

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

Date of decision: 27.01.2026

Name of the Builder		Haryana State Industrial And Infrastructure Development Corporation Ltd	
Project Name		Industrial Estate	
S.no.	Complaint No.	Complaint title	Attendance
1.	CR/1761/2024	B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd	Garvit Gupta (Complainant) Rajesh Kumar Garg (Respondent)
2.	CR/1762/2024	B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd	Garvit Gupta (Complainant) Rajesh Kumar Garg (Respondent)

CORAM:

Sh. Arun Kumar

Chairman

Sh. Phool Singh Saini

Member

ORDER

1. This order shall dispose of all the 2 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, "Industrial Estate" at Sector 35, Gurugram being developed by the respondent/promoter i.e., Haryana State Industrial And Infrastructure Development Corporation Ltd.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, surrender date, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project: "Industrial Estate" at Sector 35, Gurugram							
Occupation Certificate: Not Obtained							
Sr. No	Complaint no./title/ date of filing complaint / Reply status	Plot No. and area admeasuring	Date of regular letter of allotment and execution of agreement	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant (s)	Surrender by the complainant	Relief Sought
1.	CR/1761/2024 B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd DOF-26.04.2024 DOR:11.09.2024	Plot no 57 and 2673 sq. Ft.	23.11.2009 Page no. 39 of complaint) 23.11.2009 (Page 41 of complaint)	DD-NA Op- Not offered	TSC- Rs.4,14,45,000/- (Tentative price as per agreement on page no. 43 of complaint) AP- Rs.4,15,88,448/- (Page no. 31 of complaint)	22.04.2019 (Page 83 of complaint) and 18.06.2019 (Page 86 of complaint)	i. Direct the respondent to make the payment of interest on the principal amount paid by the complainant as per the provisions of the RERA Act,2016 read with Haryana Rules, 2017. ii. Pass an order imposing penalty on the promoter on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the complainant.

2.	CR/1762/2024 B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd DOF- 26.04.2024 DOR: 16.09.2024	Plot no 56 and 2673 sq. Ft.	09.12.2011 Page no. 46 of complaint) 09.12.2011 (Page 47 of complaint)	DD-NA Op- Not offered	TSC- Rs.4,42,08,000/- (Tentative price as per agreement on page no. 51 of complaint) AP- Rs.4,42,23,000/- (Page no. 99 of complaint)	22.04.2019 (Page 86 of complaint)	i. Direct the respondent to make the payment of interest on the principal amount paid by the complainant as per the provisions of the RERA Act, 2016 read with Haryana Rules, 2017. ii. Pass an order imposing penalty on the promoter on account of various defaults and illegalities under RERA Act, 2016 and the same be ordered to be paid to the complainant.
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1Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOF- Date of filing complaint
DOR- Date of filing reply
DD-Due Date of Possession
OP- Offer of Possession
TSC- Total Sale Consideration
AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainant(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties *inter se* in respect of said unit for seeking interest on the principal amount paid.
5. 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/1761/2024 titled as B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd** are being

taken into consideration for determining the rights of the allottee(s) qua possession and delayed possession charges.

A. Project and unit related details

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

CR/1761/2024 titled as B S Vip Info Private Limited V/s Haryana State Industrial And Infrastructure Development Corporation Ltd.

S. N.	Particulars	Details
1.	Name of the project	"Industrial Estate"
2.	Project location	Sector-35, Gurgaon
3.	Project type	IT/IT Enabled Services
3.	Regular allotment letter	23.11.2009 (Page no. 39 of complaint)
4.	Unit no.	Plot no. 57 (Page no. 39 of complaint)
5.	Unit area admeasuring	2763 sq. ft. (Page no. 39 of complaint)
6.	Builder Buyer Agreement	23.11.2009 (Page 41 of complaint)
7.	Total sale consideration	Rs.4,14,45,000/- (Tentative price as per agreement on page no. 43 of complaint)
8.	Amount paid by the complainant	Rs.4,15,88,448/- (Page no. 31 of complaint)
9.	Surrender request made by complainant	22.04.2019 (Page 83 of complaint)
10.	Refund request by the complainant	18.06.2019 (Page 86 of complaint)
11.	Cancellation letter dated	05.11.2019 (Page 89 of complaint)
12.	Amount refunded by the respondent to the complainant on 13.09.2019	Rs.4,22,56,930/- (As per refund letter sent by respondent to the complainant on 05.11.2019 at page 89 of complaint)
13.	Acknowledgment letter sent by the complainant to the respondent	06.11.2019 (Page no. 90 of complaint)

14.	Demand raised by the complainant for interest	06.11.2019, 08.01.2020, 02.03.2020, 01.03.2021, 09.04.2021, 09.08.2021 (Page 90-97 of complaint)
15.	Occupation certificate	Not obtained
16.	Offer of possession	Not offered

B. Facts of the complaint

7. The complainant has made the following submissions: -

- I. That the respondent launched an offer for sale of industrial plots in Sector-35, Industrial Estate Gurugram. The representatives of the complainant received a marketing call from the office of respondent in the month of May, 2008 for booking in the said industrial plots of the respondent. The representatives of the complainant visited the office of the respondent and consulted with the respondent. The representatives of respondent painted a very rosy picture of its said project and made several representations with respect to the facilities to be provided by the respondent in its project. It was advertised and marketed as an industrial estate with state of art infrastructure, including all weather metalled roads, water supply system, water works, sewerage disposal system etc., cng facility, electricity distribution system, convenience shopping with close proximity to hospital(s), hotel(s), bank(s) and post office(s) which would enable seamless connectivity to delhi and other nearby regions thereby providing an environment conducive to business and industrial activities.
- II. That the representatives of the respondent also assured timely delivery of the plot and also categorically assured the complainant that the said industrial plot will be having adequate facilities and resources that will facilitate allottee in smooth functioning and completion of the project.
- III. That That the representatives of the complainant, induced solely by the assurances and representations made by the respondent, decided to book

an industrial plot in the said project of the respondent. the complainant company was in a need of a plot for its new project in the nature of IT/IT enabled services and the same was specifically brought to the knowledge of the respondent. The complainant for the said project required certain mandatory infrastructural facilities such as electricity lines, proper road connectivity and wide roads along with sewage and drainage facilities. The respondent informed the complainant that the size of the plots available with the respondent were of 2763 sq. meters and the total sale consideration per plot would be Rs 4,14,45,000/-. Moreover, the respondent categorically stated that the possession would be handed over to the complainant after the total sale consideration is paid by the prospective allottee. The representative of the complainant on behalf of the complainant, based on the assurances of the respondent applied for booking of an industrial plot for their project.

- IV. That the complainant made the booking of the plot. The respondent further assured the complainant that the aforesaid services would be provided as per the provisions laid down by the State Government in Chapter-III of the Industrial Policy, 2005 which categorically stipulates that:

Power- The State Government is committed to provide adequate and quality power to the industry.....

Transport- The State Government would give top priority to surface transport and connectivity with Inland Container Depots and Express Highways

Social Infrastructure- The State Government proposes to develop social infrastructure to support overall economic growth and competitiveness of enterprises."

- V. That the respondent on the basis of the application for allotment by the complainant and the application money paid by the complainant, issued a regular letter of allotment to the complainant on 07.11.2009 vide which plot no. 57 measuring 2763 sq. mt. in Sector 35 at Industrial Estate, Gurugram was allotted to the complainant. The complainant thereafter accepted the said allotment vide acceptance to the regular letter of allotment letter dated 23.11.2009. Even as per the contents of the Acceptance of Regular Letter of Allotment, it was stated that the terms and conditions were to be governed as per the State Government's Industrial Policy.. The complainant had prior to the signature on the acceptance of the regular letter of allotment letter had made a substantial payment of Rs.1,45,20,750/- i.e around 35% of the total sale consideration.
- VI. That the respondent shared a copy of the agreement to the complainant which was duly executed on 23.11.2009. Vide the said agreement, the respondent attached the map of the location wherein the said allotted plot to the complainant was located. From a bare perusal of the said map, it became evident that the width of the road that is supposed to be between the two parallel plots was to be 18 Meters. The respondent furthermore, again assured the complainant that the infrastructure and facilities to be provided by the respondent would be proper and would allow the complainant to carry out with the project without facing any issues.
- VII. That as per clause 14 of the said executed agreement dated 23.11.2009, the respondent was obligated to execute a conveyance deed upon the payment of total price of the said plot. The total purchase consideration of the plot amounting Rs 4,15,88,448/- was paid by the complainant in installments and the last installment being paid on 02.11.2012 and accordingly upon the said payment, the complainant requested the respondent to execute the conveyance deed and handover the physical vacant possession of the

said plot to the complainant to commence the development of the said project at the said plot. The respondent vide its letter dated 22.08.2013 admitted the fact that all the payments towards the plot in question was made by the complainant and nothing was due and payable to it.

- VIII. That the complainant after payment of total purchase consideration towards the said plot and after investing a substantial sum of money in the said project to set up the IT, IT enabled services park etc. enquired about the handing over of the vacant physical possession from the respondent along with the necessary infrastructure in the adjoining areas to the said plot. However, the respondent failed to pay any heed to the said enquiries. The complainant visited the site of the plot and was shocked to see that despite lapse of 5 years from the date of booking, the site of the project was incomplete and it lacked the infrastructural services, including but not limited to water access, sewage and drainage facilities, improper electricity connections, good connected roads etc. required to run any industry in the said area which made it impossible for the respondent to handover the possession of the plot to the complainant. The very fact that the respondent had positioned the said plots as Industrial Plots, meant that basic amenities were imminent. Furthermore, the surrounding areas of the plot in question were encroached upon which made it extremely unsuitable for big trailer/trucks to traverse through the area, avoiding access to the allotted plot in question.
- IX. That the complainant appalled by the same, approached the respondent and intimated the said concerns to the respondent. The respondent assured the complainant that the said deficiencies in the infrastructural facilities would be timely remedied and the complainant would thereafter the respondent would be in a position to handover the possession to the complainant and thus, the complainant would be able to conveniently

continue with the development of its project for which the plot was allotted.

- X. That it is important to mention herein that as per clause 4 of the agreement, the complainant was under an obligation to implement the project within three years from the date of offer of possession. As per clause 5 of the agreement, the complainant was required to take possession of the plot, submit the building plans and start the construction at site within six months from the date of offer of possession. Since, Hence, it is clear that from the very inception due to the continuous default and misrepresentation on the part of the respondent, it was the complainant who suffered.
- XI. That as per Clause 37 of the agreement, it was agreed that the changes made in the Industrial Policy and the Estate Management Procedure of HSIIDC from time to time, would be applicable and binding upon the complainant. The respondent miserably not only failed to comply with the provisions of the Industrial Policy, 2005 as aforesaid but also the provisions of Industrial and Investment Policy- 2011 and Estate Management Procedure- 2011 and Estate Management Procedure- 2015 (EMP- 2015) which specifically laid down the services which were to be provided by the respondent. The provisions of the said policies/procedure are squarely applicable to the facts of the case in hand. Rather, Clause 3 of Estate Management Procedure- 2015, specifically lays down that the provisions of EMP-2015 shall be applicable to all the existing as well as future allottees of industrial plots/sheds as well as residential, group housing, commercial, institutional & industrial worker housing plots/sites, in various Industrial Estates / Industrial Model Townships (IMT's) developed by HSIIDC as well as Industries Department, Haryana, w.e.f. 16.10.2015. Furthermore, even the provisions of Estate Management

Procedure- 2015 specifically laid down the mandatory Infrastructure was required to be provided by the respondent. The respondent in the present matter is in violation of the Section 11(3)(b) and 11(4) of the RERA Act, 2016 which gives right to an allottee against the Promoter.

- XII. That despite the assurances and promises of the respondent, it miserably failed to comply with the same and the complainant, after several enquiries and communications with the respondent, understood that the assurances of the respondent were nothing but a hoax and that the respondent had no intention of providing the said necessary services. It is pertinent to mention herein that the respondent was to handover the possession of the said plot to the complainant as per the provisions of Estate Management Procedure- 2015.
- XIII. Accordingly, being completely frustrated with the non-development of the area and the false promises made by the respondent, the complainant vide its letter dated 22.04.2019 requested the respondent to surrender the plot in question and demanded refund of the total amount paid along with interest. The complainant vide the said letter also highlighted the deficiencies and discrepancies in the infrastructural developments on the part of the respondent. The complainant's letter dated 22.04.2019 was however, not responded to by the respondent and the complainant issued another letter dated 10.06.2019 to the respondent highlighting the earlier request to surrender the plots and suggested an alternate remedy of allotting to the complainant an alternate plot in Udyog Vihar, Gurugram in lieu of the two plots. The said letter was also left unanswered. The complainant, thereafter, vide letter dated 18.06.2019, withdrew the suggestion of allotment of an alternate plot and reaffirmed the request for surrender of the plots and refund of the principal amount along with interest at the rate of 12% per annum.

- XIV. That the respondent acceded to the request of the complainant and vide letter dated 05.11.2019 informed the complainant that the plots had been surrendered and the principal amounts had been refunded to the complainant. However, the interest, as demanded by the complainant was not paid by the respondent and the respondent further claimed that the complainant was not entitled to interest as per the EMP and therefore, no request/ demand for refund could be allowed. The respondent was throughout aware that it had acted in contravention to the policies in question and thus on admitting the same, credited the principal amount to the complainant.
- XV. That on 06.11.2019, the complainant in continuation of the several reminders again reminded the Respondent to pay the interest amount @12% p.a. on the refunded amount. However, the respondent failed to pay any heed to the genuine demands of the complainant. Accordingly, vide reminder letters dated 08.01.2020, 02.03.2020 and 01.03.2021, the complainant again reminded the respondent of the payment of interest @12% p.a. on the refunded amount. The respondent in telephonic conversations assured the complainant that the respondent would be making the payment towards the interest component as per the provisions of RERA Act, 2016 and that the said amount would be credited to the complainant's bank account in some days.
- XVI. That the complainant was in complete shock and dismay when the respondent issued a letter dated 26.03.2021 vide which the respondent unilaterally discharged itself from the liability of making payment of the due interest amount. The respondent vide the said letter fallaciously stated that the respondent had refunded the paid up amount as per the EMP-2015 and thus as per the said EMP-2015, there is no provision of interest on the deposited amount at the time of surrender of plot and accordingly the

respondent had stated that it would not be accepting the requests of the complainant.

- XVII. That the complainant upon the receipt of the said letter of the respondent vide which the request of the payment of interest had been rejected again approached the respondent and apprised it about the provisions of the RERA Act, 2016 which evidently provides for the payment of interest along with the refund of the total paid amount on account of any loss sustained by the allottee on account of the misrepresentations and deficiencies on the part of the promoter. The complainant again, sought refund of the interest due and payable on the principal amount from the respondent vide letters dated 09.04.2021 and 09.08.2021 where were left unanswered. The respondent in response to the concerns raised by the complainant categorically stated that the respondent is not obligated to comply with the provisions of RERA Act, 2016 and thus is not liable to pay the amount of interest to the complainant. The Section 89 of the RERA Act, 2016 is very specific in nature and it has been laid down that if there is any contradiction between RERA Act, 2016 and any other law for the time being in force, then RERA Act, 2016 would prevail. It is for this very reason, that RERA Act, 2016 prevails over Affordable Housing Policy, 2013 and should also prevail over EMP- 2015.
- XVIII. That the complainant had complied with all rules and regulations of the HSSIDC policy and paid to the respondent the amount as and when the same was due, despite that the respondent failed to develop the necessary infrastructure and amenities required to run and operate any industry. Due to such act of the respondent the claimant had to drop it's IT/ IT enabled service project and the claimant was left with no choice other than to surrender the said plot. The claimant is duly required to be compensated for the entire amount kept by the respondent for the period of initial

payment by the claimant against the said plot to the date of refund of the amount by the respondent to the claimant. The representatives of the complainant had approached the respondent several times and had enquired about the grievances raised by the complainant and had requested the respondent to make the payment of interest due to be paid on the part of the respondent. No satisfactory response was ever received by the complainant from the respondent.

- XIX. That the respondent has misused and converted to its own use the huge amounts received from the complainant and other buyers in the project in a totally illegal and unprofessional manner and the respondent is least bothered about the compliance of the RERA Act and HRERA Rules, 2017. The respondent just wants to somehow put the complainant in a position wherein the complainant is forced to accept the unlawful terms and conditions imposed upon them by the respondent.
- XX. That the acts of the respondent are in violation of Section 12 and 18 of the RERA Act, 2016 and the complainant herein is well within its rights to seek the amount of interest as per the said provisions of the RERA Act, 2016. It is pertinent to mention here that the booking was made by the Complainant only on account of the representations of the Respondent that adequate infrastructural facilities would be available at the site of the project in line with the policies and law. However, no such facilities were provided and accordingly the complainant was forced to withdraw from the project on account of the deficiencies. Thus, as per Section 12 of the RERA Act, 2016, the complainant had suffered on account of the misrepresentations made by the respondent. The respondent refusal to pay the interest on the amount is thus contrary even to its own governing policy, apart from being in clear violation of the statutory mandate under the RERA Act of 2016. Therefore, in view of the respondents failure to offer

the possession and its consequent refund of the principal amount , the complainant is clearly entitled to interest on the refunded amount.

- XXI. That as per the terms of the agreement, the respondent was obligated to provide the possession of the said plot as per the policies governing HSIIDC as mentioned hereinabove in the present complaint, the respondent miserably failed to do so. Thus, the respondent failed to provide the possession of the said plot in accordance with the said policy and the agreement and is liable to provide the interest as per provisions of the RERA Act, 2016. From a bare reading of Sections 12 and 18 of the RERA Act, 2016, it becomes evident that if the Promoter defaults in adhering to the provisions as laid down, then the Allottee would be entitled to not only the refund of the principal amount but also interest on the said amount. The above-mentioned acts of the respondent are also in violation of Section 11(4)(a) of the RERA Act, 2016.
- XXII. That the respondent has in complete defiance of its obligations refused to pay the amount of interest to the complainant leaving the complainant with no other option but to file the present complaint. Since the respondent miserably failed in its obligations, hence the complainant is entitled to the amount of interest at the prescribed rate as per the Real Estate (Regulation and Development) Act, 2016 and Haryana Real Estate (Regulation and Development) Rules, 2017 beside compensation for huge mental torture and misrepresentation as per Section 18(3) of the RERA Act, 2016.
- XXIII. That it is submitted that the project is an ongoing project and hence falls under the first proviso to Section 3(1) of RERA 2016. The Complainant believe that no completion certificate has been issued for the Project in question till date and hence this project falls clearly under the jurisdiction of this Hon'ble Authority.

C. Relief sought by the complainant:

8. The complainant has sought following relief(s):
- i. Direct the respondent to make the payment of interest on the principal amount paid by the complainant as per the provisions of the RERA Act,2016 read with Haryana Rules, 2017.
 - ii. Pass an order imposing penalty on the promoter on account of various defaults and illegalities under RERA Act,2016 and the same be ordered to be paid to the complainant.
9. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

D. Reply by the respondent:

10. The respondent has contested the complaint on the following grounds.
- i. That it is pertinent to mention here that complainant has filed 2 cases, one case is related to Plot No. 57 bearing complaint no. 1761 of 2024 and second case is related to Plot No. 56 bearing complaint No. 1762 of 2024. That facts of the cases are almost same but only difference is the date of allotment of both the plots and date of issuing undertaking by the complainant.
 - ii. That the complainant was allotted a plot No. 57, Sector-35, Gurugram measuring 2763 Sq. Mtr. vide allotment letter dated 07.11.2008 for setting up an industrial project to manufacture Auto components at the rate of Rs.15,000/- per sq. Mtr. under the scheme of prestigious project. The complainant furnished an undertaking dated 15.09.2008 to take the physical possession of the plot No. 57 on 'as is where is basis'.
 - iii. That from the bare perusal of the above provisions, it is clear that complainant since the very beginning gave his undertaking while assuming the risk, hence, now the complainant cannot shift the blame on

the respondent. Later on the complainant requested to change the project from Auto Component to IT Project. Further, the complainant also requested to change of name of the company from M/s BS VIP Auto Pvt. Ltd. to M/s BS VIP Info Pvt. Ltd. On the request of the complainant for change of project, the project has been changed from Auto Component to IT/IT enabled services and the same has been conveyed to the complainant vide letter dated 06.11.2009

- iv. That thereafter, another regular letter of allotment was executed on 07.11.2009 and agreement to that effect entered between the parties on 23.11.2009. That even in the 3rd clause page 6 it was clearly mentioned that "the aforesaid plot/shed has been allotted on the 'as is where is basis'.
- v. That the respondent/Corporation vide letter dated 22.03.2011 informed the complainant about the coming of the policy of Estate Management Procedure 2011, that in case the complainant is interested in switching over to EMP-2011. The complainant vide its Board Resolution dated 26.12.2011, approved and apply to HSIIDC for switching the plot No. 57 from old policy EMP-2005 over to the new provisions of New Policy EMP 2011 and also furnish an undertaking regarding the same.
- vi. That vide letter dated 18.04.2011, the complainant has requested the Corporation/respondent to allot an additional plot of similar size of 2763 sq. Mtr. for their IT project. On 06.07.2017, HSIIDC/respondent issued a letter to the complainant for not initiating the implementation of the project, as the plot was allotted to the complainant vide RIA dated 07.11.2008.
- vii. That complainant vide letter dated 22.04.2019, 12.06.2019 and 18.06.2019 requested the respondent to surrender the Plot No. 57 and demanded refund of the total amount paid. The respondent/Corporation informed the complainant that their request for surrender of plot No. 57

has been considered and acceded to by the Corporation/respondent and the amount has been refunded to the bank account of the complainant through RTGS dated 13.09.2019 as per the terms and condition of the allotment.

- viii. That it is submitted that from the bare perusal of the undertaking it is concluded that the complainant voluntarily chooses the project and in support to that furnishes an undertaking vide which they were ready to take the possession of the plot without any basic infrastructure.
- ix. That the plot in question covers under the Estate Management Procedure 2005 and then Estate Management Procedure 2011 and lastly under Estate Management Procedure 2015. In all these policies there are certain provisions by which the complainant is bound to follow. Clause 6.2 of Estate Management Procedure 2011, Clause 6.1 of Estate Management Procedure 2015 and lastly Clause on Surrender of Plot in Estate Management Procedure 2005. The provisions from the Estate Management Procedure 2005, then Estate Management Procedure 2011 and lastly under Estate Management Procedure 2015 it is clear that the complainant is not entitled for any interest on the amount paid. Whereas, in all the Estate Management Procedure it is clearly mentioned that if the allottee surrender the plot then in that case some amount (as prescribed) will be deducted before refund however, the respondent has not deducted any amount as prescribed in the EMP.
- x. That it is submitted that even after the provisions of the EMP- 2005, EMP- 2011 and EMP- 2015, respondent/HSIIDC has refunded the complete amount to the complainant. At the time of surrender of the plot by the complainant all the basic facilities were made available on the plot in question but the complainant still chooses to surrender the plot.

- xi. That complainant surrendered the plot causes loss to the respondent as well as Government and public at large. As the HSIIDC allot plots for the construction of the industries that builds employment opportunity, however, complainant did not comply with the terms of allotment due to which no employment has been generated and because of the surrender, the plot is still lying vacant and HSIIDC has to do the entire process again for its allotment.
- xii. That the complete amount was refunded by the respondent on dated 13.09.2019 via RTGS and the same has been mentioned by the complainant in the complaint but the complainant has filed the present complaint in the year 2024 i.e. after 5 years and that too for the interest that is totally time barred. That complainant suddenly after 5 year wake up and chose to file a case based on the false and fictitious facts. The present complaint is totally time barred. That the limitation period starts from 13.09.2019 and ends on 12.09.2022.
- xiii. That during the course of argument before the Hon'ble Authority, complainant alleges that the HSIIDC declines their request for interest vide letter dated 26.03.2021 and cause of action starts from that date. This allegation and argument is completely false and baseless. That the respondent/Corporation vide letter dated 05.11.2019 informed the complainant about the refund and the refund was already made on 13.09.2019. So if the complainant after one and a half year again wrote a letter to the Corporation demanding the interest and the corporation replied to that letter, that does not create a fresh cause of action for the complainant as there is no acknowledgment to the demand. The cause of action if any accrued only on 13.09.2019 when the amount was refunded.
- xiv. That if we the argument of the complainant be taken into consideration then the whole concept of the principle of limitation be frustrated, as the

limitation period will never be over. Limitation runs from the original breach; reminders or subsequent demands cannot create a new cause of action or enlarge limitation under Indian limitation jurisprudence. Just writing a letter after more than one and a half year does not create a fresh cause of action to the complainant to file the complaint nor there is continuing breach that create continues cause of action. It is settled law that repeated representations or subsequent correspondence do not extend limitation nor create a fresh cause of action; limitation runs from the original breach.

- xv. That provisions of Section 18 won't attract in the present case as the complainant themselves know about the situation of the plot but still ready to take the possession. The present complaint deserves to be dismissed at threshold because the same has been filed with half and distorted facts with only intention to mislead the Court and causing wrongful loss to the respondent company.
- xvi. That the complaint is not maintainable and the same is liable to be dismissed on the ground that the project has not received registration certificate under RERA and hence this Hon'ble Authority has no jurisdiction to entertain present complaint.
- xvii. That the no cause of action has arose against the respondents as in terms of the RERA Act. Hence, on this ground alone the complaint is liable to be dismissed. It is clear from the submissions made above that the claim of the complainant seeking interest on the amount that was refunded back in the year 2019 is not maintainable as per the Clause 3 of the Regular Letter of Allotment and as per the Surrender clause of the Estate Management Procedure 2005, 2011 and 2015. Hence, in view of the above-mentioned facts and submissions, the present complaint is not maintainable.

- xviii. That the present complaint is also barred by limitation as the refund was made in the year 2019 and the present complaint has been filed in the year 2024 i.e after almost four and a half year.
- xix. Additionally, the complaint is not maintainable as the relief claimed (interest on surrendered plots under an industrial allotment governed by EMP) lies squarely in the contractual/policy domain and does not arise out of any delay in handing over possession under a 'real estate project' within the meaning of the RERA Act.
- xx. That the complainant is not entitled for any interest on the refunded amount as claimed for in the present complaint. It is admitted fact that the complainant vide letter dated 22.01.2019, 12.06.2019 and 18.06.2019 has requested for surrender of the plot in question. It is also admitted that the refund was made to the complainant on 13.09.2019 and letter was also issued to the complainant on 05.11.2019, wherein it was informed that the refund has been made as per the terms and condition of the allotment.
- xxi. That as per clause 3 of the RLA, that in case of surrender of plot, the refund has to be made without interest and after deducting 10% of the total tentative price. Thus, contractually, in case of surrender, the allottee has no right to claim any interest, and the Corporation is entitled to deduct 10% of the total tentative price.
- xxii. That it is pertinent to mention here that complainant admittedly in para no. 24 of the complaint that "the respondent acceded to the request of the complainant and vide letter no. 05.11.2019 and informed the complainant that the plot had been surrendered and the principal amount had been refunded to the complainant. The respondent further claimed that the complainant was not entitled to interest as per the EMP"

- xxiii. That the complainant mentioned about various provisions of the EMP but did not mention about the Surrender clause that was present in the EMP 2005, EMP 2011 and in EMP 2015.
- xxiv. That during the argument, complainant has raised the plea that the infrastructure facilities were not completed due to which complainant surrender the plot. That complainant also refer the clause 4.1 of the EMP 2015 that is related to offer of possession and argued that basic facilities were not present so they surrender the plot and also refer to clause 4.6 of EMP 2015 claims that they are entitled for interest. In response to these arguments it is submitted that, firstly the present complaint has been filed not for providing basic facilities or for delayed possession charges. The present complaint has been filed in the year 2024 seeking interest on the amount that was refunded back in the year 2019. Secondly as far as the question of facilities are concerned it is submitted that at the time of allotment, complainant has furnished an undertaking dated 15.09.2008 to take the physical possession of the plot No. 57 on 'as is where is basis'.
- xxv. That thirdly, complainant while referring clause 4.1 of the EMP 2015 only refer half of the clause and mislead the Hon'ble Court. That in clause 4.1 (last three lines) it was mentioned that "(The amendments in EMP with respect to basic infrastructure facilities to be provided before offer of possession shall be applicable for estates to be planned/developed in future i.e. after 08.03.2017)." That it is clearly mentions that the present provisions is for the estate to be planned/developed in future i.e. after 08.03.2017, whereas in the present case the plot in question was allotted back in the year 2008, so this provisions is not applicable to the present case.
- xxvi. Written arguments has been submitted by the respondent. The same is taken on record and perused further.

11. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

12. 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

13. 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

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

15. 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.

F. Maintainability of the complaint:

16. The complainant was allotted a plot No. 57, Sector-35, Gurugram measuring 2763 Sq. Mtr. vide allotment letter dated 07.11.2008 for setting up an industrial project to manufacture Auto components at the rate of Rs.15,000/- per sq. Mtr. . Thereafter, another regular letter of allotment was executed on 07.11.2009 and agreement to that effect entered between the parties on 23.11.2009. The complainant has paid a sum of Rs. **Rs.4,15,88,448/- out of the total sale consideration of Rs. Rs.4,14,45,000/-**.
17. The complainant has stated that account of the representations of the respondent that adequate infrastructural facilities would be available at the site of the project in line with the policies and law. However, no such facilities were provided and no possession was offered to the complainant and accordingly the complainant surrender the plot on 22.04.2019 and 18.06.2019. The respondent considered the request of the complainant and amount has been refunded to the bank account of the complainant through RTGS dated 13.09.2019. Now the complainant has filed the present complaint for payment of interest on the principal amount paid by the complainant on 26.04.2024 i.e after 5 years even when the respondent has fulfilled his obligation by refunding the whole amount to the complainant on their surrender request.
18. Upon a perusal of the record, the Authority observes that the present complaint is barred by limitation. The cause of action, if any, arose in 2019,

and has long since become time-barred under the provisions of the Limitation Act, 1963.

19. One such principle is that delay and laches are sufficient to defeat the apparent rights of a person. In fact, it is not that there is any period of limitation for the authority to exercise their powers under the section 37 read with section 35 of the Act nor it is that there can never be a case where the authority cannot interfere in a manner after a passage of a certain length of time but it would be a sound and wise exercise of discretion for the authority to refuse to exercise their extraordinary powers of natural justice provided under section 38(2) of the Act in case of persons who do not approach expeditiously for the relief and who stand by and allow things to happen and then approach the court to put forward stale claims. Even equality has to be claimed at the right juncture and not on expiry of reasonable time.
20. Further, as observed in the landmark case i.e. ***B.L. Sreedhar and Ors. V. K.M. Munireddy and Ors. [AIR 2003 SC 578]*** the Hon'ble Supreme Court held that "*Law assists those who are vigilant and not those who sleep over their rights.*" Law will not assist those who are careless of his rights. In order to claim one's right, one must be watchful of his rights. Only those persons, who are watchful and careful of using his/her rights, are entitled to the benefit of law.
21. Additionally, it is stated that the complainant is not entitled to any interest on the amount deposited in view of Clause 3 of the Regular Allotment Letter dated 07.11.2008, which categorically stipulates that if the allottee chooses to surrender the plot then the principal amount received towards the tentative price shall be refundable to you without any interest after forfeiting 10% of the total tentative price. The same clause is retreated below for ready reference: -

3. *AND WHEREAS after having accepted the allotment and/or making payment of 35% of the tentative price or subsequent payment(s) of the installments, towards balance outstanding tentative price, if you choose to surrender the plot/shed for any reason whatsoever, in that eventuality, the principal amount received towards the tentative price shall be refundable to you without any interest, after forfeiting 10% of the total tentative price of the aforesaid plot/shed. Any amount paid to HSIIDC on account of interest and/or penal interest and penalty shall be non-refundable."*
22. Moreover as per clause 37 of the agreement dated 23.11.2009 it is stated that " The changes made in the IP and /or EMP by the State Govt. or HSIIDC, from time to time as well as the changes and guidelines issues by the State Government or HSIIDC, from time to time regarding extension on time, transfer & leasing or any other issue pertaining to the allotment of industrial plot/shed any other matter related to Estate Management shall be applicable and binding on the allottees.
23. That the plot in question was governed initially by the Estate Management Procedure, 2005, thereafter by the Estate Management Procedure, 2011, and subsequently by the Estate Management Procedure, 2015, as amended from time to time, all of which were statutorily applicable and binding upon the complainant, and the complainant was under a legal obligation to strictly adhere to the provisions contained therein.
24. That the Estate Management Procedure, 2005, followed by the Estate Management Procedure, 2011, and lastly the Estate Management Procedure, 2015, each contain a specific and independent chapter/provision governing surrender of plots, which exclusively regulates the rights, liabilities, and consequences arising out of surrender by an allottee The clauses governing surrender of the plot are reproduced hereinbelow for kind perusal: -

RESUMPTION / SURRENDER OF PLOTS

Upon resumption/surrender, the amount deposited by the allottee will be refunded after deducting 10% of the price of plot without any interest. The interest paid by the allottee shall also be forfeited.

Clause 6.2 of Estate Management Procedure 2011

6.2(iii) talks any surrender of plot after completion after three years of allotment will entail deduction of 10% of the price of the plot/shed.

Clause 6.1 of Estate Management procedures (EMP) 2015**6.1 Surrender of Plots/ sheds:**

A i. Keeping in view that a number of factors impact the establishment of a business in a dynamic business environment, it is recognized that the plans for establishment of a business may undergo a change and the allottee may review and reconsider his plans to carry on with the establishment of the intended business. In such situations, the allottees will have the option to surrender the plots/sheds allotted/sold to them at any point of time. Upon surrender of plots, the payment deposited by the allottee towards the principle cost and enhanced cost of the plot/site would be refunded, without any interest by the Corporation, after deducting 10% of the price of the plot/site. In addition of the above, the interest and delayed interest paid as well as unpaid interest till the date of submission of surrender request on online portal of the Corporation shall also be forfeited subject to maximum of 10% price of the plot or 50% of amount paid over and above 10% price of the plot, whichever is less. Maintenance, water/sewer charges, in default, if any, shall also be deducted from the refundable amount.

**In case of surrender of the plot either due to death of the allottee or before offer of possession by the HSIIDC or the HSIIDC is not in a position to offer possession of the plot free from encumbrances or offer alternate similar plot to the satisfaction of the allottee, the refund would be made without*

any deduction. Further, along with surrender request, the allottee shall submit details of his bank account for payment through electronic mode. However, it is clarified that the provisions for refund on surrender of plot without any deduction shall not be applicable in the cases of allotment of industrial plots without offer of possession, where the allottee has either taken over possession of the plot suo-moto without any formal offer of possession by the Corporation or surrender is made at a stage where the infrastructure is complete and the Corporation is in the process of formally offering physical possession of the plot.

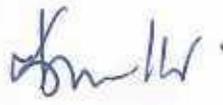
25. That from a bare perusal of the relevant provisions of the Estate Management Procedure, 2005, followed by the Estate Management Procedure, 2011, and lastly the Estate Management Procedure, 2015, it is evident that the complainant is not entitled to any interest on the amount which was already refunded by the respondent to the complainant. On the contrary, all the aforesaid Estate Management Procedures categorically provide that in the event of surrender of the plot by the allottee, a specified amount, as prescribed therein, is liable to be deducted from the refundable amount. However, in the present case, the respondent has not deducted the amount as mandated under the applicable Estate Management Procedure.
26. In the light of the above stated facts and applying aforesaid principles, the Authority is of the view that the present complaint wherein seeking interest on the already refunded amount way back in the year 2019 is not maintainable **firstly**, after such a long period of time as the law is not meant for those who are dormant over their rights. **Secondly**, in terms of the Estate Management Procedure (EMP) clauses, the respondent was under no obligation to refund the amount along with interest. The aforesaid Estate Management Procedures categorically provide that, in the event of surrender of the plot by the allottee, a specified amount, is liable to be

deducted from the refundable amount. However, in the present case, the respondent has not deducted any amount as mandated under the applicable Estate Management Procedure and has instead granted a full refund to the complainant.

27. Therefore, the complaints are not maintainable and are hereby dismissed.
28. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
29. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
30. Files be consigned to registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated:27.01.2026