

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

Complaint no.: 1278 of 2023
Order reserved on: 16.10.2025
Order pronounced on: 11.12.2025

Sanjay Nanda

R/o: - 308, Ground Floor, Sector 42, Golf Course Road
DLF, Gurugram, Haryana - 122003

Complainant

Versus

1. Tulsiani Constructions & Developers Pvt. Ltd.
Office at:- Plot No. 3, Block "N", Green Park (Main),
New Delhi-110016
2. Dewan Housing Finance Corporation Ltd. (DHFL)
Office at:- Warden House, Sir P.M. Road, Fort,
Mumbai - 400001
3. Piramal Capital & Housing Finance Limited
(PCHFL)
Office at:- Piramal Capital & Housing Finance,
Piramal Tower, A Wing, Ground Floor, Peninsula
Corporate Park, Ganpatrao Kadam Marg, Lower
Parel, Mumbai - 400013

Respondents

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Akshat Mittal (Advocate)
Shri Himanshu Singh (Advocate)
Shri Pushkar Rai Garg (Advocate)

Complainant
Respondent no. 1
Respondent no. 2 and 3

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 provision of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Project and unit related details.

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

S. N.	Particulars	Details
1.	Project name and location	"Easy in homes", Sector-35, Gurugram
2.	Project area	5 acres
3.	Nature of the project	Affordable group housing colony
4.	DTCP license no. and validity status	69 of 2014 dated 25.07.2014 Valid up to 24.07.2019
5.	RERA registration	Registered vide registration no. 144 of 2017 dated 28.08.2017 valid up to 27.08.2021
6.	License name	Dharmpal Singh and Surender Singh
7.	Unit no.	D-313, tower-3, 13 th floor (Page no. 11 of application dated 18.09.2024 submitted by respondent)
8.	Area admeasuring	505.85 sq. ft. (carpet area) 79.97 sq. ft. (balcony area) (Page no. 11 of application dated 18.09.2024 submitted by respondent)
9.	Welcome letter	12.03.2016 (Page no. 20 of complaint)
10.	Date of execution of builder buyer agreement	15.11.2016 (Page no. 8 of application dated 18.09.2024 submitted by respondent)



11.	Loan agreement executed between the complainant and the respondent no. 2	30.11.2016 (Page no. 35 of the reply filed by the respondent no. 2 and 3)
12.	Possession clause as per buyer's agreement	"5.2 <i>The company shall sincerely endeavor to complete the construction and offer possession of the said unit within (48) months from the date of receiving of environment clearance or sanction of building plan whichever is later.....</i> (Page no. 19 of application dated 18.09.2024 submitted by respondent)
	Possession clause as per Affordable Housing Policy, 2013	<i>1(IV) of the Affordable Housing Policy, 2013</i> <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
13.	Building Plans approved on	16.06.2015 (Taken from CR/878/2023 of similar project and decided on 30.05.2024)
14.	Environment clearance	28.12.2015 (Taken from CR/878/2023 of similar project and decided on 30.05.2024)
15.	Due date of possession	28.12.2019 (Due date calculated 48 months from the date of environmental clearance i.e., 28.12.2015 being later)
16.	Total sale consideration	Rs.18,60,073/- (Page 14 of application dated 18.09.2024 submitted by respondent)

17.	Total amount paid by the complainant	Rs.9,97,180/- (As alleged by the complainant at page 8 of the complaint)
		Rs.93,005/- (in his pocket itself) Rs.9,04,175/- (Loan disbursed by financial institution alleged by complainant page 8 of complaint)
18.	Demand letter	12.03.2016, 03.04.2019, 24.07.2019, 27.09.2019 (Page no. 21 to 25 of complaint)
19.	Intimation Letter	22.03.2021 (Page no. 43 of application dated 18.09.2024 submitted by respondent)
20.	Final Reminder	25.06.2021 (Page no. 44 of application dated 18.09.2024 submitted by respondent)
21.	Final cancellation notice	18.08.2021 (Page no. 46 of application dated 18.09.2024 submitted by respondent)
22.	Application for OC	09.10.2023 (for tower 1 and 2) (Page no. 49 of application dated 18.09.2024 submitted by respondent)

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -
- That the respondent no. 1 floated a scheme for the development of an Affordable Group Housing Colony under the name and style of 'Easy in Homes' to be constructed and developed on the land situated in the revenue estate of Village Dhunela, Sector 35, Sohna, District Gurugram, Haryana.
 - That the complainant allottee applied for the allotment of a residential unit under the said project of the respondent no. 1 in the month of January 2016 by



paying a sum of Rs.93,005/-. Subsequently vide the 'Welcome letter' dated 12.03.2016, the complainant was allotted a 2 BHK Flat bearing no. D-313 at 13th Floor, Tower-3, for the total sale consideration of approximately Rs.18,00,000/-.

- c. That in furtherance of the booking entered into between the parties and in pursuance of the demands raised by the respondent no. 1 company, apart from the already paid amount of Rs.93,005/- paid at the time of booking, the complainant was introduced by the respondent no. 1 with the respondent no. 2 i.e. DHFL, and had thus taken home loan from respondent no. 2. The sanctioned loan amount was Rs.16,76,059/-, out of which, an amount of Rs.9,04,175/- already stands disbursed by the respondent no. 2 to the respondent no. 1. Total payment of Rs.9,97,180/- has been duly received by the respondent no. 1.
- d. That the possession of the unit in question was to be delivered within 24 months of the booking, as per the assurances given the respondent promoter, i.e., latest by 12.01.2018. Further, as per the observation of the Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & anr., 3 years has been taken to be reasonable time to hand over possession to the allottee. As such, in any case, the respondent no. 1 promoter was bound to deliver the possession of the unit in question within 3 years of the booking (w.e.f. 13.01.2016), i.e. latest by 12.01.2019.
- e. That the possession of the unit in question has still not been offered by the respondent no. 1 despite lapse of more than 7 years from the date of the booking and more than 5 years from the due date of possession.
- f. That the grievance of the complainant, who was already aggrieved by the inaction on the part of the respondent no. 1 and the delayed pace of



construction, the respondent no. 1 further started issuing payment demands/notices/reminders etc. to the complainant, whereas the amounts were required to be disbursed by the respondent no. 2 DHFL and not by the complainant.

- g. That the complainant had been duly and repeatedly requesting the respondent no. 2 i.e., DHFL to disburse the pending sanctioned loan amounts to the respondent no. 1, but in vain as the same was not complied with by the respondent no. 2.
- h. That the respondent no. 2 i.e., DHFL had started defaulting in disbursement of the sanctioned loan amounts to the respondent no. 1 promoter, despite receiving regular EMI payments from the complainant/allottee. Subsequently, the respondent no. 2 i.e., DHFL was acquired by respondent no. 3 i.e., Piramal Capital and Housing Finance on 30.09.2021.
- i. That the complainant was now constrained to approach the respondent no. 3 i.e., Piramal Capital & Housing Finance, requesting the latter to disburse the remaining loan amounts to the respondent no. 1. The respondent no. 3 called for certain documents afresh from the complainant, inclusive of the salary certificate, ITR etc., which the complainant duly submitted before the same.
- j. That the response that the complainant got from the said respondent no. 3, was the loan amounts are not being disbursed to the respondent no. 1 due to non-compliance of RERA by the latter, and owing to RERA payment defaults by the respondent no. 1. As such, the complainant has been stranded alone, and has been continuously running from pillar to post in hope of any positive response and for redressal of his grievances, but all in vain. The project in question is blatantly under developed and the construction work is still ongoing. Even the



electricity infrastructure and connections thereto are yet to be affixed and made functional.

- k. That further, it is pertinent to highlight that the RERA registration of the project in question has also been lapsed long back on 27.08.2021. Further, even this Authority was constrained to initiate multiple Suo-Moto complaints against the respondent no. 1 promoter owing to contravention of the Act 2016 and the Rules of 2017 made thereunder.
- l. That the complainant has shown utmost patience and have been diligently waiting in hope of a quick possession and resolution of the grievances, but all in vain. That now, the complainant has been waiting utmost patiently in hope of the allotment of the flat in question, and owing to the massive malafides of the respondents, the complainant would now have all the rights to withdraw from the project and to seek refund of the amounts paid qua the plot along with interest, in accordance with the provisions of the Act 2016. However, in good faith, the complainant is still not pressing for refund and is seeking the possession of the unit in question along with the delayed possession charges and compensation.
- m. That the complainant is burdened with the responsibility of paying the EMI towards the loan. The complainant belongs to a poor family, who had applied under the Affordable Housing Policy, but is suffering at the hands of the respondent/promoter owing to the mala fides thereto.

C. Relief sought by the complainant: -

4. The complainant has sought following relief(s)
- a. Direct the respondent no. 1 to immediately offer/deliver/handover the possession of the unit in question to the complainant.



- b. Direct the respondent no. 1 to pay the delayed possession charges at the prescribed rate of interest for the continuing delay in the delivery of possession of the unit in question to the complainant, in accordance with Section 18(1) of the Act 2016 read with Rule 15 & 16 of Rules of 2017.
 - c. Direct the respondent nos. 2 and 3 to disburse the pending sanctioned loan amounts to the respondent no. 1 immediately, for the facts stated in the instant complaint.
 - d. To set aside the alleged cancellation, if any, for the facts and reasons mentioned in the complaint.
 - e. Direct the respondents to pay a sum of Rs.20,00,000/- on account of grievance and frustration caused to the complainant by the miserable attitude of the respondents and deficiency in services and for causing huge mental agony cause to complainant along with interest from the date of filing the present complaints till its realization.
 - f. The registration, if any, granted to the respondent no. 1 for the project namely, "Easy in Homes", situated in the revenue estates of Sohna, District Gurugram, Haryana, under the provisions of the Act and Rules made thereunder may kindly be revoked under Section 7 of the Act, 2016 for violating the provisions of the Act, 2016.
 - g. The complainant may be allowed with costs and litigation expenses of Rs.1,10,000/-;
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 no. 1.



6. The counsel for the respondent no. 1 has filed an application dated 18.09.2024, with regard to setting aside the order dated 04.07.2025 along with application for dismissal of complainant and has contested the complaint on the following grounds:
- i. That the complainant/allottee applied for the allotment of a residential unit under the Affordable Group Housing Project 'Easy in Homes' situated in the revenue estate of Village Dhunela, Sector-35, Sohna, District Gurugram, Haryana of the respondent no. 1, in the month of January 2016 by paying a sum of Rs.93,005/-. Consequentially, after fully understanding the various contractual stipulation and payment plan for the said apartment, the complainant executed the builder buyer agreement on 15.11.2016.
 - ii. The complainant has filed the present complaint against the respondent no. 1 seeking possession of the unit in question along with delay possession charges. The respondent no. 1/promoter has applied the part occupancy certificate of the said project on 09.10.2023, with the Department of Town and Country Planning Haryana.
 - iii. That the respondent no.1 company has repeatedly and timely raised intimation/reminder/demand letters against the unit of the complainant requesting them to clear their dues towards the subject unit in order to enable respondent no. 1 to hand over the possession of the unit. It is pertinent to note that timely payment of installments is the essence of the affordable group housing policy. The complainant has severely defaulted in paying the consideration amount. Furthermore, in view of the above-mentioned reminder letters, the complainant did not clear his outstanding dues and the respondent no. 1 company was forced to cancel the subject unit qua Final notice cum cancellation letter dated 18.08.2021. It is pertinent to reiterate

sub-clause ii of clause 4.5 of the BBA which states that **"If the allottee fails to deposit the installments within the time period as prescribed in the payment plan issued with the allotment letter and annexed herewith as Annex A, in that event the allotment may be cancelled by the developer and the process as mentioned in clause 15.2 herein, shall be applicable."**

- iv. That the complainant herein has stated that DHFL (respondent no.2) had defaulted in disbursement of the sanctioned loan amounts whereas, with reference to clause 4.11 of the BBA, it has already been agreed between the parties to the buyer agreement that the allottee's obligation to buy to purchase the said unit pursuant to the BBA shall not be contingent on the allottee's ability or competency to obtain such financing and the allottee will remain bound by the terms of the BBA, whether or not the allottee has been able to obtain finance for the purchase of the subject unit. Further it has been agreed by the complainant that any delay by the bank in granting financial assistance or disbursement of loan or any subsequent installment, on any ground whatsoever, shall not entitle the allottee to use it as an excuse for defaulting in making the payment of due installments.
- v. That the occurrence of delay in case of delay beyond the control of the respondent, including but not limited to the dispute with the construction agencies employed by the respondent for completion of the project is not a delay on account of the respondent for completion of the project.
- vi. That with respect to the present agreement, the time stipulated for delivering the possession of the unit was on or before 4 years after obtaining the requisite approval of the building plans or environmental clearance, whichever is later. It is a known fact that the delivery of a project is a dynamic process and heavily dependent on various circumstances and contingencies.



In the present case also, the respondent had endeavored to deliver the property within the stipulated time. The respondent earnestly has endeavored to deliver the properties within the stipulated period but for reasons stated in the present reply could not complete the same.

- vii. That the respondent no.1 has sent notices/letters to the allottee informing him to make the payment of due installments within a period of 15 days from the date of issue of such notices/letters, and still the complainant defaulted in clearing the outstanding dues therefore the respondent herein published for the dues clearance in 'Gurgaon Kesari' newspaper and the complainant had to clear the outstanding amount within 15 days from the date of publication of such notice in the newspaper, failing which the allotment was cancelled by the respondent. It is submitted that the cancellation of the unit is totally valid.
- viii. That the complaint of the complainant is not maintainable and the same is ought to be dismissed as the complainant vide BBA dated 15.11.2016, it has been agreed between the parties that in case a dispute arises in relation to this agreement which cannot be amicably settled, shall be referred to arbitration. Furthermore, it has been mutually decided between the parties that the courts of district Sohna/Gurugram, Haryana alone and the Hon'ble Punjab and Haryana High Court at Chandigarh along shall have the jurisdiction in the matters arising out of/touching and/or concerning the BBA/conveyance deed.
- ix. That the complaint is ought to be dismissed at threshold because the cancellation of the subject unit is a valid cancellation in terms of the Affordable Group Housing Policy, and has been done because of the complainant defaulted in making timely payments.

E. Reply by the respondents no. 2 and 3



7. The respondent no. 2 and 3 filed the reply and contested the present complaint on the following grounds:-
- I. That the Reserve Bank of India ("RBI") owing to governance concern, RBI superseded the Board of Directors of DHFL on 20.11.2019 and appointed the administrator to manage the affairs of the company. On 29.1.2019 RBI filed a company petition bearing No. CP(IB)-4258/MB/2019 ("Petition") before the Hon'ble National Company Law Tribunal, Mumbai ("NCLT") under the Insolvency and Bankruptcy Rules 2019, inter alia, to initiate Corporate Insolvency Resolution Process ("CIRP") against DHFL under the Insolvency and Bankruptcy Code 2016.
 - II. Accordingly, NCLT vide order dated 03.12.2019 commenced Corporate Insolvency Resolution Process ("CIRP"). It is further submitted that during the course of CIRP, bids were submitted by various prospective resolution applicants and the Committee of Creditors ("CoC") of the DHFL constituted under the provisions of the Code, selected and approved the resolution plan submitted by Piramal Capital and Housing Finance Limited ("the Successful Resolution Applicant"). After obtaining NOC from the RBI, the said resolution plan was submitted to the NCLT seeking its approval under Section 31 of the Code. Subsequently, the NCLT vide its order dated 07.06.2021 has approved the resolution plan submitted by the successful resolution applicant.
 - III. Thereafter, an appeal was filed by the successful resolution applicant before the Hon'ble National Company Law Appellate Tribunal ("NCLAT") seeking clarification of the order dated 07.06.2021 passed by the NCLT in terms of waiver of any obligations/liabilities of the DHFL. It is submitted that the Hon'ble NCLAT has clarified that all the dues shall stand extinguished for the



- period prior to the date the NCLT granted approval of the Resolution Plan under section 31 of the Code.
- IV. That the complainant along with his wife Smt. Reeta Nanda had approached respondent no. 2 for availing a financial facility up to a total limit of Rs.16,76,118/- for purchasing unit no. D-313 at 13th floor in Tower-3, Village Dhunela, Sector 35, Sohna, District Gurugram, Haryana and out of sanction amount of Rs.16,76,118/- an amount of Rs.8,75,461/- was released in favour of the complainant/developer. That based on the representations given by the complainant and his wife and in good faith, respondent no. 2 (now respondent No. 3) had agreed to grant, a financial facility vide loan agreement dated 29-30.11.2016 on terms and conditions contained therein which was duly accepted by the complainant & his wife.
- V. Further, in terms of said agreements, it was categorically agreed by the complainant that it will be entirely their responsibility to ensure prompt and timely payment of the equated monthly installments (EMIs). In the said agreements, complainants had undertaken to repay the loan amount within a period of 146 months along with an interest @ 10.25% p.a. to the respondent no. 2 (now respondent no 3). It is pertinent to mention here that the complainant is regularly paying his monthly installments. That the respondent's no. 3 being a financial institution has advanced the loan facility to the complainant for the purpose of purchasing the said flat/unit from respondent no. 1. It is also evident from the pleadings of the complainant that no allegation has been leveled against the Respondents No. 2 & 3 and as per provisions of the Act, 2016 no legal liability is imposed upon the financier for delay in completion and handing over of the flat. That in view of the agreements



referred above and in view of the provisions of the Act, 2016 the proceedings qua respondent no. 2 & 3 shall be closed.

8. 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 based on these undisputed documents and submission made by the parties as well as the written submission of the complainant.

F. Jurisdiction of the authority

9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

F.I Territorial jurisdiction.

10. 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.

F.II Subject matter jurisdiction

11. 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) 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.

12. 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.
13. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022(1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022*** and wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

14. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.



- G. Findings on the relief sought by the complainant.**
- G.I** Direct the respondent no. 1 to immediately offer/deliver/handover the possession of the unit in question to the complainant.
- G.II** Direct the respondent no. 1 to pay the delayed possession charges at the prescribed rate of interest for the continuing delay in the delivery of possession of the unit in question to the complainant, in accordance with Section 18(1) of the Act 2016 read with Rule 15 & 16 of Rules of 2017.
- G.III** Direct the respondent nos. 2 and 3 to disburse the pending sanctioned loan amounts to the respondent no. 1 immediately, for the facts stated in the instant complaint.
- G.IV** To set aside the alleged cancellation, if any, for the facts and reasons mentioned in the complaint.
15. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
16. The complainant was allotted a unit no. D-313, in tower/block- D, in the project "Easy in Homes" situated in sector- 35, Gurugram by the respondent/builder under the Affordable Group Housing Policy 2013. A buyer's agreement was executed between the complainant and the respondent no. 1 on 15.11.2016. As per clause 5.2 of the buyer's agreement read with clause I(IV) of the Affordable Housing Policy, 2013, the possession of the unit was to be offered within 4 years from approval of building plans (16.06.2015) or from the date of environment clearance (28.12.2015) whichever is later. The due date of possession is calculated from date of approval of environment clearance i.e., 28.12.2015, being later. Therefore, the due date of possession comes out to be 28.12.2019. The complainant has paid a sum of Rs.9,97,180/- (Rs.93,005/- from his pocket and Rs.9,04,175/- disbursed by the financial institution) out of the total sale of Rs.18,60,073/-.
17. The complainant has always been ready and willing to retain the allotted unit in question. However, the complainant has only paid a sum of Rs.9,97,180/- towards the unit allotted to him. Vide reminder/demand letters dated 03.04.2019, 24.07.2019, 27.09.2019, intimation letter dated 22.03.2021 and final reminder



dated 25.06.2021, the respondent intimated the complainant regarding payment of the outstanding dues, but he failed to adhere the same. The continuous default on the part of the complainant to make payment of outstanding dues constrained the respondent to make a publication of the same in the newspaper "Gurgaon Kesari".

18. It is observed that the complainant failed to pay the remaining amount as per schedule of payment which led to issuance of final cancellation notice dated 18.08.2021 by the respondent/builder. In line with the aforesaid facts, the written submission filed by the parties and documents placed on record, the main question which arises before the Authority for the purpose of adjudication is that "Whether the said cancellation is a valid in the eyes of law?"
19. Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 talks about the cancellation. The relevant part of the clause is reproduced below: -

"If any successful applicant fails to deposit the instalments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due instalments within a period of 15 days from the date of issue of such notice. If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled. In such cases also an amount of Rs.25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".

20. In the present case, the agreement to sell was executed inter-se the parties on 15.11.2016, and the complainant/allottee has paid an amount of Rs.9,97,180/- which constitutes only 53.60% of the sale consideration. Accordingly, the respondent issued numerous reminder/demand letters dated 03.04.2019, 24.07.2019, 27.09.2019, and the intimation letter dated 22.03.2021 and final reminder dated 25.06.2021, to the complainant. As per Section 19(6) of the Act, 2016, every allottee, who entered into an agreement, shall be responsible to make



necessary payment within the time period as specified in the said agreement. The relevant para is reproduced below:-

"Section 19 Rights and Duties of Allottees

19 (6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any."

21. The respondent published a list of defaulters for payments in the daily Hindi newspaper "Gurgaon Kesari". Finally, the cancellation letter has been issued by the respondent on 18.08.2021.
22. Further, during proceedings dated 04.07.2024, the Authority directed the Planning /Engineering Executive to visit the project site of the subject project and file a status report of construction of the unit in particular and the project in general. The concerned executive visited the site and submitted the report on 26.09.2024 in the Authority and same copy was obtained by the complainant on 07.03.2025. The conclusion as per the LC report is extracted below:-

4. Conclusion:

The site of project namely "Easy Homes" located in Sector-35, Sohna, Gurugram being developed M/s Tulsiani Constructions & Developers Pvt Ltd. has been physically inspected and it is concluded that:

- 1. The project consists of five number of towers, one community hall, one aanganwari and one commercial. The project is registered with the authority vide R.C. no. 144 of 2017 dated 28.08.2017 valid up to 27.08.2021 + 6 months COVID extension = 26.02.2022.*
- 2. The promoter has applied for OC for 2 towers i.e., 1 and 2. Further, about 100+ families are residing in the project.*
- 3. The near about 80% work of landscaping, roads, boundary wall has been completed by the promoter and structure work of STP and UGT work has been completed by the promoter.*
- 4. Work progress for tower 4-5 is near about 85% and for tower 3 is near about 65%.*
- 5. At present, near about 80-90 labours are working on the site.*
- 6. The work progress of the towers is approximately 80-85% percent.*



23. Considering the above findings, the Authority is of the considered view that as per LC report dated 26.09.2024, the construction of the tower where the allotted unit of the complainant is situated is near about 80-85% completed and the complainant has paid an amount of 53% approximately against the total sale consideration. The complainant has failed to pay the outstanding dues as per agreed terms of the builder buyer's agreement and the Affordable Housing Policy, 2013.
24. Upon the above mentioned reasoning the Authority is of the view that in the instant case, the cancellation notice was issued by the respondent on 18.08.2021 and publication of the defaulters list in the newspaper was published on 16.09.2021. However, no formal cancellation letter was issued after publication of the list of defaulters. It is to be noted that in clause 5(iii)(i) of the Policy, 2013, it is specified that in case the allottee fails to clear the outstanding dues within 15 days of publication in the newspaper, then his allotment may be cancelled by the promoter. The word 'may' here does not mean that post 15 days of publication, the allotment shall deemed to be cancelled rather it means that some action is required to be taken by the promoter towards cancellation of the allotment. Moreover, post cancellation of the unit, the respondent has failed to refund of the amount paid by the complainant till date. Seeing, various illegalities on part of the respondent in this particular case, the Authority is of view that the respondent should not be allowed to get unfair advantage of its own wrong. In view of the above, the said cancellation is bad in law and is hereby set aside.
25. 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.

26. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is reproduced as under for ready reference:

1 (iv)

"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

27. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained building plan approval and environment clearance in respect of the said project on 16.06.2015 and 28.12.2015 respectively. The due date of possession is calculated from date of approval of environment clearance i.e., 28.12.2015, being later. Therefore, the due date of possession comes out to be 28.12.2019.

28. **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.

29. 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.

30. 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., 11.12.2025 is **8.85%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.85%**.

31. 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;"*

32. Therefore, interest on the delayed 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 her in case of delay possession charges.



33. 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 provisions of the Act. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the possession of the subject apartment was to be delivered by 28.12.2019. The occupation certificate has not been received till date from the competent authority. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject flat and it is failure on part of the promoter to fulfil its obligations and responsibilities to hand over the possession within the stipulated period.
34. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on part of the respondent is established. As such, the allottee shall be paid by the promoter, interest for every month of delay from the due date of possession i.e., 28.12.2019 till offer of possession plus 2 months after obtaining the occupation certificate 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.
35. The respondent/promoter is further directed to restore the unit in question within a period of one month from the date of this order. In case the respondent has already created third party rights on the unit in question, then the respondent/promoter shall offer possession of a similarly located unit/flat of same size and specifications at same rate as per the buyer's agreement dated 15.11.2016 in the said project to the complainant.
36. The complainant is further seeking relief w.r.t execution of conveyance deed of the unit in question in her favour. The Authority observes that as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. 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. The occupation certificate has not been obtained by the respondent/promoter till date from the competent authority. Therefore, the respondent/promoter is directed to handover the possession of the unit after obtaining the occupation certificate on payment of outstanding dues if any, after adjustment of delay possession charges, and to get the conveyance deed of the allotted unit executed in her favour in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

G.V. Direct the respondents to pay a sum of Rs.20,00,000/- on account of grievance and frustration caused to the complainant by the miserable attitude of the respondents and deficiency in services and for causing huge mental agony cause to complainant along with interest from the date of filing the present complaints till its realization

G.VI The complainant may be allowed with costs and litigation expenses of Rs.1,10,000/-.

37. The complainant in the aforesaid head is seeking relief w.r.t compensation. Hon'ble Supreme Court of India, in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP &Ors.* (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation 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 shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72.

H. Directions of the authority

38. 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 promoter as per the functions entrusted to the authority under section 34(f) of the Act:



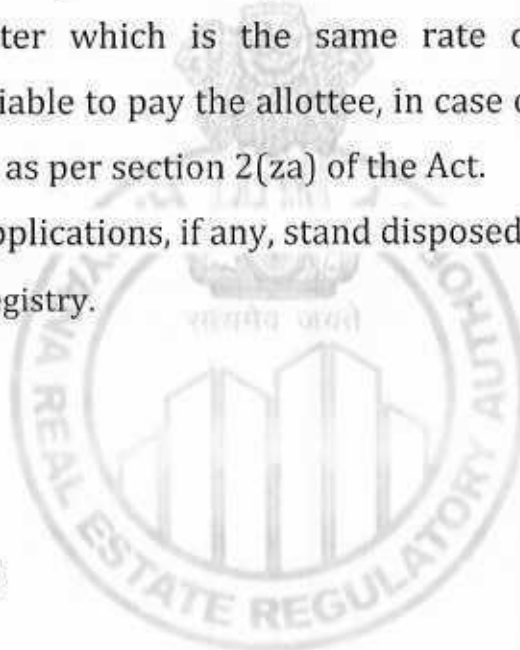
- i. The cancellation letter dated 18.08.2021, is hereby set aside. The respondent is directed to restore the unit in question within a period of 30 days from the date of this order. In case the respondent has already created third party rights on the unit in question, then the respondent/promoter shall offer possession of a similarly located unit/flat of same size and specifications at same rate as per the buyer's agreement dated 15.11.2016 in the said project to the complainant.
- ii. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate i.e., 10.85% per annum for every month of delay from the due date of possession i.e., 28.12.2019 till the expiry of 2 months from the date of offer of possession after obtaining occupation certificate 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.
- iii. The respondent is directed to supply a copy of the revised statement of account after adjusting the delay possession charges within a period of 30 days to the complainant. 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 revised statement of account.
- iv. The respondent shall handover possession of the unit on payment of outstanding dues if any, after adjustment of delay possession charges, after obtaining the occupation certificate and to get the conveyance deed of the unit of the complainant executed in his favour in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.
- v. The arrears of such interest accrued from due date of possession 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 allottees before 10th of the subsequent month as per rule 16(2) of the rules.

- vi. The respondent shall not charge anything from the complainant which is not provided under Affordable Housing Policy, 2013.
 - 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., 10.85% 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 delay possession charges as per section 2(za) of the Act.
39. Complaint as well as applications, if any, stand disposed off accordingly.
40. Files be consigned to registry.

Dated: 11.12.2025




(Phool Singh Saini)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram

HARERA
GURUGRAM