainants submitted that complainants had booked plot/unit in respondent's project-Parklands in year 2005. Allotment of plot no. W-11/30 was issued by respondent in favor of complainants on 05.03.2008. Thereafter, builder buyer agreement was executed between the parties on 31.10.2008 and in terms of the same, possession was supposed to be delivered upto 31.10.2010. However, respondent till date has not made any offer of possession despite receipt of an amount of Rs 40,42,095/-. Now, present complaint has been filed seeking possession of booked plot along with delay interest.



16. In rebuttal, Id. counsel for respondent referred to cancellation letter dated 27.09.2012 whereby complainants were provided last opportunity to pay the outstanding amount. Various reminders were issued to complainants for further payments but they did not pay the same. Further, he stated that an amount of Rs 32.5 lacs has been paid by the complainants, not the claimed amount of Rs 40 lacs. In respect of part completion certificate, he stated that development work stands completed at site and chief engineer's report to this effect has been carried out in year 2018. Moreover, he referred to previous order dated 25.03.2025 and 27.05.2025 whereby complainants raised objection to the legal title of plot in question. To clarify, an affidavit has been filed showing that clear/legal title of plot is available with respondent.
17. At this stage, query was raised to Id. counsel for respondent as to whether any amount was refunded to complainants after cancellation or not? To which, he replied that no amount was refunded, it still lies with respondent-developer. He pressed upon that at this stage only relief of refund is admissible to complainants.

#### **G. ISSUES FOR ADJUDICATION**

18. Whether the complainants are entitled to possession of the booked unit along with delay interest in terms of Section 18 of Act of 2016?

## H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

### Findings on the objections raised by the respondent.

#### F.I Objection regarding impleadment of respondent no. 2 as party to complaint.

Respondent no. 1 in its written reply has stated that present complaint pertains to a plot bearing no. W-11-30, admeasuring 302 sq.yds in the real estate Project "Parklands" being developed by the Respondent No. 1. The Respondent No. 2 is a mere confirming party to the Agreement and no relief has been claimed from the Respondent No. 2. Hence, its name should be deleted from the array of parties.

Perusal of facts and submissions reveals that complainants have paid all amounts and carried out transactions with respondent no. 1 only. However, in builder buyer agreement the obligation of delivering possession to complainant was imposed upon both the respondents, i.e. Seller (BP'IP) and Confirming Party (Countrywide promoters) vide clause 22.1 of builder buyer agreement which is as follows:-

#### Clause 22.1 in agreement

*That the possession for the said plot as proposed to be delivered by the Seller/Confirming party to the purchaser(s) within about 24 months from sanctioning of the service plans of the entire colony, simultaneous to the execution of sale deed subject however to force majeure and the purchaser making all payments within the stipulated period and complying with the terms and conditions of the agreement.*



Keeping in view the foresaid clause, the request of respondent deleting name of respondent no. 2 is rejected.

**F.II Objection raised by the respondents that complainants are not allottees after termination of unit vide cancellation letter dated 27.09.2012 and 30.10.2012.**

Complainants have raised a plea that termination letter issued by respondent is liable to be quashed for the reason that by the year 2011-2012, the respondent was in receipt of Rs 40,42,095/- against basic sale price of Rs 22,49,900/-, i.e. more than the basic sale price. So, the demand letters issued by respondent in year 2012 were not in consonance with the construction linked schedule. In reply, respondent submitted that demands were raised in consonance with construction linked plan agreed by complainant in agreement. But it is the complainants who have not come forward to accept it after payment of due amount so the respondent had chosen to exercise the option given in clause 10 of agreement, i.e., termination of unit after forfeiture of earnest money. In this regard, it is relevant to refer to the contents of letter/reminder dated 27.09.2012 and 30.10.2012.

Contents of letter dated 27.09.2012

*I. "We write with reference to your obligations under the agreements and our several written and oral reminder sent to you in respect of the above captioned unit providing you adequate notice, reminder and*



*opportunity to immediately clear your entire outstanding amount due to avoid cancellation of allotment of said unit.*

*2. Accordingly, in the event that you fail to strictly adhere to the complete terms of this final demand notice and the agreements, such action on your part shall amount to a voluntary, conscious and intentional waiver and relinquishment by you of all your rights and privileges under the terms of the agreements and this letter shall, in exercise of our rights under the terms to the agreements, be treated as termination/cancellation of allotment of the aforesaid units and you shall cease to have any right or interest whatsoever in the said unit or under the agreements and shall also be liable to forfeiture of earnest money deposit, accumulated interest and brokerage paid (if any). Further, we shall deal with the said unit in any manner as we may deem fit."*

Contents of letter dated 30.10.2012

*1. "We write with reference to your obligations under the agreements and our several written and oral reminder sent to you in respect of the above captioned unit providing you adequate notice, reminder and opportunity to immediately clear your entire outstanding amount of Rs 403369/- immediately.*

*2. Accordingly, in the event that you fail to strictly adhere to the complete terms of this final demand notice and the agreements, such action on your part shall amount to a voluntary, conscious and intentional waiver and relinquishment by you of all your rights and privileges under the terms of the agreements and this letter shall, in exercise of our rights under the terms to the agreements, be treated as termination/cancellation of allotment of the aforesaid units and you shall cease to have any right or interest whatsoever in the said unit or under*

*the agreements and shall also be liable to forfeiture of earnest money deposit, accumulated interest and brokerage paid (if any). Further, we shall deal with the unit no. W-11-30 in project Parklands at Faridabad, Haryana in any manner as we may deem fit.*

3. *Without prejudice to our rights under the terms of the agreement, keeping in view the interest of our customers at large, we hereby provide you this last and final opportunity to ensure immediate compliance with the terms of the agreement and to immediately clear your outstanding balance of Rs 403369/- amount with accumulated interest @18% p.a. till the date of payment, immediately, to avoid the consequences of such default, including those mentioned in this final notice."*

Aforesaid letters reveals that respondent had asked for payment of outstanding due immediately, failing which the agreement of allotment will be treated as terminated along with forfeiture of earnest money. Factual position reveals that complainants had made last payment of Rs 3,00,000/- on 05.04.2013 (receipts attached at page 65 and 66 of complaint), which was duly accepted by the respondent. On one hand, respondent had issued final termination notice for payment of outstanding amount in year 2012. Other side, payment of Rs 3 lacs was accepted in year 2013 without any objection. No demand letter of year 2013-2014 has been attached in written statement by the respondent which proves that there were further valid/justified demands which was not honored by complainants. Issue herein arises is that respondent did not even revoke the allotment of unit within due course nor proceeded further towards

returning of paid amount after forfeiture of earnest money to the complainants till date. Respondent no. 1 should have acted proactively in deducting earnest money out of total paid amount and refunded the remaining amount to complainants. Rather, act of termination/cancellation notice was itself nullified by respondent by accepting an amount of Rs 3 lacs. Moreover, whole of paid amount still lies with respondent. At this stage, no sanctity remains attached to termination letters dated 27.09.2012 and 30.10.2012. In these circumstances, the termination letters issued by respondent is declared illegal and are therefore set-aside.

19. Factual matrix of the case is that a unit was booked in the project being developed by the respondents namely "Parklands" situated at Sector 75 to 85, Faridabad, Haryana by complainants in the year 2008. Allotment of unit no. W-11-30 having area 302 sq. yds was issued in favor of complainants on 05.03.2008. A builder buyer agreement was executed between both the parties on 31.10.2008 and as per clause 22.1 of the agreement, possession of the plot was to be delivered within a period of 24 months from the date of sanctioning of the service plans of the entire colony.

20. An amount of Rs 40,42,095/- has been paid by the complainants against the basic sale consideration of Rs 28,43,038/-. It is the submission of the complainants that the respondent has delayed delivery of possession beyond



stipulated time. Complainants have filed the present complaint seeking possession of the booked unit along with delay interest.

21. As per clause 22.1 of the agreement possession of the unit/plot should have been delivered within a period of (24) months from the date of sanctioning of service plans. Since, date of sanctioning of service plans has not been provided by the parties, so taking 24 months from date of execution of agreement, deemed date of possession works out to 31.10.2010.

22. It is the stand of the respondent that the delivery of possession of the unit in question has been delayed beyond the stipulated period of time. Respondent has attributed this delay to circumstances beyond its control such as NGT order prohibiting construction activity, ban on construction by Supreme Court of India in M.C Mehta v. Union of India, ban by Environment Pollution (Prevention and Control) Authority for the cause of delay. In its reply the respondent has cited that the National Green Tribunal had put a ban on construction activities in the National Capital Region in the year 2016 thus causing delay in construction of the project in question. However, respondent has failed to attach a copy of the order of the National Green Tribunal banning the construction activities. It is noteworthy that in the captioned complaint possession of the unit should have been delivered by 30.10.2010 which is much prior to the proposed ban. Therefore, the respondent cannot be allowed to take advantage of the delay on its part by claiming the delay caused due to statutory approvals/directions.



23. As per observations recorded above, the possession of the unit in question should have been delivered by 31.10.2010. However, respondent failed to complete construction of the unit and deliver possession within the time period stipulated in the buyer's agreement. Further, the respondent had also applied for part completion certificate on 07.01.2014 but the same has not been received yet. In absence of part completion certificate, no offer of possession can be issued to the complainants. Admittedly there has been an inordinate delay in delivery of possession but the complainants wishes to continue with the project and take possession. In these circumstances, provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the booked unit, the complainants are also entitled to receive interest from the respondent on account of delay caused in delivery of possession for the entire period of delay till a valid offer of possession is issued to the complainants. Therefore, the Authority hereby concludes that complainants are entitled to receive delay interest for the delay caused in delivery of possession from the deemed date of possession i.e 31.10.2010 till a valid offer of possession is issued to the complainants.

24. In the present complaint, the complainants intends to continue with the project and is seeking delayed possession charges as provided under the proviso to Section 18 (1) of the Act, Section 18 (1) proviso reads as under:-

*~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".*

25. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(z) of the Act which is as under:

*(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;*

26. Rule 15 of RERA Rules, 2017 provides for prescribed rate of interest which is as under:

**"Rule 15:** *"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”*

27. Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e., 11.12.2025 is 8.85%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.85%.
28. Hence, Authority directs respondent to pay delay interest to the complainants for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.85% (8.85% + 2.00%) from the due date of possession till the date of a valid offer of possession duly supported with part completion certificate.
29. Authority has got calculated the interest on total paid amount as mentioned in the table below:

| Sr. No.        | Principal Amount (in ₹) | Deemed date of possession or date of payment whichever is later | Interest Accrued till date of order i.e 11.12.2025 (in ₹) |
|----------------|-------------------------|---|---|
| 1.             | 33,26,543/-             | 31.10.2010  | 54,59,436/-   |
| 2.             | 4,15,552/-              | 23.05.2012  | 6,11,583/-  |
| 3.             | 3,00,000/-              | 05.04.2013  | 4,13,251/-  |
| <b>Total:</b>  | 40,42,095/-             |   | 64,84,270/-   |
| <b>Monthly</b> | 40,42,095/-             |   | 36,047/-  |

|                                    |  |  |  |
|------------------------------------|--|--|--|
| Interest payable w.e.f 11.01.2026: |  |  |  |
|------------------------------------|--|--|--|

It is pertinent to mention here that complainants in their pleadings have claimed paid amount as Rs 40,42,095/- in para (xii) of pleadings. However, in the relief sought, delay interest on amount of Rs 46,29,314/- has been sought, claiming it to be as total paid amount. Perusal of file and payment of proof/receipts attached reveals that complainant has paid an amount of Rs 40,42,095/-. Accordingly, interest has been calculated on Rs 40,42,095/- only.

#### **I. DIRECTIONS OF THE AUTHORITY**

30. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:


- i. Respondents are directed to pay upfront delay interest of ₹ 64,84,270/- (till date of order i.e 11.12.2025) to the complainants towards delay already caused in handing over the possession within 90 days from the date of this order and further monthly interest of ₹ 36,047/- untill a valid offer of possession is issued to the complainants.



- ii. Complainants will remain liable to pay balance consideration amount, if any, to the respondent at the time of offer of possession.
  - iii. Complainants shall accept the offer of possession within the next 30 days of the offer.
  - iv. The respondent shall not charge anything from the complainants which is not part of the agreement to sell.
31. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.



सत्यमेव जयते

  
CHANDER SHEKHAR  
[MEMBER]

  
DR. GEETA RATHEE SINGH  
[MEMBER]

  
NADIM AKHTAR  
[MEMBER]

  
PARNEET S. SACHDEV  
[CHAIRMAN]