

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

**Complaint no.** : 898 of 2025  
**Date of complaint** : 17.02.2025  
**Date of order** : 19.02.2026

Rupinder Singh & Sarveen Kaur  
**R/O:** B-14, Shriram Apartments,  
Sector-4, Dwarka.

**Complainants**

Versus

1.M/s Parkwood Infrastructure Private Limited  
**Regd. office:** 1001, Hemkunt Chambers, 89  
Nehru Place.  
2.L and T Finance Holdings Ltd.  
**Regd. Office:** Brindavan, Plot no. 177, C.S.T  
Road, Kalina, Santacruz, Mumbai City.

**Respondents**

**CORAM:**

Phool Singh Saini

**Member**

**APPEARANCE:**

Anshul Sharma (Advocate)

Complainants

Venket Rao (Advocate)

Respondent No.1

Ajay Yadav (Advocate)

Respondent No. 2

**ORDER**

1. The present complaint has been filed by the complainant/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the



provision of the Act or the rules and regulations made there under or to the allottees as per the agreement for sale executed inter se.

**A. Unit and project related details**

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

Sr. No.	Particulars	Details
1.	Name of the project	"Parkwood Westend", Sector-92, Gurugram, Haryana.
2.	Nature of project	Group Housing Colony
3.	DTCP License no.	License No. 53 of 2010 dated 10.07.2010
4.	RERA registered	<b>Registered</b> 16 of 2018 dated 19.01.2018, Valid upto 31.12.2019
5.	Unit no.	D-1204, Tower-D, 12 <sup>th</sup> Floor (As mentioned in BBA at page 18 of complaint)
6.	Unit area	1840 sq. ft. (super area) (As mentioned in BBA at page 18 of complaint)
7.	Allotment letter	11.09.2015 (As on page 50 of complaint)
8.	Date of execution of buyer's agreement	22.09.2015 (As on page 14 of complaint)
9.	Possession clause	<b>Clause 28. Possession</b> <b>(a) Time of handing over the Possession</b> <i>That subject to terms of this clause and subject to the FLAT ALLOTTEE(S) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement and further subject to compliance with all provisions, formalities, registration of sale deed, documentation, payment of all amount due and payable to the DEVELOPER by</i>



		<p><i>the FLAT ALLOTTEE(S) under this agreement etc., as prescribed by the DEVELOPER, the DEVELOPER proposes to hand over the possession of the FLAT within a period of thirty six(36) months from the date of signing of this Agreement. If, however, understood between the parties that the possession of various Block/Towers comprised in the complex as also the various common facilities planned therein shall be ready and complete in phases and will be handed over to the Allottee of different Block/Towers as and when completed.</i></p> <p style="text-align: right;">[Emphasis supplied]</p> <p><b>(As on page 30 of complaint)</b></p>
10.	Due date of possession	<b>22.09.2018</b> (Calculated 36 months from date of execution of agreement)
11.	Total sales consideration	Rs.98,63,000/- (As per payment plan on page 43 of complaint)
12.	Amount paid by the complainants	Rs.78,64,370/- (as alleged by the complainant at page 8 of complaint and as per receipts at page 49, 51-53 of reply)
13.	Occupation certificate	Not on record
14.	Offer of possession	Not on record
15.	Loan agreement <b>B/w Complainants and R2</b> For a sum of Rs.69,00,000/-	31.10.2015 (as alleged in reply at page 1 of reply by R2) (copy not place on record)

**B. Facts of the complaint:**

3. The complainants have made the following submissions: -

- i. That the respondent no. 1, Parkwood Infrastructure Pvt. Ltd., is the developer/builder of the project "Parkwood Western" located in Sector



92. Gurugram, while L&T Finance Holdings Ltd. is the financial lending institution.
- ii. That the complainants had booked a residential unit in the said project developed by respondent no. 1. Pursuant to the booking, they were allotted flat no. D-1204 in Tower No. D, situated on the 12th floor of the group housing complex. The said unit has an approximate super area of 1,840 square feet. hereinafter, the said residential unit shall be referred to as the "said unit" for the purposes of this complaint.
  - iii. That the builder-buyer agreement was executed between the complainants and respondent no. 1 on 22nd September 2015. Prior to the execution of the BBA, the complainants had already deposited a sum of 18,50,000 with respondent no. 1, which has been duly acknowledged by the latter in the BBA.
  - iv. That the total sale consideration of the said unit was initially 192,46,000/- . However, pursuant to the payment plan shared by respondent no. 1, along with additional charges for certain services/amenities, the total sale consideration was increased to 198,63,000/-.
  - v. That the vide a loan agreement dated 13.10.2015, the complainants have applied for a home loan from L&T Housing Finance Limited having its office at Karol Bagh, New Delhi amounting to Rs 69,00,000/- for said unit. Additionally, around that time, a tripartite agreement was executed between (i) Complaints, (ii) Parkwood Infrastructure Pvt. Ltd., (iii) L&T Housing Finance Ltd. for the disbursement of loan amount directly in the account of the respondent no.1. As per the loan disbursement letter, the amount of Rs 60,14,370/- was to be disbursed by L&T Housing Finance Limited having its office at Karol Bagh, New Delhi in the account of the builder bearing credit account number 6231619812 maintained with State Bank of Hyderabad, Nehru Place, New Delhi.



- vi. In furtherance of the aforementioned transactions, the complainants, in compliance with their financial obligations under the builder-buyer agreement and the tripartite agreement, have collectively paid a total sum of 178,64,370/- towards the consideration of the said unit, including payments made directly to respondent no. 1 as well as the loan disbursed by respondent no. 2 on their behalf. However, despite fulfilling their financial commitments in good faith and as per the agreed terms, the objective for which such payments were made has not been achieved, rendering their efforts and substantial monetary investment futile.
- vii. That thereafter, the complainants, being bona fide and gullible allottees, continued to pay certain EMIs in good faith and in reliance on the assurances and representations made by respondent no. 1, believing that the possession of the said unit would be delivered within the stipulated timeframe as per the builder-buyer agreement. However, despite their trust and compliance with financial obligations, the possession has not been handed over as promised.
- viii. In furtherance of the aforesaid, it is imperative to mention that respondent no. 2 has initiated recovery proceedings/arbitration proceedings against the complainants for the alleged default in loan repayment. The said proceedings are/will be challenged by the complainants before the competent authorities, as the delay in possession and the non-fulfilment of contractual obligations by respondent no. 1 have directly resulted in the present situation, causing grave prejudice to the complainants.
- ix. It is abundantly clear that out of the total agreed consideration of 192,46,000/-, an amount of 178,64,370/- has already been remitted, which constitutes approximately 85% of the total payment. Despite the substantial payment made, there has been no discernible progress in the construction of the project.



- x. That it is further pertinent to mention that the complainants do not seek any relief, claim, or remedy against respondent no. 2, L&T Finance Holdings Ltd., in the present complaint. The grievances of the complainants primarily pertain to the actions and omissions of respondent no. 1, particularly concerning the inordinate delay in handing over possession of the said unit and the failure to fulfill contractual obligations as per the builder-buyer agreement. Any reference to respondent no. 2 in the present complaint is made solely for the purpose of presenting a factual background and to illustrate the financial transactions undertaken in connection with the said unit.
- xi. That the complainants have waited for several years for the completion and delivery of the said unit/said project in accordance with the terms of the builder-buyer agreement. However, despite their patience and continuous efforts, respondent no. 1 has failed to fulfill its contractual obligations and has unjustifiably delayed the possession of the said unit. In light of the prolonged delay and the failure of respondent no. 1 to honour its commitments, the complainants now seek a refund of their hard-earned money, along with interest and other consequential reliefs as may be deemed appropriate by the competent authority.
- xii. That in view of the aforesaid judgments of the Hon'ble Apex Court, the complainants cannot be compelled to wait indefinitely for possession, especially when the promoter has defaulted on the committed date of possession by over seven years. Consequently, the complainants, being no longer willing to continue with the purchase of the unit in this project, hereby withdraw from the same through this complaint. The act and conduct of the respondent have caused a lot of physical harassment mental agony and huge financial loss to the complainants.

**C. Relief sought by the complainants:**

4. The complainants have sought following relief(s):



- i. Direct the respondent No. 1 to refund the entire amount deposited along with interest.
  - ii. Litigation cost of Rs. 1,00,000/- may be awarded in favour of complainants.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

**D. Reply by respondent No. 1:**

6. The respondent no. 1 vide reply contested the complaint on the following grounds:
- i. That the instant reply to the above-captioned matter is being filed on behalf of the M/s Parkwood Infrastructure Pvt. Ltd. through its authorized representative, Sh. Dakshdeep Singh who is duly authorized to act on behalf of the respondent vide board resolution dated 04.05.2015.
  - ii. That it is relevant to state the respondent is a real estate company engaged in the business of the development and construction of real estate projects and is one of the reputed companies in the real estate sector.
  - iii. That the complainant had booked unit no. D-1204, in Tower no. D, situated on 12<sup>th</sup> floor, admeasuring 1840 sq. ft., in the project 'Parkwood Westend', situated at Sector-92, Gurugram, and pursuant thereto, an allotment letter dated 11.09.2015 was issued in his favour, reflecting a basic sale consideration of ₹85,56,000/-
  - iv. That the present complaint has been preferred by Rupinder Singh & Sarveen Kaur on frivolous and unsustainable grounds and the complainant(s) have not approached this Hon'ble Authority with clean hands and are trying to suppress material facts relevant to the matter. The complainant(s) are making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and sole purpose of extracting unlawful gains from the respondent. The



- instant complaint is not maintainable in the eyes of the law and is devoid of merit, therefore it is fit to be dismissed in limine.
- v. the respondent seeks to raise the following objections/submissions, each of which have been taken in the alternative and are without any prejudice to the other. Nothing contained in the preliminary objections/ and in the reply on merits below may, unless otherwise specifically admitted, be deemed to be direct and tacit admission of any allegation made in the complaint.
- vi. It is a matter of fact, that time was the essence in respect to the obligation of complainant for making the respective payment. And as per the agreement so signed and acknowledged, the complainant(s) were bound to make the outstanding payment as and when demanded by the respondent.
- vii. That the respondent herein had been running behind the complainant for the timely payment of dues towards the unit in question. That in spite of being aware of the payment plans the complainant herein has failed to pay the outstanding dues on time.
- viii. That it is pertinent to submit that the conduct of the complainant itself establishes mala fide intent and lack of bonafides. The complainant has repeatedly defaulted in making timely payments as per the agreed schedule. It is a matter of record that the complainant's payment of ₹4,00,000/- on 19.09.2015 was never received.
- ix. That it is further submitted that even the subsequent instalment of ₹9,50,000/- on 05.10.2015, which was required to be deposited by the complainant, did not get cleared. The said payment was not credited, clearly demonstrating the complainant's negligent and non-cooperative approach towards fulfilling his contractual obligations. The complainant, despite having full knowledge of the payment schedule, failed to adhere to the same without furnishing any justification.

- x. That the consistent failure of the complainant to honour the payment obligations reflects a clear pattern of deliberate default. These defaults have materially contributed to delays in the project and have adversely affected the respondent's ability to maintain cash flow and progress in construction. The respondent cannot be penalised for delays squarely attributable to the complainant's non-payment.
- xi. It is further pertinent to mention that the complainant failed to clear the outstanding dues of Rs. 4,50,154/- payable against the unit.
- xii. That in the present case, the complainant has not obliged its duties and further has not made the payments as per the agreed timeline in the agreement which the complainant(s) failed to execute. In these circumstances, the complainant is estopped from raising any allegations against the respondent as the complainant(s) themselves are at fault. It is relevant to mention that the complainant(s) herein have clearly violated the duties of an allottee provided under Section 19(6) of the Real Estate (Regulation and Development) Act, 2016. That as per Section 19 (6) of the Act, it is the duty of the allottee to make timely payments in the manner as agreed between the parties.
- xiii. It is submitted that the completion of the said unit was subject to the midway hindrances which were beyond the control of the respondent.
- xiv. Further, in case the construction of the said residential unit was delayed due to such 'Force Majeure' conditions the respondent was entitled for extension of time period for completion. It is to be noted that the development and implementation of the said project have been hindered on account of several orders/directions passed by various authorities/forums/courts as has been delineated here in below:

S. no.	Date of Order	Directions	Period of Restriction	Days affected	Comments
1.	07.04.2015	National Green Tribunal had directed that old diesel vehicles (heavy or light) more than 10 years old would not be permitted to ply on the roads of NCR, Delhi. It has further been directed by virtue of the aforesaid order that all the registration authorities in the State of Haryana, UP and NCT Delhi would not register any diesel vehicles more than 10 years old and would also file the list of	7 <sup>th</sup> of April, 2015 to 6 <sup>th</sup> of May, 2015	30 days	The aforesaid ban affected the supply of raw materials as most of the contractor s/building material suppliers used diesel vehicles more than 10 years old. The order had abruptly stopped movement of diesel



		vehicles before the tribunal and provide the same to the police and other concerned authorities.			vehicles more than 10 years old which are commonly used in construction activity. The order had completely hampered the construction activity.
2.	19 <sup>th</sup> July 2016	National Green Tribunal in O.A. No. 479/2016 had directed that no stone crushers be permitted to operate unless they operate consent from the State	Till date the order in force and no relaxa	<b>30 days</b>	The directions of NGT were a big blow to the real estate sector as the constructi



		<p>Pollution Control Board, no objection from the concerned authorities and have the Environment Clearance from the competent Authority.</p>	<p>tion has been given to this effect.</p>		<p>on activity majorly requires gravel produced from the stone crushers. The reduced supply of gravels directly affected the supply and price of ready mix concrete required for construction activities.</p>
3.	8 <sup>th</sup> Nov, 2016	National Green	8 <sup>th</sup> Nov, 2016 to 15 <sup>th</sup>	7 days	The bar imposed by



		Tribunal had directed all brick kilns operating in NCR, Delhi would be prohibited from working for a period of 2016 one week from the date of passing of the order. It had also been directed that no construction activity would be permitted for a period of one week from the date of order.	Nov, 2016		Tribunal was absolute. The order had completely stopped construction activity.
4.	7 <sup>th</sup> Nov, 2017	Environment Pollution (Prevention and Control Authority) had directed to the closure of all brick kilns, stones crushers, hot mix plants, etc. with effect from 7 <sup>th</sup> Nov	<b>Till date the order has not been vacated</b>	<b>90 days</b>	The bar for the closure of stone crushers simply put an end to the construction activity as in the absence of



		2017 till further notice.		crushed stones and bricks carrying on of construction were simply not feasible. The respondent eventually ended up locating alternatives with the intent of expeditiously concluding construction activities but the previous period of 90 days
--	--	---------------------------	--	---



					<p>was consumed in doing so. The said period ought to be excluded while computing the alleged delay attributed to the Respondent by the Complainant(s). It is pertinent to mention that the aforesaid bar stands in force regarding brick kilns till date is evident from</p>
--	--	--	--	--	---



					orders dated 21 <sup>st</sup> Dec, 19 and 30 <sup>th</sup> Jan, 20.
5.	9 <sup>th</sup> Nov 2017 and 17 <sup>th</sup> Nov, 2017	National Green Tribunal has passed the said order dated 9 <sup>th</sup> Nov, 2017 completely prohibiting the carrying on of construction by any person, private, or government authority in NCR till the next date of hearing. (17 <sup>th</sup> of Nov, 2017). By virtue of the said order, NGT had only permitted the competition of interior finishing/interior work of projects. The order dated 9 <sup>th</sup>		<b>9 days</b>	On account of passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.



		Nov, 17 was vacated vide order dated 17 <sup>th</sup> Nov, 17.			
6.	29 <sup>th</sup> October 2018	<p>Haryana State Pollution Control Board, Panchkula has passed the order dated 29<sup>th</sup> October 2018 in furtherance of directions of Environmental Pollution (Prevention and Control) Authority dated 27<sup>th</sup> Oct 2018. By virtue of order dated 29<sup>th</sup> of October 2018 all the construction activities including the excavation, civil construction were directed to remain close in Delhi and other NCR Districts from 1<sup>st</sup> Nov to 10<sup>th</sup> Nov 2018.</p>	<b>1<sup>st</sup> Nov to 10<sup>th</sup> Nov, 2018</b>	<b>10 days</b>	<p>On account of the passing of the aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.</p>



7.	24 <sup>th</sup> July, 2019	<p>NGT in O.A. no. 667/2019 &amp; 679/2019 had again directed the immediate closure of all illegal stone crushers in Mahendergarh Haryana who have not complied with the siting criteria, ambient, air quality, carrying capacity, and assessment of health impact. The tribunal further directed initiation of action by way of prosecution and recovery of compensation relatable to the cost of restoration.</p>		<b>30 days</b>	<p>The directions of the NGT were again a setback for stone crushers operators who have finally succeeded to obtain necessary permissions from the competent authority after the order passed by NGT on July 2017. Resultantly, coercive action was taken by the authorities</p>
----	-----------------------------	---	--	----------------	--



					against the stone crusher operators which again was a hit to the real estate sector as the supply of gravel reduced manifolds and there was a sharp increase in prices which consequently affected the pace of construction.	
8.	11 <sup>th</sup> October 2019	Commissioner, Municipal Corporation, Gurugram	has	11 <sup>th</sup> Oct 2019 to	81 days	On account of the passing of the



		<p>passed an order dated 11<sup>th</sup> of Oct 2019 whereby the construction activity has been prohibited from 11<sup>th</sup> Oct 2019 to 31<sup>st</sup> Dec 2019. It was specifically mentioned in the aforesaid order that construction activity would be completely stopped during this period.</p>	<p><b>31<sup>st</sup> Dec 2019</b></p>		<p>aforesaid order, no construction activity could have been legally carried out by the Respondent. Accordingly, construction activity has been completely stopped during this period.</p>
9.	04.11.2019	<p>The Hon'ble Supreme Court of India vide its order dated 04.11.2019 passed in writ petition bearing no. 13029/1985 titled as "MC Mehta vs.</p>	<p><b>04.11.2019</b> - <b>14.02.2020</b></p>	<p><b>102 days</b></p>	<p>These bans forced the migrant labourers to return to their native towns/stat</p>



		<p><i>Union of India</i>" completely banned all construction activities in Delhi-NCR which restriction was partly modified vide order dated 09.12.2019 and was completely lifted by the Hon'ble Supreme Court vide its order dated 14.02.2020.</p>			<p>es/villages creating an acute shortage of labourers in the NCR Region. Due to the said shortage the Constructi on activity could not resume at full throttle even after the lifting of ban by the Hon'ble Apex Court.</p>
10.	3 <sup>rd</sup> week of Feb 2020	Covid-19 pandemic	<b>Feb 2020</b>	<b>To date (3</b>	Since the 3 <sup>rd</sup> week of



			<p><b>to till date</b></p>	<p><b>mont hs</b></p> <p><b>Natio nwid e lockd own)</b></p>	<p>February 2020, the Respondent has also suffered devastatingly because of the outbreak, spread, and resurgence of COVID-19 in the year 2020. The concerned statutory authorities had earlier imposed a blanket ban on construction activities in</p>
--	--	--	----------------------------	---	--



					<p>Gurugram. Subsequently, the said embargo had been lifted to a limited extent. However, during the interregnum, large-scale migration of labor occurred and the availability of raw materials started becoming a major cause of concern.</p>
11.	Covid in 2021	That period from 12.04.2021 to 24.07.2021, each	12.04. 2021 -	<b>103 days</b>	Considering the wide spread of



		and every activity including the construction activity was banned in the State	24.07.2021		Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew.
			<b>Total days</b>	<b>582 days</b>	

xv. That from the facts indicated above and documents appended, it is comprehensively established that a period of 582 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above. Thus, the respondent has been prevented by circumstances beyond its power and control from undertaking the implementation of the project during the time period and before indicated above. In a similar case where such orders were brought before the Hon'ble Authority in the Complaint No. 3890 of 2021 titled "Shuchi Sur and Anr vs. M/S Venetian LDF Projects LLP" decided on 17.05.2022, the Hon'ble Authority was pleased to allow the grace period and hence, the



benefit of the above affected 582 days need to be rightly given to the respondent builder.

- xvi. It is pertinent to mention herein that since inception, the respondent herein was committed to complete the project, however, the development was delayed due to the reasons beyond the control of the respondent and further due to timely payments by the allottee and the instant complainant(s) against the unit. That due to the above reasons the project in question got delayed from its scheduled timeline.
- xvii. That it is pertinent to mention that the project could not be completed and developed due pending litigations before the different courts and authorities established by law and most prominently due to non-payments by the allottee's of the project as well as the instant complainant(s). Further the project was delayed due to various hindrance such as government notifications from time to time and Force Majeure Conditions, outbreak of Covid-19 pandemic and other such reasons stated above in the preliminary submissions, which miserably affected the construction and development of the above said project as per the proposed plans which were unavoidable and beyond the control of the respondent.
- xviii. That the respondent upon incapable to complete the construction of the said project as per schedule time verbally requested the complainant(s) from time to time, for granting amounts paid against the unit D-1204, admeasuring 1840 sq. ft. in its project. However, the complainant(s) did not pay any heed to such proposals of the respondent.
- xix. That it is pertinent to mention that even the model buyer agreement states that in the event it becomes impossible for the promoter to implement the project due to force majeure circumstances, Court orders, Litigations, Government Policy, Guidelines or Decisions affecting the regular development of the real estate project, then the allotment shall stand

terminated and the promoter shall be duty bound to refund to the allottee, the entire amounts as received against the unit.

- xx. That the intention of the respondent is bonafide and the above said proposal to refund the amount paid by the complainant(s) in the project is in the interest of the complainant(s) as the project could not be delivered due to various reasons beyond the control of the respondent as stated above and are not repeated herein for the sake of brevity and convenience.
- xxi. The promoter respectfully submits that there has never been any intention to abandon or delay the project. On the contrary, continuous and bona fide efforts have been undertaken to revive and expedite the project despite several unforeseen challenges. The promoter has been proactively coordinating with contractors, financial institutions, consultants, and statutory authorities to ensure that the project progresses in a structured and time-bound manner
- xxii. The promoter further submits that the delays experienced in the project were caused due to factors beyond the control of the promoter, including regulatory hurdles, pandemic-related disruptions, labour shortages, and challenges in material procurement. These were force-majeure-like conditions that significantly affected construction activities industry-wide. Notwithstanding these external constraints, the promoter has consistently taken steps to stabilize operations and restore the pace of development.
- xxiii. The promoter has already mobilized labour, re-engaged contractors, and resumed procurement of essential construction materials. Updated project schedules, revised work orders, and renewed permissions/approvals from competent authorities have also been secured. These actions demonstrate the promoter's clear commitment to completing the project at the earliest possible date.
- xxiv. In light of the above, the promoter humbly seeks the authority's supportive consideration, acknowledging the substantial efforts made to revive the



project. The promoter remains fully committed to safeguarding the interests of allottees and delivering the project in compliance with the provisions of the Real Estate (Regulation and Development) Act, 2016.

xxv. That the various contentions and claims as raised by the complainant(s) are fictitious, baseless, vague, wrong and created to misrepresent and misled this Ld. Authority, for the reasons stated above. That it is further submitted that none of the reliefs as prayed for by the complainant(s) are sustainable before this Ld. Authority and in the eyes of law as well as due to the reasons as state above in the preliminary submissions/objections. Hence, the complaint on such misrepresented facts is liable to be dismissed with imposition of exemplary cost for wasting the precious time and resources of the Ld. Authority. That the present complaint is an utter abuse of the process of law, and hence deserves to be dismissed.

**E. Reply by respondent No. 2:**

7. The respondent no. 1 vide reply contested the complaint on the following grounds:

- i. That the answering respondent no. 2- L&T Housing Finance Limited under the Scheme of Amalgamation by way of merger by absorption approved by the NCLT Mumbai as well as NCLT Kolkata, L&T Housing Finance Limited has merged with L&T Finance Limited w.e.f. 12th April, 2021 thereafter L&T Finance Limited Merged with L&T Finance Holdings Limited w.e.f. 4th December, 2023 and Now L&T Finance Holdings Limited renamed as L&T Finance Limited w.e.f, 28th March, 2024.
- ii. That the answering respondent no. 2 is a non-banking financial company and having its registered office at plot no 177, kalina CST Road Santacruz Mumbai-400098 and has been inter-alia licensed by the RBI to carry on



- the business of Housing Finance. The present reply is being filed through Mr. Rahul Chauhan Authorized officer of the respondent no. 2.
- iii. That the complainants approached respondent no. 2 for availing a financial facility upto a total limit of Rs. 69,00,000/- for purchasing unit no. D1401, Parkwood Westend, Sector 92, Gurugram, Haryana. That based on the representations given by the complainants and in good faith, the respondent no. 2 had agreed to grant, a financial facility vide loan agreement dated 13-10-2015 on terms and conditions contained therein which was duly accepted by the complainants.
  - iv. Further, in terms of said agreements, it was categorically agreed by the complainant that it will be entirely their responsibility to ensure prompt and timely repayment of the equated monthly instalments. In the said agreements, complainants had undertaken to repay the loan amount within an initial period of 240 months along with an interest @ 09.90% p.a. to the respondent no. 2 as the loan was disbursed on the terms of floating rate of interest and agreed and acknowledged in the loan agreement.
  - v. That the respondent no. 2 being a financier has advanced the loan facility to the complainants for the purpose of purchasing the said apartment from respondent no. 1. A tripartite agreement was also executed by and among the parties therein certain rights of the respondent no. 2 was created with sole motive to protect the interest of the respondent no. 2 with respect to the said loan facility as advanced to the complainants. It is also evident from the pleadings of the complainant that no allegation has ever been levelled against the respondent no. 2 and as per provisions of the RERA Act, no legal liability is imposed upon the financier for delay in completion and handing over of the flat.
  - vi. That in view of the agreements referred herein above and further in view of the provisions of the RERA Act, the proceedings qua respondent no. 2 should be closed.



vii. It is pertinent to mention, briefly, that the parties were referred By Hon'ble Delhi High court to DIAC for Arbitration vide its order dated 14.3.2024 and thereafter arbitration proceeding was initiated before DIAC and Hon'ble Justice Mr. R.K. Gauba (Retd.) was appointed as an arbitrator and eventually an award has been passed on 30.1.2025 in favour of respondent no 2.

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

**F. Jurisdiction of the authority:**

9. The respondent raised a preliminary submission/objection that the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**F.I Territorial jurisdiction**

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

**F.II Subject matter jurisdiction**

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



**Section 11(4)(a)**

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

**Section 34-Functions of the Authority:**

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

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

**G. Findings on the objection raised by the respondent.**

**G.I objection w.r.t force majeure circumstances.**

13. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as orders/restrictions of the NGT in NCR as well as competent authorities account of the environmental conditions, ban on construction by the order of courts, implementation of GST, demonetization and adverse effects of Covid-19 etc. and others force majeure circumstances but all the pleas advanced in this regard are devoid of merit. Firstly, the events such as orders of NGT in NCR on account of the environmental conditions, ban on construction activity and others force majeure circumstances do not have any impact on the project being developed by the respondent. As the events mentioned above are for short period which does not make such a huge impact on project which can cause and justify inordinate delay of 10 years. Moreover, these events are of routine in nature happening annually and the promoter is required to take the same into consideration while fixing the due date of possession. Secondly, the event of implementation of GST and demonetization are in accordance with government policies and guidelines. Therefore, the respondent cannot categorize the same as force majeure events. And lastly, the Authority has gone through the possession clause of the agreement and observed that the



respondent-promoter proposes to handover the possession of the allotted unit within a period 36 months from the date of execution of buyer's agreement i.e., 22.09.2015, So the due date comes out to 22.09.2018, which is much prior to the occurrence of Covid-19 restriction and hence, the respondent cannot be benefitted for its own wrong. The Authority put reliance judgment of **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 (1) (Comm.) no. 88/2020 and I.As 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."*

14. Thus, the respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrongs.

**H. Findings on the relief sought by the complainant:**

**H.I Direct the respondent to refund the entire amount deposited along with interest.**

15. In the present complaint, the complainants intend to withdraw from the project and are seeking return of the amount paid by them in respect of subject unit along with interest @18% p.a. from the date of payment until realization under section 18(1) of the Act. Sec. 18(1) of the Act is reproduced below for ready reference:

**"Section 18: - Return of amount and compensation**  
18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building. -  
(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or  
(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,  
he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may



*be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

*Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

**(Emphasis supplied)**

16. Clause 28(a) of the buyer's agreement provides for handing over of possession and is reproduced below:

**28. Possession:**

**a) Time of handing over the Possession**

*"That subject to terms of this clause and subject to the FLAT ALLOTTEE (S) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement and further subject to compliance with all provisions, formalities, registration of sale deed documentation, payment of all amount due and payable to the DEVELOPER by the FLAT ALLOTTEE(S) under this agreement etc. as prescribed by the DEVELOPER, the DEVELOPER proposes to hand over the possession of the FLAT within a period of thirty six (36) months from the date of signing of this Agreement. If, however, understood between the parties that the possession of various Block Towers comprised in the complex as also the various common facilities planned therein shall be ready & complete in phases and will be handed over to the Allottee of different Block/Towers as and when completed."*

17. **Due date of handing over possession:** As per clause 28 (a) of the buyer's agreement dated 22.09.2015., the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months from the date of signing of the agreement. Accordingly, the due date of possession comes out to be 22.09.2018.

18. **Admissibility of refund along with prescribed rate of interest:** The complainants are seeking refund the amount paid by them at the prescribed rate of interest. However, the allottees intend to withdraw from the project and are seeking refund of the amount paid by them in respect of the subject unit with interest at prescribed rate as provided 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 subsections (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.*

19. 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.
20. 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., 19.02.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
21. On consideration of documents available on record as well as submissions made by the parties, the authority is satisfied that in terms of the buyer's agreement executed between the parties on 22.09.2015, the possession of the subject flat was to be delivered within a period of 36 months from the date of execution of buyer's agreement. Therefore, the due date of handing over of possession was 22.09.2018. Now the complainant after lapse of due date of possession has filed the present complaint seeking refund of the paid-up amount along with interest.
22. It is pertinent to mention over here that even after a passage of more than 8 years neither the occupation certificate is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoter. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. Further, the authority observes that till date the respondent has not obtained occupation certificate/part occupation certificate from the competent authority. In view of the above-mentioned facts, the allottee intends to withdraw from the project and are well within the right to do the same in view of section 18(1) of the Act, 2016.



23. Moreover, the occupation certificate/completion certificate of the project where the unit is situated has still not been obtained by the respondents /promoter. The authority is of the view that the allottees cannot be expected to wait endlessly for taking possession of the allotted unit and for which he has paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in **Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019**, decided on 11.01.2021.

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

24. Further, the Hon'ble Supreme Court of India in the cases of **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.** (supra) reiterated in case of **M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020** decided on 12.05.2022. observed as under:

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

25. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or is unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable



to the allottee, as he wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of the unit with interest at such rate as may be prescribed.

26. The complainant in the aforesaid relief is seeking relief w.r.t compensation. **Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors.** (Decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

**I. Directions of the Authority:**

27. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:
- The respondent no. 1-promoter is directed to refund the paid-up amount along with interest at the rate of 10.80% per annum, as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, the date of each payment till the actual realization of the amount after adjusting the amount already paid up by the respondent.
  - Out of the total amount so assessed, the amount paid by the bank/financial institution will be refunded first in the bank and the balance amount along with interest if any will be refunded to the complainant.



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

28. Complaint stands disposed of.
29. File be consigned to the registry.



**(Phool Singh Saini)**

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 19.02.2026



**HARERA**  
**GURUGRAM**