

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

Complaint received on : 12.09.2025
Order pronounced on : 08.01.2026

1. Dheeraj Manchanda
2. Ishwar Manchanda
Both R/o: -3, Park Drive, Near Hanuman
Mandir, Malibu Towne, Sector -47,
Sohna Road Gurugram, Haryana

Complainants

Versus

- 1. M/s Ansal Housing Limited** (formerly known
as M/s Ansal Housing & Constructions Ltd.)
Regd. office: 606, 6th Floor, Indra Prakash, 21,
Barakhamba Road, New Delhi - 110001
- 2. M/s Identity Buildtech Pvt. Ltd**
Regd. office: 110, Indra Prakash, 21,
Barakhamba Road, New Delhi - 110001
- 3. M/s Agro Gold Chemicals Pvt. Ltd**
Regd. office: B-1/1345 Vasant Kunj, New Delhi,
Delhi, India - 110070

Respondents

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri K.K. Kohli (Advocate)
Shri Amandeep Kadyan (Advocate)
None
Shri Sudhanshu Tomar (Advocate)

Complainants
Respondent No. 1
Respondent No. 2
Respondent No. 3

ORDER

1. The present complaint has been filed by the complainants/allottees 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 provisions of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se* them.

A. Unit and Project-related details:

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

S. N.	Particulars	Details
1.	Name of the project	Ansal Highland Park
2.	Project location	Sector 103, Gurugram
3.	Nature of Project	Group Housing Colony
4.	RERA registration	16 of 2019 dated 01.04.2019 Project Lapsed
5.	Application for allotment	14.05.2014 [As stated by the complainant at page no. 21 of the complaint]
6.	Date of buyer's agreement	09.04.2013 [Page 40 of complaint]
7.	Unit No.	PERTH-604 [Page 43 of complaint]
8.	Unit Area	1762 sq. ft. [Page no. 43 of the complaint]
9.	Possession clause	<i>31. The Developer shall offer possession of the Unit any time, within a period of 48 months from the date of execution of Agreement or within 48 months from the date of obtaining all the required sanctions and approval necessary for commencement of construction, whichever</i>

		<p><i>is later</i> subject to timely payment of all the dues by Buyer and subject to force-majeure circumstances as described in clause 32. Further, there shall be a grace period of 6 months allowed to the Developer over and above the period of 48 months as above in offering the possession of the Unit.</p> <p>[Page no. 47 of complaint]</p>
10.	Commencement of Construction	16.04.2013 [Taken from another case of same project]
11.	Due date of possession	21.09.2017 (Calculated from commencement of construction being later + 6 months of grace period is allowed unconditionally)
12.	Total sale consideration	Rs.92,48,662/- [Page no. 55 of complaint]
13.	Amount paid by the complainant	Rs. 93,30,580/- [As per customer ledger at page 34-38 of complaint]
14.	Occupation certificate	Not Obtained
15.	Offer of possession	Not Offered

B. Facts of the complaint:

3. The complainant has made the following submissions:
 - a. The land under the project "Ansal Highland Park" is owned by developer's wholly owned subsidiary M/s Identity Buildtech Pvt. Ltd. and M/s Agro Gold chemicals Pvt. Ltd. having its registered office at B-1/1345, Vasant Kunj, New Delhi-110070 hereafter referred as respondent No.2 and respondent No. 3 respectively).



- b. The complainants booked a unit no. Perth 0604 in the project Ansal Highland Park, Sector 103, Dwarka making the first payment of Rs.3,49,209/- vide receipt No.512611dated 13.07.2012.
- c. An apartment buyer's agreement dated 09.04.2013 was executed between the parties for the allotment of a unit No. Perth 0604, 3 BHK, 1762 sq.ft. sale area in sq. mtrs. 163.69 @ Rs. 4855.39 total basic cost as mentioned at page no. 4 of the ABA being Rs. 85,39,342.00. It was only after a vigorous follow up by the complainant with respondent no. 1 that the said agreement could be signed and executed between the parties.
- d. The apartment buyer's agreement was signed after having collected a sum of Rs. 28,80,037/- against the total basic price of Rs. 85,39,342/-. As per the payment plan and terms of aforesaid agreement and further whenever demanded by respondents, complainants made requisite payments to respondents and never delayed the same. Thus, the complainants had made a total payment of Rs. 93,30 580/- by 08.03. 2017.
- e. The complainant without making any kind of delay always deposited the amount required as per the payment plan/schedule opted by the complainants immediately on receipt of letters from the respondent company.
- f. The complainant had applied for the loan to make the payment and have been consistently paying the EMI's to the bank against the loan repayment. The complainants are always and still ready and willing to make the payment if any further amount remains due and payable under the agreement, further, whenever demand will be legally raised by respondent.
- g. As per term agreed in para 31 of the agreement, respondent has to offer the possession of the unit within a period of 48 months from the day of execution of the aforesaid agreement. Thus, respondent had to complete



- the construction and offer its possession by 10.04.2017 and given the grace period of six months, the due date of delivery comes to 09.10.2017.
- h. The complainants have visited the site several times, made requests to respondent and expressed concerns to complete the construction of the apartment-unit and other facilities & amenities and to hand over the possession thereof, but neither respondent has completed the construction of unit, developed the other facilities & amenities, nor ever offered possession thereof, thus respondent has totally failed to perform its part of agreement.
- i. The complainant wrote a letter to the respondent company vide letter dated 27.09.2019 and 13.08.2020 requesting for the delayed payment charges and inquiring about the construction of the apartment and the date of possession as the complainant was being made to go through a lot of financial distress as he had to pay for the rental accommodation as well as the loan instalments with interest.
- j. To the utter shock and disappointment, the complainant, no reply was received from the respondents. That the complainant, through a number of phone calls and personal visits tried to inquire the status of the project but to no avail as he was ignored by the respondent on one or the other pretext.
- k. From the above said timely payments made by the complainant to the respondent company leaves no iota of doubt that the complainants have been very sincere and honest while complying with the terms and conditions of the apartment buyer agreement but unfortunately there has not been corresponding construction on the site and hence there is already a delay of more than 8 years in delivery of the Unit together with the amenities.



- i. Respondents have been raising demands for the balance amount without having done the proper corresponding construction and has further been raising demands which are not a part of the apartment buyer's agreement as is evident from the statement of account dated 8th May 2025.
- m. The following demands raised in the statement dated 8th May 2025 are illegal, unjustified and hence need removal from the statement of account. The coercive insistence of the respondent that the complainant must mandatorily pay the following charges, is wholly untenable, unlawful, and in blatant violation of the statutory obligations of the promoter under the Real Estate (Regulation and Development) Act, 2016. The respondent, therefore, is liable to be directed to immediately hand over possession of the flat in a habitable condition and to execute the conveyance deed forthwith, strictly in accordance with law and without imposing any illegal, arbitrary, or extraneous conditions. such insistence is not only contrary to the provisions of sections 11(4) and 19 of the Act but is also expressly inconsistent with the terms and conditions of the apartment buyer's agreement executed between the parties. The said agreement nowhere stipulates that possession of the flat or execution of the conveyance deed shall be conditional upon payment of such arbitrary charges. On the contrary, the contractual obligation of the respondent is to deliver possession of the apartment and execute the conveyance deed upon receipt of the consideration expressly agreed upon therein.
- n. Therefore, the respondent's actions are liable to be declared illegal, coercive, and arbitrary, and this Hon'ble Authority may kindly be pleased to direct the respondent to immediately hand over possession of the flat in habitable condition and execute the conveyance deed without insisting on compulsory club membership or payment of any such unlawful charges.

- o. The respondent is expected to specifically perform the apartment buyer's agreement by handing over possession of the subject flat in habitable condition without insisting on an escalation cost of Rs.4,41,998/-, Power Back Up Charges Rs.75,000/-, External Electrification of Rs.2,37,870/-, VAT Charges Rs.66,012/-, STP Charges of Rs. 52,860/-, Labor Cess Charges of Rs. 31,716/- which the agreement does not make a mention of.
- p. The cause of action arose in favour of the complainants and against the Respondent on diverse dates. Initially, the cause of action arose when the respondent could not deliver the unit together with the amenities on the date committed in the apartment buyer agreement. It also arose when the respondent inordinately and unjustifiably and with no proper and reasonable legal explanation or recourse delayed the construction of the said space and not given possession to the complainants till the date of filing the complaint and since the possession has not been given till date hence it is a continuous cause of action which persists even on date.
- q. 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.
- C. Relief sought by the complainants:
4. The complainant has sought the following relief(s):
- Direct the respondents not to create third party rights till the disposal of the matter by this Hon'ble Authority.
 - Direct the appointment of a Local Commissioner for complete assessment of the unit.
 - Direct the respondent to handover the physical possession of the unit, in habitable condition as per the terms of the apartment buyer's agreement dated 09.04.2013 wherein the unit being habitable.



- iv. Direct the respondent to execute a conveyance deed in favour of the complainant and this may kindly be specifically mentioned in the order that the possession should be handed over and the execution of a conveyance/ sale deed is a must at the time of handing over the possession.
- v. Direct the respondent to pay interest on the total amount paid by the complainant at the prescribed rate of interest as per RERA Act, 2016 & Rules 2019 from the due date of possession i.e.08.10.2017 till the date of actual handover of the possession in a habitable condition together with the conveyance deed duly executed in favour of the complainant by the respondent as per Section 18 (1) of the Act of 2016 read with rule 15 of the rules, 2019.
- vi. Direct the respondent to pay the arrears of such interest accrued from the due date of possession till the date of actual handover of the possession in a habitable condition together with the conveyance deed duly executed in favour of the complainant by the respondent, to the allottee within a period of 90 days from the date of the order of the Hon'ble Authority and interest for every month of delay to be paid by the respondent to the allottee before 10th of subsequent month as per Rule 16 (2) of the rules.
- vii. Direct the respondent to not charge anything from the complainant which is not the part of the apartment buyer's agreement.
- viii. Direct the respondents to deliver the possession of the unit in question to the complainant after completing it in all respects.
- ix. Direct the respondent not to demand the following charges which for the reasons explained above are illegal, unjustified.



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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondents:

6. The respondent no.1 has made the following submissions:
- i. The the complainants had approached the answering respondent for booking a unit no. Perth-0604 in an upcoming project Ansal Highland Park, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. an apartment buyer agreement dated 09.04.2013 was signed between the parties.
 - ii. The complaint specifically admits to not paying necessary dues or the full payment as agreed upon under the builder buyer agreement. It is submitted that the complainant cannot be allowed to take advantage of his own wrong.
 - iii. Even if for the sake of argument, the averments and the pleadings in the complaint are taken to be true, the said complaint has been preferred by the complainant belatedly. The complainant has admittedly filed the complaint in the year 2024 and the cause of action accrue in 2017 as per the complaint itself. Therefore, it is submitted that the complaint cannot be filed before the HRERA Gurugram as the same is barred by limitation.
 - iv. Even if the complaint is admitted to be true and correct, the agreement which was signed in the year 2013 without coercion or any duress cannot be called in question today. The builder buyer agreement provides for a penalty in the event of a delay in giving possession. clause 37 of the said agreement provides for Rs. 5/ sq foot per month on super area for any delay in offering possession of the unit as mentioned in clause 31 of the agreement. Therefore, the complainant

will be entitled to invoke the said clause and is barred from approaching the Hon'ble Commission in order to alter the penalty clause by virtue of this complaint more than 10 years after it was agreed upon by both parties.

- v. The respondent had in due course of time obtained all necessary approvals from the concerned authorities. The permit for environmental clearances for proposed group housing project for sector 103, Gurugram, Haryana on 20.02.2015. Similarly, the approval for digging foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the respondents have in a timely and prompt manner ensured that the requisite compliances be obtained and cannot be faulted on giving delayed possession to the complainant.
- vi. The respondent has adequately explained the delay. The delay has been occasioned on account of things beyond the control of the answering respondent. The builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The respondent ought to have complied with the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process. Similarly, the complaint itself reveals that the correspondence from the respondent specifies force majeure, demonetization and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID -19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.



- vii. The answering respondent and the complainant admittedly have entered into a builder buyer agreement which provides for the event of delayed possession. That clause 32 of the builder buyer agreement is clear that there is no compensation to be sought by the complainant/prospective owner in the event of delay in possession.
 - viii. The answering respondent has clearly provided in clause 35 the consequences that follow from delayed possession. The complainant cannot alter the terms of the contract by preferring a complaint before the Hon'ble HRERA Gurugram.
 - ix. It is therefore prayed that in the interest of justice and under the cited circumstances, this Hon'ble Authority may graciously be pleased to dismiss the complaint as the same is based on false and vexatious grounds with cost.
7. Despite due service of notice and grant of sufficient opportunities, respondent no. 2 has neither entered appearance nor filed any written reply to controvert the averments made in the complaint. The record reflects that adequate and reasonable opportunities were afforded to the said respondent in compliance with the principles of natural justice; however, the respondent failed to avail the same.
 8. In view of the continued non-appearance and non-filing of reply, this Authority is left with no option but to proceed against respondent no. 2 ex parte. Consequently, the matter is being adjudicated on the basis of the material available on record and the submissions advanced by the appearing parties.
 9. The respondent no.3 has made the following submissions:
 - i. The present complainant has filed complaint under section 31 of the RERA act, 2016. The said complaint case bearing No. RERA-GRG-4470/2025, titled as 'Dheeraj Manchanda & Anr. Vs. M/s Ansal

Housing and Construction Ltd. & Ors.', was filed against the following three respondents by the complainant Sh. Dheeraj Manchanda & Sh. Ishwar Dass Manchanda. The respondents are as follows:

- a. M/s Ansal Housing and Construction Pvt. Ltd.
 - b. M/s Identity Buildtech Pvt. Ltd.
 - c. M/s Agro Gold Chemical Pvt. Ltd.
- ii. The respondent no. 3 has got absolutely no role in the development of the project in question. The complainant has paid the consideration amount to the M/s Ansal Housing Construction Pvt. Ltd. the respondent no. 3 is not the necessary party and is therefore liable to be deleted from the arrays of the parties.
- iii. Earlier the respondent no. 3 was a private limited company i.e. M/s Agro Gold Chemicals India Pvt. Ltd. which was later on converted into a limited liability partnership as per the provisions of the Companies Act in the year 2013.
- iv. The respondents no. 1 i.e. 'Ansal Housing and construction Ltd.' are developing a project named as 'Ansal Highland Park, Sector 103, Gurugram, Haryana'. The respondent no. 2 i.e. Identity Buildtech Pvt. Ltd. is the wholly owned subsidiary of Ansal Housing Limited formerly known as Ansal Housing and Construction Ltd. i.e. the respondent no. 1 in the present complaint.
- v. The respondent no. 3 i.e. M/s Agro Gold Chemicals India LLP, entered into an addendum to collaboration/development agreement dated 01.12.2020 with the respondent no. 2 i.e. M/s Identity Buildtech Pvt. Ltd. which is the wholly owned subsidiary of Ansal Housing Limited formerly known as Ansal Housing and Construction Ltd. i.e. the respondent no. 1 in the present complaint. The agreement dated 01.12.2020 was duly registered with the Sub-



- registrar Kadipur, Gurugram, Haryana on 09.12.2020. The said addendum was in continuation of the agreement for collaboration dated 25.01.2008 and another agreement dated 12.09.2012.
- vi. As per the term C of the said agreement dated 01.12.2020, the respondent no. 3, was allotted 32,681 sq. ft. area to be developed by the respondent no. 1 & 2, in lieu of respondent no. 3's land admeasuring approx. about 0.89 acres. The area of 32,681 sq. ft. is in the shape of 18 flats in different towers of the project in question and possession of the same was to be handed over to the respondent no. 3 on or before 31.12.2022 by the respondents no. 1 & 2, with all necessary permissions and compliance. The area allotted is in the form of 18 flats/units in the said project named as 'Ansal Highland Park, Sector 103, Gurugram, Haryana', the details of which are given in para-C of the said agreement dated 01.12.2020.
- vii. As per para-H of the said agreement dated 01.12.2020, the entire project was to be completed on or before 31.12.2022 and the possession of all these 18 units was to be handed over to the respondent no. 3 i.e. M/s Agro Gold Chemicals India LLP on or before 31.12.2022 after completion of the project and after taking all necessary permissions and compliances.
- viii. The respondents no. 1 & 2 are having the ownership of the majority of land in the project, except the land admeasuring about 0.89 acres which is owned by the respondent no. 3 which is more particularly mentioned in the collaboration agreement dated 01.12.2020. In lieu of the land the respondents no. 1 & 2 have allotted flats to the respondent no. 3.
- ix. The respondents no. 1 and 2 have intentionally and deliberately misused the name of the respondent no. 3 in an illegal and unlawful

manner. The respondents no. 1 and 2 are duty bound to give correct information and facts to the public at large. The respondents no. 1 & 2 instead of mentioning these correct facts and giving correct information to their home buyers, are rather giving misleading facts whereby trying to misuse the name of the respondent no. 3 which has not caused unnecessary harassment to the respondent no. 3 only but also to various home buyers and also to various consumer courts, RERA, Gurugram and maybe to other authorities/ courts where the home buyer might have approached against the respondents no. 1 & 2 for their deficiency in service.

- x. Because of all these reasons, the respondent co. 3 has filed a civil suit bearing CS (COMM) No. 150/2025, titled as *M/s Agro Gold Chemicals India LLP. Vs. Indentity Buildtech Private Limited*, against the respondents No. 1 & 2 and their director Mr. Kushagr Ansal, before the Hon'ble District and Sessions Court (commercial) at Patiala House courts, New Delhi. The relevant pages of the commercial suit filed by the respondent no. 3 along with final order dated 29.05.2025 passed in the said suit. That the said suit was withdrawn because of arbitration clause in the agreements entered in between the respondents. Since the respondents no. 1 & 2 have continuously failed to abide by the terms of the agreement entered in between the respondents no. 3 & 2 therefore the respondent no. 3 has already initiated the proceedings for appointment of arbitrator. In continuation of the same, the respondent no. 3 has filed an arbitration petition bearing No. ARB. P. 1579/2025 titled as *M/s Agro Gold Chemicals India LLP. Vs. Identity Buildtech Pvt. Ltd. & Ors.*, pending before the Hon'ble High Court of Delhi. The next date of hearing in the said case is 10.11.2025.



- xi. Under the facts and circumstances, the respondent no. 3 has got absolutely no role to play under the present complaint. The respondent no. 3 is not the necessary party. The project in question is developed by the respondents no. 1 & 2. The present complainant or any other flat allottees must have given money to the respondents No. 1 and 2 and therefore the respondent no. 3 is neither the necessary party and nor has got any role to play in respect of the deficiency in service as alleged by the complainant.
- xii. The respondent no. 3 is neither the promoter nor the real estate agent and therefore the respondent no. 3 is not the necessary party in the present complaint. The role and capacity of the respondent no. 3 is limited to the extent of the terms and conditions of the agreement dated 01.12.2020. The respondent no. 3 has absolutely got no role in selling the project/ flats, execution of any documents with the flat buyers or in respect of any other role for development of the project in question. Needless to mention here that the money/ consideration amount is/was also paid to the respondents No. 1 & 2 by the complainant and other flat buyers.
- xiii. In view of the above facts and circumstances appropriate order for deletion of the name of the respondent no. 3 may be passed. That the appropriate orders shall also save unnecessary harassment and precious time of the complainant and other flat buyers, and the things shall be straight forward and as per law.
10. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the parties.

E. Jurisdiction of the Authority:

11. 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

12. 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 the entire Gurugram District for all purposes 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

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the 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 with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.

13. Hence, given the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the objections raised by the respondents:

F.I Objection raised by respondent no. 1 regarding complaint being barred by limitation.

14. The respondent no. 1 has raised a preliminary objection that the present complaint, having been filed in the year 2024, is barred by limitation, as according to the complainant the cause of action arose in the year 2017 when the alleged due date for delivery of possession expired. It is contended that, on this ground, the complaint is not maintainable before this Authority.

15. The Authority has considered the submissions advanced by the respondent and perused the material available on record. The objection raised is found to be devoid of merit. The respondent has asserted that the cause of action accrued in the year 2017 upon expiry of the stipulated date for handing over possession. However, it is an admitted position that the respondent has not, till date, obtained the occupation certificate in respect of the subject unit. in the absence of occupation certificate and lawful offer of possession, the failure to deliver possession constitutes a continuing cause of action. Consequently, the plea that the complaint is barred by limitation, as well as the objection regarding locus standi, is untenable and is hereby rejected.

F.II Objection raised by respondent no. 1 regarding force majeure conditions.

16. The respondent no. 1 further has raised contention that the delay in completion of the project occurred on account of circumstances beyond its control, inter alia, compliance with the orders passed by the Hon'ble Punjab and Haryana High Court in CWP No. 20032 of 2008 dated 16.07.2012, 31.07.2012 and 21.08.2012, whereby extraction of groundwater was prohibited. It has also been urged that demonetization, directions issued by the Hon'ble National Green Tribunal restraining construction activities in and around Delhi-NCR, and the outbreak of the



COVID-19 pandemic, cumulatively contributed to the stalling of the project at crucial stages for considerable periods.

17. The aforesaid objections are found to be untenable. The restrictions imposed by governmental authorities and courts in the NCR region were for limited durations and cannot, by themselves, justify the inordinate delay in completion of the project. Such regulatory contingencies are inherent in the real estate sector and ought to have been duly factored in by the promoter at the inception of the project. The respondent cannot be permitted to attribute prolonged delay to short-term prohibitory orders so as to evade its contractual and statutory obligations. It is a settled principle of law that no party can be allowed to take advantage of its own wrong. Accordingly, the promoter-respondent is not entitled to any indulgence on the basis of the aforesaid grounds.

18. Insofar as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as ***M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and I.A. 3696-3697/2020*** dated 29.05.2020 which has observed that-

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The 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."

19. In the present case, the respondent was under an obligation to complete construction and hand over possession of the subject unit on or before 21.09.2017. The nationwide lockdown was imposed only on 23.03.2020, which is substantially subsequent to the stipulated date of possession. The respondent was already in default prior to the onset of the pandemic. Therefore, the outbreak of COVID-19 cannot be invoked as a justification



for non-performance of contractual obligations where the deadline had expired much earlier. Consequently, the period of lockdown is not liable to be excluded for the purpose of computing delay in handing over possession.

F.III Objection raised by respondent no. 3 seeking deletion of its name from array of parties.

20. The respondent no.3 raised objection that the complainant has paid the consideration amount to the M/s Ansal Housing Construction Pvt. Ltd. the respondent no. 3 is not the necessary party and is therefore liable to be deleted from the arrays of the parties.
21. Upon perusal of records, the Authority observes that the builder buyer agreement dated 09.04.2013 clearly mentions respondent no. 3 as developer along with respondent no. 2, which means, development responsibility was liable to respondent no. 3 and 3 jointly and severally. And hence, the respondent no.3 is proper party to the complainant.
22. The authority is of the view that the buyer's agreement was signed by the complainant and the respondent no. 1. In the buyer's agreement it was specifically mentioned that development and marketing of the project was to be done by the respondent no. 2 and 3 in terms of the license/permissions granted by the DTCP, Haryana.
23. The authority observes that landowner is covered by the definition of promoter under sub clause (i) or (ii) of section 2(zk). A person who constructs or causes to be constructed a building or apartments is a promoter if such building or apartments are meant for the purpose of selling to other persons. Similarly, a person who develops land into a project i.e., land into plots is a promoter in respect of the fact that whether or not the person also constructs structures on any of the plots. It is clear that a person develops land into plots or constructs building or apartment for the purpose of sale is a promoter. The words, "causes to

be constructed” in definition of promoter is capable of covering the landowner, in respect of construction of apartments and buildings. There may be a situation where the landowner may not himself develops land into plots or constructs building or apartment himself, but he causes it to be constructed or developed through someone else. Hence, the landowner is expressly covered under the definition of promoter under Section 2 (zk) sub clause (i) and (ii).

24. Further, the authority observes that the occupation certificate for the project is yet to be received. In view of the above, the liability under provisions of Section 18(1) of the Act & Rules read with builder buyer agreement shall be borne by both the respondents jointly and severally.
25. Respondent no. 3 has raised a preliminary objection seeking deletion of its name from the array of parties on the ground that the entire sale consideration was allegedly paid by the complainant to M/s Ansal Housing Construction Pvt. Ltd., and that respondent no. 3 is neither a necessary nor a proper party to the present case.
26. The Authority further observes that although the builder buyer agreement was executed between the complainant and respondent no. 1, it has been expressly stipulated therein that the development and marketing of the project were to be carried out by respondent nos. 2 and 3 in accordance with the licences and permissions granted by the Director, Town and Country Planning, Haryana (DTCP). The contractual arrangement itself demonstrates the integral role of Respondent No. 3 in execution and development of the project.
27. The Authority has perused the record, including the builder buyer agreement dated 09.04.2013. A plain reading of the said agreement reflects that respondent no. 3 is specifically described therein as a “Developer” along with respondent no. 2. The development obligations in

respect of the project were undertaken by respondent nos. 2 and 3 jointly and severally.

28. The Authority also notes that the landowner falls within the ambit of the definition of "promoter" as provided under Section 2(zk)(i) and (ii) of the Real Estate (Regulation and Development) Act, 2016. A person who constructs or causes to be constructed a building or apartments for the purpose of sale is a promoter. Likewise, a person who develops land into a project, whether by forming plots or otherwise, for the purpose of sale, is also a promoter irrespective of whether such person undertakes construction personally. The expression "causes to be constructed" is of wide import and is sufficient to encompass a landowner who, though not directly undertaking construction, enables or authorizes such development through another entity. Thus, the landowner is squarely covered within the statutory definition of promoter.
29. It is further observed that the occupation certificate in respect of the project has not yet been obtained. In these circumstances, the liability arising under Section 18(1) of the Act read with the applicable Rules and the terms of the builder buyer agreement shall be borne by the concerned respondents jointly and severally. In view thereof, respondent no. 3 cannot disassociate itself from the liabilities arising out of the project and is clearly a proper and necessary party to the present complaint. Consequently, the objection raised by respondent No. 3 seeking deletion from the array of parties is devoid of merit and stands rejected.

G. Findings on relief sought by the complainants:

G.I Direct the respondent to handover the physical possession of the unit, in habitable condition as per the terms of the apartment buyer's agreement dated 09.04.2013 wherein the unit being habitable.

30. The complainants were allotted a unit in the project of respondent "Ansal Highland Park" in at Sector 103, Gurgaon. The builder buyer agreement

was executed between the parties on 09.04.2013 for a total sum of Rs. 92,48,662/- and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs. 93,30,580/-.

31. As per documents available on record, the respondent has neither offered the possession of the allotted unit nor obtained occupation certificate from competent authority till date. The complainant took a plea that offer of possession was to be made in made in 2017 and the respondent has failed to handover the physical possession of the allotted unit within stipulated period of time.
32. In the present complaint, the complainants intend to continue with the project and are 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

"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".

33. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are continuing with the project and seeking delay possession charges. However, 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.

34. 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.
35. 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., 08.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
36. 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 31 of the agreement dated 09.04.2013, the due date comes out as 21.09.2017. The respondent yet to have obtain occupation certificate from the concerned 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 unit and it is failure on part of the respondents to fulfil its obligations and responsibilities as per the agreement dated 09.04.2013 to hand over the possession within the stipulated period.
37. 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 has not been granted by the competent authority till date. Therefore, in the interest of natural justice, the complainant 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 she has 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.

38. In view of the above, the complainants are entitled for delayed possession at the prescribed rate of interest @ 10.80% per annum from the due date of possession till offer of possession i.e., plus two months after obtaining occupation certificate or till actual handing over of possession, whichever is earlier.

G.II Direct the respondents not to create third party rights till the disposal of the matter by this Hon'ble Authority.

G.III Direct the appointment of a Local Commissioner for complete assessment of the unit.

39. The aforesaid reliefs are being adjudicated conjointly, as they are intrinsically interconnected and arise out of the same set of facts and circumstances.

40. In view of the fact that the Authority has granted delayed possession charges in favour of the complainants, the aforesaid reliefs do not survive for consideration and are rendered redundant accordingly.

G.IV Direct the respondents to execute a conveyance deed in favour of the complainant and this may kindly be specifically mentioned in the order that the possession should be handed over and the execution of a conveyance/ sale deed is a must at the time of handing over the possession.

41. The complainants are seeking the relief for the registration of conveyance deed in accordance with section 17 of the Act of 2016. Whereas the possession has yet not offered by the respondents/promoters as per clause 13 of the buyer's agreement, the respondent shall prepare and execute along with allottee(s) a conveyance deed to convey the title of the

said apartment in favor of the allottee but only after receiving full payment of total price of the apartment and the relevant clause of the agreement is reproduced for ready reference: -

34. Before execution of Sale deed, the buyer, shall visit the site for final inspection of his unit and sign the Final Verification/Inspection report agreeing to the satisfactory completion of the unit. The Keys of the unit shall be handed over only after sale deed is registered. The Final Verification/Inspection will be allowed by the Site in Charge/ Estate manager only after the Buyer provides him original letter Issued by the Developer authorizing the Site in Charge/Estate Manager to carry final Verification/Inspection of the Unit. The Developer will issue such Letter only after all dues are clear and all formalities are complete. Hence, any delay in payment of all dues and completion of all formalities within the date mentioned in offer of Possession letter will delay the physical possession of the unit and Developer will not be responsible for that. Further, this is the responsibility of the Buyer to take the above Letter from Developer and approach the Estate Manager for Final Verification/Inspection of the said unit. Any delay in Final Verification/Inspection of the unit and taking keys of the unit shall attract a penalty in the form of Holding charge as mentioned in clause 37.

42. It is to be further noted that section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of OC.
43. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as section 17 (1) of the Act provide for transfer of title and the same is reproduced below:

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."



44. Accordingly, the authority directs the respondents to execute the conveyance deed in favour of the complainant after payment of stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the offer of possession or actual handing over of possession whichever is earlier.

G.V Direct the respondents to pay the arrears of such interest accrued from the due date of possession till the date of actual handover of the possession in a habitable condition together with the conveyance deed duly executed in favour of the complainant by the respondent, to the allottee within a period of 90 days from the date of the order of the Hon'ble Authority and interest for every month of delay to be paid by the respondent to the allottee before 10th of subsequent month as per Rule 16 (2) of the rules.

45. The aforesaid relief has already been duly considered and adjudicated upon in paragraphs 36 and 42 of the present order, and requires no further deliberation.

G.VI Direct the respondents to not charge anything from the complainant which is not the part of the apartment buyer's agreement.

G.VII Direct the respondent not to demand the following charges which for the reasons explained above are illegal, unjustified.

46. The respondents are restrained from demanding or recovering any amount from the complainant other than those charges expressly stipulated and agreed upon under the terms and conditions of the Apartment Buyer's Agreement.

H. Directions issued by the Authority:

47. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with obligations cast upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act of 2016:

- i. The respondents/promoters jointly and severally are directed to pay delay possession charges to the complainants against the paid-up amount of Rs.93,30,580/- at the prescribed rate of interest @ 10.80%



per annum from the due date of possession i.e., 21.09.2017 till offer of possession plus two months after obtaining occupation certificate or till 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.

- ii. The arrears of such interest accrued from 21.09.2017 till the date of order by the authority shall be paid by the respondent/promoter to the complainant 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
- iii. The respondents are directed to offer the valid offer of possession of the allotted unit within 2 months after obtaining occupation certificate from the competent authority. The complainants w.r.t. obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupancy certificate.
- iv. The respondents/promoters are directed to execute the conveyance deed in favor of the complainant/allottee within 3 months as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
- v. The respondents are restrained from demanding or recovering any amount from the complainant other than those charges expressly stipulated and agreed upon under the terms and conditions of the apartment buyer's agreement.
- vi. 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.

48. Complaint stands disposed of.

49. File be consigned to the Registry.



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.01.2026