

BEFORE THE HARYANA REAL ESTATE REGULATORY
 AUTHORITY, GURUGRAM

 Date of decision: **04.11.2025**

NAME OF THE BUILDER		Vikas Park Private Limited	
PROJECT NAME		"Hero Homes"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/6266/2024	Hemlata Jain and Chandra Kala Jain V/S Vikas Parks Private Limited	Shri Arun Yadav, Advocate And Shri Somesh Malhotra, Advocate
2.	CR/6262/2024	Suraksha Singh and Kush Kapoor V/S Vikas Parks Private Limited	Shri Arun Yadav, Advocate And Shri Vikas Verma, Advocate
3.	CR/6267/2024	Ashish Mangal and Hemlata Jain V/S Vikas Parks Private Limited	Shri Arun Yadav, Advocate And Shri Somesh Malhotra, Advocate
4.	CR/6293/2024	Vineeta Dhauni and Govind Singh Dhauni V/S Vikas Park Private Limited	Ms Sanju, Advocate And Shri Somesh Malhotra, Advocate
5.	CR/6360/2024	Sachin Galgat and Neelam V/S Vikas Park Private Limited	Shri Sanju, Advocate And Shri Somesh Malhotra, Advocate
6.	CR/6509/2024	Deepak Kumar Sainy and Neha Singh V/S Vikas Park Private Limited	Shri Sanju, Advocate And Shri Somesh Malhotra, Advocate
7.	CR/61/2025	Manoj Kumar and Asha Saini V/S Vikas Park Private Limited	Shri Sanju, Advocate And Shri Somesh Malhotra, Advocate

CORAM:	
Shri Ashok Sangwan	Member
Shri Phool Singh Saini	Member

ORDER

1. This order shall dispose of all the 7 complaints titled as above filed before the authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule

28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "**Hero Homes**" being developed by the same respondent/promoter i.e., M/s Vikas Park Private Limited. The terms and conditions of the builder buyer agreement and allotment letter against the allotment of unit in the said project of the respondent/builder and fulcrum of the issues involved in these cases pertains to failure on the part of the promoter to complete the construction of the project, seeking delay possession along with interest at the prescribed rate, delay possession charges and the execution of the conveyance deeds.
3. The details of the complaints, reply to status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

<i>Project Name and Location</i>		<i>"Hero homes", Sector-104, Dwarka Expressway, Village Dhanwapur, Gurugram, Haryana.</i>							
<i>7.1. Possession of the said apartment along with parking:</i>									
<i>"..... The Promoter assures to handover possession of the apartment for residential usage along with parking, on or before 31.08.2023, unless there is delay due to force majeure, court orders, government policy/guidelines....."</i>									
<i>OC: 20.01.2025 Offer: 25.02.2025</i>									
Comp. No.	Date of application	Agreement for sale	Unit no. and area	Total sale consideration and amount paid	Due Date of possession				
CR/6266/2024	10.08.2019 [pg. 25 of complaint]	26.08.2019 [pg. 23 of complaint]	1601, 16 th floor, Tower-02	TC ₹73,37,474/- [as per buyer agreement on page no. 26 of complaint]	29.02.2024				



			1099 sq. ft. super area 683.83sq.ft. carpet area [as per buyer agreement at page 25 of complaint]	AP ₹66,41,629/- [as per customer ledger dated 19.03.2024 on page no. 54 of complaint]	[agreement for sale at page 30 of complaint] Note: A grace period of 6 months is allowed being unconditional.
CR/6262/2024	28.12.2018 [pg. 33 of complaint]	22.05.2019 [pg. 29 of complaint]	1603, 16 th floor, Tower-02 1389 sq. ft. super area 884.58 sq. ft. carpet area [as per buyer agreement at page 33 of complaint]	TC ₹91,09,758/- [as per buyer agreement on page no. 34 of complaint] AP ₹85,62,121/- [as per customer ledger dated 26.02.2025 on page no. 231 of reply]	29.02.2024 [agreement for sale at page 38 of complaint] Note: A grace period of 6 months is allowed being unconditional.
CR/6267/2024	10.08.2019 [pg. 25 of complaint]	26.08.2019 [pg. 23 of complaint]	1602, 16 th floor, Tower-02 1099 sq. ft. super area 683.83 sq. ft. carpet area [as per buyer agreement at page 25 of complaint]	TC ₹73,37,474/- [as per buyer agreement on page no. 26 of complaint] AP ₹66,41,629/- [as per customer ledger dated 19.03.2024 on page no. 54 of complaint]	29.02.2024 [agreement for sale at page 30 of complaint] Note: A grace period of 6 months is allowed being unconditional.
CR/6293/2024	14.02.2019 [pg. 39 of complaint]	03.05.2019 [pg. 36 of complaint]	904 9 th floor, Tower-03 1099 sq. ft. super area 683.83 sq. ft. carpet area [as per buyer agreement at page 39 of complaint]	TC ₹79,56,474/- [as per buyer agreement on page no. 40 of complaint] AP ₹71,69,637/- [as per customer ledger dated 20.12.2024 on page no. 70 of complaint]	29.02.2024 [agreement for sale at page 44 of complaint] Note: A grace period of 6 months is allowed being unconditional.
CR/6360/2024	24.08.2022 [pg. 46 of complaint]	29.08.2022 [pg. 41 of complaint]	2603, 26 th floor, Tower-04 1359 sq. ft. super area 861.97 sq. ft. carpet area [as per buyer agreement at page 46 of complaint]	TC ₹1,11,00,692/- [as per buyer agreement on page no. 48 of complaint] AP ₹1,09,86,523/- [as per customer ledger dated 03.05.2024 on page no. 72 of complaint]	30.09.2024 [6-month grace period not allowed as agreement was executed after Covid-19]



					[agreement for sale at page 52 of complaint]
CR/6509/2024	22.12.2018 [pg. 42 of complaint]	14.06.2019 [pg. 40 of complaint]	801, 8 th floor, Tower-02 1099 sq. ft. super area 683.83 sq. ft. carpet area [as per buyer agreement at page 42 of complaint]	TC ₹74,99,579/- [as per buyer agreement on page no. 43 of complaint] AP ₹67,79,030/- [as per customer ledger dated 06.12.2024 on page no. 71 of complaint]	29.02.2024 [agreement for sale at page 47 of complaint] Note: A grace period of 6 months is allowed being unconditional
CR/61/2025	22.12.2018 [pg. 43 of complaint]	14.06.2019 [pg. 38 of complaint]	802, 8 th floor, Tower-02 1099 sq. ft. super area 683.83 sq. ft. carpet area [as per buyer agreement at page 43 of complaint]	TC ₹74,99,579/- [as per buyer agreement on page no. 44 of complaint] AP ₹67,78,814/- [as per customer ledger dated 05.12.2024 on page no. 61 of complaint]	29.02.2024 [agreement for sale at page 48 of complaint] Note: A grace period of 6 months is allowed being unconditional
<p><i>Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:</i></p> <p><i>TC: Total consideration</i></p> <p><i>AP: Amount paid by the allottee(s)</i></p>					

4. It has been decided to treat the aforesaid complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
5. The facts of the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/6266/2024 titled as Hemlata Jain & Chandra Kala Jain V/s M/s Vikas Park Private Limited*** are being taken into consideration for determining the rights of the allottee(s) qua the reliefs sought by the complainant-allottees.

A. Unit and Project related details:

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

Sr. No.	Particulars	Details
1	Name of the project	"Hero homes", Sector-104, Dwarka Expressway, Village Dhanwapur, Gurugram, Haryana
2	Nature of the project	Residential Group Housing
3	RERA Registered/ not registered	RC/REP/HARERA/GGM/743/475/87 dated 28.08.2023, valid up to 30.09.2027
4	Unit no.	1601, 16 th floor, Tower-02 along with basement parking no. B2-440 admeasuring 134.55 sq. ft. in the basement-2 [as per buyer agreement at page 25 of complaint]
5	Unit area admeasuring	1099 sq. ft. super area 683.83 sq. ft. carpet area [as per buyer agreement at page 25 of complaint]
6	Date of application	10.08.2019 [pg. 25 of complaint]
7	Date of agreement for sale (not registered)	26.08.2019 [pg. 23 of complaint]
8	Possession clause	<i>7.1. Possession of the said apartment along with parking: "..... The Promoter assures to handover possession of the apartment for residential usage along with parking, on or before 31.08.2023, unless there is delay due to force majeure, court orders, government policy/guidelines....."</i> [as per agreement for sale at page 30 of complaint]
9	Due date of possession	29.02.2024 [agreement for sale at page 30 of complaint] Note: A grace period of 6 months is allowed being unconditional.
11	Total sale consideration	₹73,37,474/- [as per buyer agreement on page no. 26 of complaint]

12	Amount paid by the complainant	₹66,41,629/- [as per customer ledger dated 19.03.2024 on page no. 54 of complaint]
13	Occupation certificate /Completion certificate	20.01.2025 [pg. 29 of reply]
14	Offer of possession	25.02.2025 [pg. 36 or reply]

B. Facts of the complaint: -

7. The complainants have made the following submissions: -

- That the Respondents in the year 2018 launched a project in name of "Hero Homes" at sector -104, Dwarka Expressway, Gurugram, Haryana. The project was widely publicized by the respondent company through print media as well as by adopting other means of publicity to attract the buyers and the same was mentioned by the respondents in its brochure.
- That the complainant was promised by respondent that the project will be equipped with housing facilities, club facilities and other facilities required for quality public living. Further, submitted that upon the promises and assurances of the respondent company, the complainant got interested in the project and approached the respondent company and was allotted T-02-unit no. 1601 along with basement parking.
- That the applicant booked apartment no. T-02-unit no. 1601 of size of carpet area of 683.3 square feet on 16th Floor Tower -02 along with a basement having parking no. B2-440 admeasuring 134.55 square feet in basement - 2 and entered into the agreement with respondent i.e. agreement to sell dated 26.08.2019.
- That as per the agreement to sell the total sale consideration of the unit in terms of agreement 26.8.2019 was Rs.73,37,474/- inclusive of basic sale price, external development charges, infrastructural augmentation charges, external development charges ,infrastructure

cost & concerned authority fees/charges for obtaining water/sewerage/storm/ electricity connection for the project , preferred location charges/taxes/fees levies etc., cost of providing electric wiring ,electrical connectivity to the apartment ,power backup charges, lift ,water line and plumbing ,finishing with paint, marbles, tiles, doors, windows, fire detection and firefighting equipment in the common areas, maintenance charges etc. and includes cost for providing all other facilities, amenities and specification to be provided within the apartment for residential usage along with parking in the project.

- e. That the complainant paid the booking amount of Rs. 807674/- dated 23.12.2018 and thereafter paid all demands raised by respondent amounting total to Rs. 66,41,629/-.
- f. That the respondent promised delivery of possession of the flat till 31.8.23. The installment of "allotment of flat" was paid on 23.12.2018 and the flat should have been delivered latest by 31.08.2023 according to "agreement to sell".
- g. That the complainant, believing the promises and assurances of timely delivery of the unit by the respondent, availed credit facility/ Loan of Rs.52,50,000/- from HDFC bank to ensure timely payment to the respondent as and when so demanded, upon raising their demands.
- h. That the complainant, believing the promises and assurances of timely delivery of the unit by the respondent, paid timely payment to the respondent as and when so demanded, upon raising their demands, and in furtherance of the same.
- i. That the respondent failed to deliver the possession of flat within stipulated time and there is delay of 1 years 3 months in delivery of

possession. Further even after receiving almost all due payments from complainant for against purchase of the flat in the year 2018 the progress of the flat moved at the snail's pace and till date possession has not been offered.

- j. That as per clause 7.1 of the agreement to sell, the possession date for the impugned unit T-02 unit no. 1601 was agreed to be ready by 31.08.2023. Despite the timely payments, the respondent failed to deliver possession of the unit within the agreed time-frame (i.e. by 31.08.2023) and the respondent never bothered to intimate any reason for the delay in handing over of possession to the complainant. Therefore, the respondent has breached the sanctity of the agreement to sell.
- k. That there is an unexplained delay of almost 1 years 3 months in handing over of possession by respondent and till date also no possession has been offered to the complainant in terms of the agreement to sell and the law of the land. Therefore, the complainant has a genuine grievance which requires intervention of the Authority.
- l. That complainant was forced to concede to arbitrary demands of respondent as complainant had already spent more than Rs.66,41,629/- in acquisition of the flat in question.

C. Relief sought by the complainants:

- 8. The complainants have sought following relief:

- a. To direct the respondent company to handover the possession of flat of T-02 Unit no. 1601.
- b. To direct the respondent company to pay interest 18% for the delayed period of handing over the possession calculated from due date of handing over possession of unit no. T-02 Unit no. 1601 as per

the Agreement to sell i.e. from 31.08.2023 till actual date of handing over possession.

- c. To direct the respondent company to pay Rs 1,00,000/- as legal expenses towards the present complaint.
- d. To direct the Respondent to not levy any holding charges from the complainant.
- e. To direct the respondent to not levy any maintenance charges from the complainant till date of actual handover.
- f. Any other relief as the Authority may deem fit and proper in the facts and circumstances of the case.

D. Reply filed by the respondent:

9. The respondent has contested the complaint on the following grounds:

- a. That the respondent i.e., Vikas Parks Private Limited, a company duly incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013 and a subsidiary company of Hero Realty Private Limited, real estate arm prestigious Hero Group. The respondent is engaged in the business of construction and development of real estate projects and is known amongst the customers of the real estate and infrastructure sector for its trust and ethical conduct, synonymous with the name and brand "Hero".
- b. That the complaint has been preferred by the complainants on purported grounds against the respondent, seeking *inter-alia* delay interest from the due date of possession till actual handing over of possession. The complaint pertains to apartment no. 1601, admeasuring 683.83 sq. ft. in Tower-2, on 16th Floor, along with basement parking no. B2-440, in project "Hero Homes" located in Sector – 104, Gurugram, Haryana for which an application for grant of occupation certificate has been made on 21.02.2024 and the

occupation certificate has been granted by Director Town and Country Planning vide office Memo no. ZP-968-Loose/SD(RD)/2025/2603 dated 20.01.2025. An intimation of receipt of OC has also been sent to complainants vide email dated 23.01.2025. The possession in respect of the apartment in question has been offered by the respondent to the complainants vide offer of possession letter dated 25.02.2025.

- c. That the contents of Occupation Certificate and the endorsements clearly indicate that the project was complete well in time. The project had received Fire NOC from Director General, Fire Service, Haryana on 17.01.2024. District Town Planner had given his endorsement on application for grant of OC on 08.08.2024, Senior Town Planner on 13.08.2024 and Chief Engineer- I, HSVP on 30.08.2024 and 12.09.2024, thereby clearly indicating the project, despite being complete, was stuck in bureaucratic paperwork.
- d. That the complainants have neither any cause of action nor any *locus standi* to maintain the complaint against the respondent. The complainants are now seeking the complete amendment/modification/re-writing of the terms and conditions of the agreement/understanding between the parties as per their own whims and fancies while nit-picking facts and laws as per their convenience and blowing hot and cold in the same breath. This is evident from the pugnacious averments as well as the prayers sought in the complaint which are merely an afterthought, and never did the complainants raised any objection to any term and conditions of the mutual agreement and the stage of construction of the project.
- e. That the complainants vide agreement for sale executed 26.08.2019 (registered on 02.09.2019), whereby the complainants agreed to the

explicit terms of the sale. further, complainants have constantly been updated of the stages of construction/development of the project vide various emails sent by the respondent.

- f. The complaint is barred by *law of estoppel*. The sale of unit is strictly subject to the terms of the agreement which the complainants had agreed to. The complainants are well-acquainted that clause 7.1 of the agreement unequivocally encapsulates the principle that the complainants cannot claim delay possession charges in the event of *force majeure* circumstances mentioned in the agreement. These unforeseen events, entirely beyond the control of the respondent company, had significantly disrupted and delayed the originally projected timeline for completion. The clause underscores the acknowledgment of such extraordinary occurrences as legitimate grounds for the delay, absolving the respondent of liability for associated delays while maintaining the complainants' obligations under the agreement.
- g. That clause 7.1 of the agreement categorically provides that the liability of the promoter was only till the completion of development. The date of submission of application with the competent authority for obtaining completion/occupancy/part-occupancy certificate is to be reckoned as date of completion of development/possession of the tower/apartment. The application for grant of occupation certificate for tower 1 to 4 and part basement 1 and basement 2 was applied on 21.02.2024, clearly indicating that the construction in respect of the Tower - 1 to 4, part of basement 1 and basement 2 of the project were complete. Further, Hon'ble NCDRC in consumer case no. 3872 of 2017 titled "***Avinash Bhalla versus Mapsko Builders Private Limited***" drew a presumption that application of occupancy certificate

indicates completion of construction, as the developer is obligated to apply for grant of occupancy certificate only upon completion of construction. The respondent is entitled to extension of time for the period the authorities take for providing the occupancy/part-occupancy/completion certificate and no claim of damages or compensation can be made out by the allottee against the promoter in case of delay in handing over possession on account of the said reason. The time taken by the competent authorities in grant of occupation certificate is beyond the control of the respondent.

h. That in case of delay/failure due to occurrences of force majeure events/ events beyond the control of the respondent company or impacting the real estate project, the respondent is entitled to extension of time. There has been no delay on the part of the respondent, and the extension in delivery schedule is due to *force majeure* and other reasons.

i. That said, the construction of the project commenced as per schedule, however, in the intervening period when the construction and development was under progress there were various instances and scenarios when the development and construction work had to be put on hold due to reasons beyond the control of the respondent/developer. The parties have agreed that if the delay is on account of force majeure conditions, the developer/respondent shall not be liable for performing its obligations. The project got delayed and proposed possession timelines were shifted within the framework of the agreement as agreed on account of following reasons among others as stated below:-

i. That over last few years Delhi-NCR has faced unprecedented levels of severe air pollution, especially during winter months,

primarily due to construction dust, vehicular emissions, and industrial activities. As a measure to curb arrest the dangerous levels of air pollution and to improve the air quality, various governmental authorities including DPCC, GRAP Sub-Committee, etc. as well as judiciary including Hon'ble Supreme Court of India and National Green Tribunal imposed restrictions on construction activities to combat the worsening air quality in Delhi-NCR. That stay orders are passed every year either by Hon'ble Supreme Court, NGT or/and other pollution boards, competent courts, Environment Pollution (Prevention & Control) Authority established under Bhure Lal Committee, which in turn affect the project.

- ii. Adding to the woes of the developers, COVID-19 had a profound impact on the real estate sector, affecting construction activities in several significant ways. Many construction sites were temporarily shut down due to lockdowns and restrictions imposed to control the spread of the virus. This led to delays in project timelines and halted ongoing work. That Authority considering the grave and unprecedented situation had granted extension of 6 months' and thereafter 3 months' grace period to all developers, vide its notifications dated 26.05.2020 and 02.08.2021, respectively.
- iii. That development of every residential Project mandatorily requires proportionate development of EWS housing. That on account of change of location for development of EWS housing at the behest of the landowners, which is beyond the control of the respondent company, the development of proportionate EWS housing for respondent's project got delayed by approximately

24 months which was otherwise planned simultaneously with the development of the project.

- j. That the complaint is liable to be dismissed with imposition of exemplary cost for wasting the precious time and efforts of the Authority. The present complaint is an utter abuse of the process of law, and hence deserves to be dismissed.

E. Jurisdiction of the Authority

10. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

E.I Territorial jurisdiction

11. 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

12. 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;

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee and the real

estate agents under this Act and the rules and regulations made thereunder."

13. So, in view of the provisions of the Act of 2016 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 regarding relief sought by the complainants.

F.I. To direct the respondent company to handover the possession of flat of T-02 Unit no. 1601.

F.II. To direct the respondent company to pay interest 18% for the delayed period of handing over the possession calculated from due date of handing over possession of unit no. T-02 Unit no. 1601 as per the agreement to sell i.e. from 31.08.2023 till actual date of handing over possession.

F.III. To direct the respondent company to pay Rs 1,00,000/- as legal expenses towards the present complaint.

F. IV. To direct the respondent to not levy any holding charges from the complainant.

F.V. Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.

14. In the present matter the complainants purchased a unit bearing no. 1601, 16th floor in tower T-02 admeasuring 683.83 sq. ft. carpet area & 1099 sq. ft. super area in the project namely Hero Homes Tower 02 located in sector 104, Gurugram. The complainant paid an amount of ₹65,94,965/- against the total sale consideration of ₹73,37,474/-. An agreement for sale was executed between the complainant and the respondent on 26.08.2019 and according to clause 7.1 of the agreement the respondent was obligated to complete the construction of the unit as provided under Rule 2(1)(f) of Rules, 2017 i.e., by 31.08.2023 (as mentioned in Harera website).

15. As per documents available on record, the respondent has offered the possession of the allotted unit on 25.02.2025 after obtaining of Occupation Certificate from the Competent Authority on 20.01.2025. The complainant

took a plea that offer of possession was to be made in 2023, but the respondent has failed to handover the physical possession of the allotted unit within stipulated period of time.

16. In the present complaint, the complainants intend to continue with the project and is seeking delay possession charges as provided under the provisions of section 18(1) of the Act which reads as under:

"Section 18: - Return of amount and compensation

(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”

17. Clause 7.1 of the agreement for sale is reproduced below:-

"7.1 POSSESSION OF THE APARTMENT FOR RESIDENTIAL USAGE

7. Schedule for possession of the said Apartment for residential usage – The Promoter agrees and understands that timely delivery of possession of the Apartment for residential usage along with parking to the Allottee(s) and the common areas to the association of allottees or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement. For the purpose of this Clause/ Agreement, the date of submission of application with the competent authority for obtaining completion/occupancy/part-occupancy certificate in respect of the tower, in which the Apartment is comprised, shall be reckoned as the date of completion of development/possession of the tower/ Apartment and the Promoter shall be deemed to have fulfilled the responsibility qua the completion of development and possession as mentioned in this Agreement. No claim by way of damages/ compensation shall lie against the Promoter in case of delay in handing over possession on account of the said reason and the Promoter shall be entitled to extension of time for the period the authorities take for providing the occupancy/part-occupancy/ completion certificate." (Emphasis supplied)"

18. **Due date of handing over of possession:** The promoter has proposed to handover the possession on 31.08.2023, Therefore, the due date of handing over of possession comes out to be 31.08.2023. Further, as per

HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020, the completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 31.08.2023 i.e. after 25.03.2020. As far as grace period of 6 months is concerned, the same is allowed except in case ***CR/6360/2024 titled as Sachin Galgat and Neelam V/s M/s Vikas Park Private Limited*** in which agreement was executed on 29.08.2022 and due date of possession comes out to be 30.09.2024. Therefore, the due date of possession comes out to be 29.02.2024.

19. **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."

20. 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;"

21. 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., 04.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
22. **Rate of interest to be paid by complainant/allottee for delay in making payments:** 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.
23. 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.
24. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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 7.1 of the agreement for sale executed between the parties, the possession of the said unit was to be as per Rule 2(1)(f) of Rules, 2017. Therefore, the due date of handing over possession comes out to be 29.02.2024. In the present case, the complainant was offered possession by the respondent on 25.02.2025 after obtaining occupation certificate dated 21.01.2025 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 allotted unit to the complainant as per the terms and conditions of the agreement for sale executed between the parties.

25. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 21.01.2025. However, the respondent offered the possession of the unit in question to the complainant only on 25.02.2025. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.
26. Accordingly, 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 complainant is entitled to delay possession charges at prescribed rate of the interest @ 10.85% p.a. from due date of possession till valid offer of possession plus two months after obtaining OC

from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act, 2016 read with rule 15 of the rules.

F.II. Execute Conveyance Deed

27. The Authority observes that the conveyance has been subjected to all kinds of terms and conditions of agreement and the complainants not being in default under any provisions of agreement and compliance with all provisions, formalities and documentation as prescribed by the promoters. A reference to the provisions of sec. 17 (1) and proviso is also must and which provides as under:-

"Section 17: - Transfer of title

17(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

28. The respondent is under an obligation as per section 17 of Act to get the conveyance deed executed in favour of the complainant. The respondent is directed to execute the conveyance deed within one months from the date of this order.

G. Directions of the Authority

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

- a. 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 the due date of possession till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with rule 15 of the rules.
- b. 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 delayed possession charges as per Section 2(za) of the Act.
- c. The respondent is further directed to issue updated statement of account to the complainant after adjustment of DPC and the complainant shall pay the outstanding dues, if any, to the respondent within a period of 30 days alongwith equitable rate of interest and the respondent shall handover the possession thereafter. In case the respondent fails to handover the physical possession of the unit within a period of 30 days after payment of dues, if any, by the complainant, the delayed possession shall be admissible from the due date of possession till the date of actual handing over of possession.
- d. The respondent is directed to executed conveyance deed of the allotted unit 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. 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.
- e. The respondent shall not charge anything from the complainants which is not the part of the agreement for sale.

f. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.

30. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

31. Complaint stands disposed of. True certified copy of this order shall be placed in the case file of each matter.

32. File be consigned to registry.



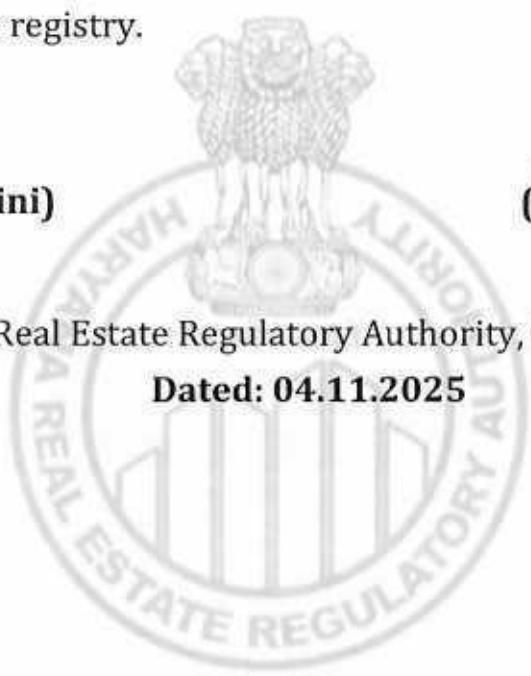
(Phool Singh Saini)
Member



(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 04.11.2025



HARERA
GURUGRAM