

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

Date of decision: 23.12.2025

NAME OF THE BUILDER		M/s Vatika Limited	
PROJECT NAME		"Tranquil Heights Ph-I", Sector- 82A, Gurugram, Haryana	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/3989/2025	Siddharth Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)
2.	CR/3994/2025	Siddharth Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)
3.	CR/3993/2025	Siddharth Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)
4.	CR/3990/2025	Meena Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)
5.	CR/3992/2025	Meena Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)
6.	CR/3995/2025	Dal Chandra Rastogi Rastogi V/s Vatika Limited	Sh. Vijay Kumar Sharma (Complainant) Ms. Anjalika (Respondent)

CORAM:

Shri Arun Kumar

Chairman

Shri Phool Singh Saini

Member

ORDER

1. This order shall dispose of all the complaints titled as above filed before this authority in form CRA 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, **“Tranquil Heights Ph-I”** (group housing colony) being developed by the same respondent/promoter i.e., **M/s Vatika Limited**. The terms and conditions of the buyer’s agreements, fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of delay possession charges along with interest.
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:

Project Name and Location		Tranquil Heights Ph-I, Sector 82A, Gurugram, Haryana (Group Housing)				
Occupation certificate: - Not obtained						
Offer of possession: Not offered						
Possession clause: 13. Schedule for possession of the said apartment						
The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said building/said apartment within a period of 48 months from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clauses 14 to 17 & 37 or due to failure of allottee(s) to pay in time the price of the said apartment along with all other charges and dues in accordance with the schedule of payments given annexure I or as per the demands raised by the developer from time to time or any failure on the part of the allottee(s) to abide by any of the terms or conditions of this agreement						
Sr.no.	CR No.	Unit	BBA	Due date	TSC	AP
1	CR/3989 /2025	2604, 26 th floor, builder E (page	30.05.2016 (Page 20 of complaint)	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020	Rs.1,72,38,915/- (As per SOA, page	Rs. 47,45,727 (As per SOA, page

		23 of complaint)		(Calculated to be 48 months from the date of execution of buyer's agreement)	56 of complaint)	56 of complaint)
2	CR/3994/2025	1804, 18 th floor, builder A (page 23 of complaint)	30.05.2016 (Page 20 of complaint)	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020 (Calculated to be 48 months from the date of execution of buyer's agreement)	Rs.1,19,53,485/- (As per SOA, page 56 of complaint)	Rs. 34,25,724/- (As per SOA, page 56 of complaint)
3	CR/3993/2025	603, 6 th floor, builder A (page 23 of complaint)	30.05.2016 (Page 20 of complaint)	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020 (Calculated to be 48 months from the date of execution of buyer's agreement)	Rs.1,81,16,190/- (As per SOA, page 56 of complaint)	Rs. 47,98,108/- (As per SOA, page 56 of complaint)
4	CR/3990/2025	2103, 21 st floor, builder E (page 25 of complaint)	01.07.2015 (Page 22 of complaint)	01.07.2019 (Grace period in lieu of Covid-19 is not allowed as the due date of possession is 01.07.2019 and the respondent is claiming benefit of lockdown which came into effect on 23.03.2020)	Rs.1,61,22,270/- (As per SOA, page 58 of complaint)	Rs. 66,57,093/- (As per SOA, page 58 of complaint)
5	CR/3992/2025	302, 3 rd floor, builder A (page 23 of complaint)	30.05.2016 (Page 20 of complaint)	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020 (Calculated to be 48 months from the date of execution of buyer's agreement)	Rs.1,25,20,095/- (As per SOA, page 55 of complaint)	Rs. 34,46,676/- (As per SOA, page 55 of complaint)
6	CR/3995/2025	904, 9 th floor, builder E (page 23 of complaint)	30.05.2016 (Page 20 of complaint)	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020 (Calculated to be 48 months from the date of execution of	Rs.1,81,16,190/- (As per SOA, page 56 of complaint)	Rs. 47,98,171/- (As per SOA, page 56 of complaint)

				buyer's agreement)		
Relief sought by the complainant(s):-						
1. Refund						
2. Litigation cost						

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of subject unit for not handing over the possession by the due date, seeking refund.
5. It has been decided to treat the said 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.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/3989/2025 Siddharth Rastogi Vs Vatika Limited.** are being taken into consideration for determining the rights of the allottee(s) qua delay possession charges along with interest and compensation.

A. Project and unit related details

7. The particulars of the project, the amount of sale consideration, the amount paid by the complainant, 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	Tranquil Heights Ph-I, Sector 82A, Gurugram, Haryana
2.	Nature of the project	Griup Housing
3.	Project area	11.218 acres
4.	DTCP License no.	22 of 2011 dated 24.03.2011 valid upto 23.03.2019
5.	Name of licensee	M/s Ganesh Buildtech Pvt. Ltd. & others, C/o Vatika Limited
6.	RERA Registered/ not registered	Registered vide no. 359 of 2017 area admeasuring 22646.293 sqm. Valid upto 30.04.2021

7.	Builder Buyer Agreement	30.05.2016 (Page 20 of complaint)
8.	Unit details	2604, 26 th floor, builder E (page 23 of complaint)
9.	Unit area admeasuring	2265 sq. ft. (Super Area)
10.	Possession Clause	13. Schedule for possession of the said apartment The developer based on its present plans and estimates and subject to all just exceptions, contemplates to complete construction of the said building/said apartment within a period of 48 months from the date of execution of this agreement unless there shall be delay or there shall be failure due to reasons mentioned in clauses 14 to 17 & 37 or due to failure of allottee(s) to pay in time the price of the said apartment along with all other charges and dues in accordance with the schedule of payments given annexure I or as per the demands raised by the developer from time to time or any failure on the part of the allottee(s) to abide by any of the terms or conditions of this agreement.
11.	Due date of delivery of Possession	30.05.2020 + 6 months in lieu of covid 19 = 30.11.2020 (Calculated to be 48 months from the date of execution of buyer's agreement)
12.	Total sale consideration	Rs.1,72,38,915/- (As per SOA, page 56 of complaint)
13.	Amount paid by the complainant	Rs. 47,45,727 (As per SOA, page 56 of complaint)
14.	Occupation Certificate	Not obtained
15.	Offer of Possession	Not offered

B. Facts of the complaint:

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

- a) That on 14.04.2016, complainant booked an apartment in respondents project for a sale consideration of Rs. 1,65,18,645/-, complainant paid a sum of Rs. 47,45,727/- to the respondent. On 30.05.2016 a buyer's agreement was executed between the parties. As per clause 13 of the BBA, respondent had

to deliver possession of the said apartment to the complainant within 48 months from the date of execution of BBA i.e., 29.05.2020.

- b) That respondent sent a letter dated 09.05.2025 whereby respondent acknowledged complainant's payment of Rs. 47,45,727/-, unilaterally cancelled complainant's allotment, sent a postdated cheque of Rs.5,00,000/- towards part payment on account of refund without disclosing exact date for payment of complete refund and the particulars regarding interest payable to complainant.
- c) That complainant vide letter dated 16.05.2025 objected to respondent's unilateral cancellation. As per terms of refund offered by respondent were not clear, complainant rejected respondent's offer as contained in letter dated 09.05.2025 and returned the postdated cheque.
- d) That on 27.06.2025 respondent sent another letter with same postdated cheques of Rs. 5,00,000/- towards part payment on account of refund. But this time again the terms of refund offered by respondent were not clear and therefore complainant has not accepted respondent's offer. Hence, the complaint is being filed for relief of possession with interest for delay in offer of possession of the apartment by respondent.

C. Relief sought by the complainant:

9. The complainants have sought following relief(s):
 - I. Direct the respondent to refund the entire amount paid by the complainants i.e., Rs.47,45,727/- along with applicable interest and compensation.
 - II. Direct the respondent to pay Rs.55,000/- to complainant as litigation expenses.
10. On the date of hearing, the Authority explained to the respondent/promoters 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:

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

- a) That in consonance to the same, a builder buyer agreement was executed between the complainant and the respondent on 30.05.2016 for unit bearing no. 1804, 18th floor, building A admeasuring super area of 1635 sq. ft. for a total sale consideration of Rs. 1,14,33,555/-, excluding the escalation in construction cost and other charges.
- b) That the respondent had sent several reminders and demand notices to the complainant for the payment of outstanding dues, even though the respondent was under no obligation to send the same, as per clause 7 of the BBA.
- c) That as per clause 13 of the BBA, the date for the handing over of the possession to the complainant was within 48 months from the date of execution of the BBA. Accordingly, the due date of handing over of possession of the Unit was to be 30.05.2020, however, the said clause also stipulates that the said handing over of the possession was to be 48 months unless there is delay or failure due to reasons specified under clauses 14-17 and 37 due to force majeure conditions, and also subject to failure on part of the complainant to pay in accordance to the schedule of payments or if the complainant failed to abide by the terms or conditions of the BBA.
- d) That the complainant has always been a willful defaulter in the payment of dues. The same can be stipulated from the aforementioned para of the instant reply. It is due to such defaulters that the fate of the project suffered ad could not progress.
- e) That as per the BBA so signed and acknowledged by the respondent herein provided and estimated the time period of 48 months for the completion of the construction of the project, however, the same was stopped midway due to various hindrances which were beyond the control of the respondent.

- f) That the following were the reasons that halted the construction and development of the project as under:
- i. Laying of GAIL pipe line and loss of land in Right of User (ROU) alignment of GAIL corridor.
 - ii. Acquisition of sector road land parcels in the Township/ Tranquil Heights.
 - iii. Additionally, the Hon'ble Supreme Court, NGT, Environment Pollution Control Authority vide its various orders imposed a set of partial restrictions on the construction activities.
 - iv. Covid-19 has ravaged the entire world and India is amongst the worst affected countries. A nationwide lockdown was imposed on 24th March 2020 and since then it has been a tough ride for the construction sector. With so much uncertainty because of Covid-19 Pandemic and fear of lockdowns, labourers were not willing to return to the cities, raw material prices increased rapidly. In the month of April 2021, the second wave of covid-19 hit the country, and the lockdown was again imposed. This has resulted in an almost complete washout of the 15 months from 24th March 2020 to June 2021.
 - v. In 2012, the Hon'ble Supreme Court banned the use of ground water for construction because of that construction was stopped nearly for one year.
 - vi. Delay in laying of infrastructure services like water, sewer, street lights, and other infrastructure by HUDA (Now known as HSVP).
 - vii. Delay in approval process of electrical approval, finalisation of load norms and setting up electrical infrastructure / substations.
 - viii. Delay due to the above-mentioned reasons, the overall cost of construction has increased Approximately by 20% since 2017.
- g) That the project could not be completed and developed on time due to various hindrances as is stated herein above, which miserably affected the said project beyond the control of the respondent.
- h) That the Authority granted the registration certificate bearing registered no. 359 of 2017 dated 17.11.2017 in the above said project for approximate period of 41 months, i.e. 30.04.2021.

- i) That upon the failure to continue the development work of the project, the Respondent was bound to file a proposal bearing "In Re: Regd. No. 359 of 2017 dated 17.11.2017, for the De-Registration of the project "Tranquil Heights"", and Settlement mechanism with existing Allottees before the Registry of this Ld. Authority on 30.09.2022.
 - j) That the intention of the respondent is *bonafide* and the above said proposal for de-registration of the project is filed in the interest of the Allottees as the project could not be delivered due to various reasons beyond control, as stated above.
 - k) That the complainant, has not approached the Ld. Authority with clean hands as she has concealed certain vital facts of which she was aware and deliberately chose to not plead them in his complaint. The Ld. Authority shall decide the complaint in light of all the relevant facts brought by the respondent in the instant reply.
12. All other averments made in the complaint were denied in toto.
13. Copies of all relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided based on these undisputed documents and submissions made by parties.

E. Jurisdiction of the authority

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

E. I Territorial jurisdiction

15. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the 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 completed territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

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

Section 11(4)(a)

Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

.....
34(f) of the Act provides to ensure compliance of the obligations cast upon the promoter, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

17. 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 complainant at a later stage.

18. 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*** 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."

19. 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.

F. Findings on objections raised by the respondent:

F.I. Objection regarding delay due to force majeure circumstances.

20. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure circumstances such as default in making timely payment by several allottees, various orders passed by NGT, Hon'ble Supreme court, transferring the land acquired for it by HUDA to GMDA, it could not speed up the construction of the project, resulting in its delay, then handing over to NHAI, re-routing of high tension lines passing through the land of the project, etc. All the pleas advanced in this regard are devoid of merits. The passing of various orders to control pollution in the NCR region during the month of November is an annual feature and the respondent should have taken the same into consideration before fixing the due date. Secondly, the various orders passed by other authorities were not all of a sudden. The contention made by the respondent seems to have been made in routine and are therefore, rejected.

21. The Authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit by 30.05.2020. As per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due 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 30.05.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. So, in such case the due date for handing over of possession comes out to 30.11.2020.

22. Further, in **Cr no. 3990/2025 titled as Meena Rastogi V/s Vatika Limited** the respondent was liable to complete the construction of the project and handover the possession of the said unit by 01.07.2019. It is claiming benefit of lockdown which came into effect on 23.03.2020 whereas the due date of handing over of possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, the Authority is of the view that outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself and for the said reason, the said time period cannot be excluded while calculating the delay in handing over possession.

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to refund the entire amount paid by the complainant to respondent.

G.II Direct the respondent to pay interest on the amount paid by complainant to respondent from the date of payment (i.e., 14.04.2016) by complainant till the date of actual refund to complainant in accordance with Act & Rules.

23. 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.

24. In the present complaint, the complainant intends to withdraw from the project and is seeking return of the amount paid by him in respect of subject unit along with interest as per section 18(1) of the Act and the same is reproduced below for ready reference:

"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.-

- (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

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."

(Emphasis supplied)

25. Clause 13 of the buyer's agreement dated 30.05.2016 provides the time period of handing over possession and the same is reproduced below:

13. Schedule for possession of the said apartment

*"The developer based on its present plans and estimates and subject to all just exceptions, contemplated to complete construction of the said building/apartment unit **within a period of 48 months from the date of execution of this agreement** unless there shall be delay or there shall be failure due to reasons mentioned in clause 14 to 17 and 37 or due to failure of allottee(s) to pay in time the price of the said independent dwelling unit along with all other charges and dues...."*

(Emphasis Supplied)

20. As per clause 13 of the builder buyer agreement, the respondent-developer has proposed to handover possession **within a period of 48 months from the date of execution of this agreement**. In the present case, the date of execution of buyer's agreement is 30.05.2016. Therefore, the due date of possession comes out to be 30.05.2020. Further, as per HARERA notification no.9 /3-2020 dated 26.05.2020, an extension of 6 months is granted for the project having completion/due on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 30.05.2020. i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date for handing over of possession **in view of notification no. 9/3-2020 dated 26.05.2020**, on account of force majeure condition due to the outbreak of Covid-

19 pandemic. So, in such a case the due date of handing over of possession comes out to be 30.11.2020.

21. It is also pertinent to note that in **Cr no. 3990/202025**, BBA was executed on 01.07.2015 and as per clause 13 of the BBA the due date of possession comes out 01.07.2019 which prior to the effect of the covid-19 accordingly no grace period is being granted in the said matter.
22. The Occupation Certificate/Completion Certificate of the project in which the unit is situated has still not been obtained by the respondent-promoter. Furthermore, the respondent itself submitted that, upon failure to continue the development work of the project, it was bound to file a proposal titled "In Re: Regd. No. 359 of 2017 dated 17.11.2017, for the De-Registration of the project "Tranquil Heights"" and a settlement mechanism with the existing allottees before the registry of the Authority on 30.09.2022. As per the record, no document has been placed on record to show that the respondent has settled the matter with the complainant. The Authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the allotted unit and for which she has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in **Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors.**, civil appeal no. 5785 of 2019, decided on 11.01.2021.

23. *"...The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

24. It has come on record that the complainant has paid an amount of Rs.47,45,727/- against the sale consideration of Rs.1,72,38,915/-. However, the complainant contended that the due date of possession has been lapsed, and no Occupation Certificate has been obtained against the said project by the respondent. Hence, in case if allottee wish to withdraw from the project, the respondent is liable on demand to return amount received by it with interest at the prescribed rate if it

fails to complete or is unable to give possession of the unit in accordance with the terms of buyer's agreement. Further in the judgement of the Hon'ble Supreme Court of India in the cases of ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022(1) RCR (c), 357*** 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, it was observed as under:

"25. The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

26. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a) of the Act. The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

27. There has been an inordinate delay in the project which cannot be condoned. Thus, in such a situation, the complainant cannot be compelled to take

possession of the unit as he is well within his right to seek refund of the paid-up amount.

28. This is without prejudice to any other remedy available to the allottee(s) including compensation for which allottee may file an application for adjudging compensation with the adjudicating officer under Sections 71 and 72 read with Section 31(1) of the Act of 2016.

29. **Admissibility of refund along with prescribed rate of interest:** Section 18 of the Act read with Rule 15 of the Rules, 2017 provide that in case the allottee intends to withdraw from the project, the respondent shall refund of the amount paid by the allottee in respect of the subject unit with interest at prescribed rate as provided under Rule 15 of the Rules, *ibid*. 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.”

30. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid* 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.

31. 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., 23.12.2025 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

32. The definition of term "interest" as defined under Section 2(za)(ii) of the act provides that the interest payable by the promoter to the allottee shall be from the date the promoter received the amount. 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—

.....
(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,
.....

33. Therefore, the Authority hereby directs the promoter to return the amount received by it i.e., Rs.47,45,727/- with interest at the rate of 10.80% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in Rule 16 of the Rules, *ibid*.

G.III Direct the respondent to pay Rs.55,000/- to complainant as litigation expenses.

34. The complainant is seeking relief of compensation w.r.t litigation expenses. The Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors.* (supra), has held that an allottee is entitled to claim litigation charges 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 litigation expense shall be adjudged by the Adjudicating Officer having due regard to the factors mentioned in Section 72.

H. Directions of the authority

35. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the act to ensure compliance of obligations

cast upon the promoter as per the function entrusted to the authority under Section 34(f):

- I. The respondent/promoter is directed to refund the entire amount received by the respondent from the complainant along with interest at the rate of 10.80% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules 2017 from the date of each payment till its realization.
- II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

36. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
37. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
38. File be consigned to the registry.



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram

23.12.2025



(Arun Kumar)
Chairman