

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

Date of decision: 14.11.2025

NAME OF THE BUILDER		GREEN HEIGHTS PROJECTS PRIVATE LIMITED.	
PROJECT NAME		BAANI CENTRE POINT	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/6013/2024	Sandeep Kumar Malik and Priyanka Malik V/s Green Heights Projects Private Limited.	Sh. Garvit Gupta Sh. Harshit Batra
2.	CR/5324/2024	Indu Khullar and Madan Mohan Khullar V/s Green Heights Projects Private Limited.	Sh. Garvit Gupta Sh. Harshit Batra

CORAM:	
Arun Kumar	Chairman

ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority in Form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the projects, namely, 'BAANI CENTRE POINT' being developed by the same respondent promoters i.e., GREEN HEIGHTS PROJECTS PRIVATE LIMITED.
3. The details of the complaints, reply to status, unit no., date of agreement, & allotment, due date of possession, offer of possession and relief sought are given in the table below:

Project Name and Location		"BAANI CENTRE POINT", Sector M1D, Gurugram, Haryana.
OC: Not obtained Offer of possession: Not Offered		
Comp no.	CR/6013/2024	CR/5324/2024
Allotment letter	09.03.2018 [Page 66 of reply]	01.12.2014 [Page 27 of complaint]
Unit no. and area	LG-087, Lower Ground floor, admeasuring 477 sq. ft.	GF-084, Ground floor, admeasuring 437 sq. ft.
Builder buyer agreement	01.08.2019 (page 38 of complaint)	16.01.2017 (page 38 of complaint)
Due date of possession	13.09.2019 (as disclosed at the time of registration)	30.09.2017 (as per possession clause)
Total sale consideration	Rs.32,18,319/- [As per MOU on pg. 32 of complaint]	Rs.43,02,015/- (As per SOA on page 59 of complaint)
Amount paid	₹28,84,896/- [As per payment receipts on pg. 28-30 of complaint]	Rs.40,90,804/- (As per SOA on page 59 of complaint)
a. Obtain OC AND offer possession b. DPC c. To execute and register the sale deed		

4. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under the Act, the rules and the regulations made thereunder.
5. The facts of all the complaints filed by the complainants/ allottees are also similar. Out of the above-mentioned cases, the particulars of lead case **CR/6013/2024 titled as Sandeep Kumar Malik and Priyanka Malik V/s Green Heights Projects Private Limited.** are being taken into consideration for determining the rights of the allottees qua delay possession charges, quash the termination letter get executed buyers' agreement and conveyance deed.

A. Unit and project related details

6. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, date of buyer's agreement etc, have been detailed in the following tabular form:

**CR/6013/2024 titled as Sandeep Kumar Malik and Priyanka Malik
V/s Green Heights Projects Private Limited**

Sr. No.	Particulars	Details
1.	Name of the project	"Banni Centre Point"
2.	Location of the project	Sector-M1D, Urban Complex, Village-Nakhnaula, Sector-M-1D, Tehsil-Manesar, Gurugram.
3.	Nature of the project	Commercial Colony
4.	DTCP license no.	59 of 2009 dated-26.10.2009
5.	Registered/not registered	Registered Vide registration no. 187 of 2017 dated-14.09.2017

6.	Allotment letter	09.03.2018 [page 26 of complaint]
7.	Office/Shop/Commercial space/Food Court no.	LG-087, Lower ground floor [page 26 of complaint]
8.	Area of the unit	477 sq. ft. [Super Area]
11.	Commercial Space Buyer's Agreement	01.08.2019 [page 38 of complaint]
12.	Possession clause	9. Possession The Promoter Assures to Hand Over Possession of Commercial Unit Along with Parking as Per Agreed Terms Unless There Is Delay Due To Force Majeure Court Orders, Government Policy/ Guidelines, Decisions Affecting the Regular Development of the Real Estate Project.
13.	Due date of possession	13.09.2019 [As disclosed at the time of registration of the project]
14.	Sale consideration	Rs.32,18,319/- [as per MOU at page 32 of complaint]
15.	Total amount paid by the complainant	Rs.28,84,896/- [as per payment receipts on 28-30 of complaint]
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint:

7. The complainants have made the following submissions: -

- i. That the present complaint has been filed by the complainants under Section 31 of the Real Estate (Regulations and Development) Act, 2016 read with Rule 28 Haryana Real Estate (Regulation & Development) Rules, 2017 seeking relief in respect of the lapses, defaults and unjust and unfair trade practices on the part of the respondent.
- ii. That the complainants are simple, law abiding and peace -loving persons. The complainants had throughout acted as per the terms of the allotment,

rules and regulations and the provisions laid down by law and no illegality whatsoever has been committed by them in adhering to their contractual obligations. The booking has been made by the complainants and the payments have been made by them with all the efforts and hope to fulfil the dream of their family of having their own commercial space to earn a living.

- iii. That the respondent is a company incorporated under the Companies Act, 1956 having its registered office at the above-mentioned address and existing under the Companies Act, 2013. The respondent is comprised of several clever and shrewd types of persons. The respondent now does not enjoy good reputation at all and has cheated many innocent people like the complainants.
- iv. That as per Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, the respondent falls under the category of 'Promoter' and is bound by the duties and obligations mentioned in the said Act and is under the territorial jurisdiction of this Hon'ble Authority.
- v. That as per Section 2(d) of the Real Estate (Regulation and Development) Act, 2016, the complainants fall under the category of 'allottee' and have rights under the Act.
- vi. That the respondent offered for sale units in a Commercial Complex known as 'Baani Centre Point' which claimed to comprise of commercial units, car parking spaces, recreational facilities, gardens etc. on a piece and parcel of land situated in Sector M1D, Gurugram, Haryana. The respondent also claimed that the DTCP, Haryana had granted license bearing no. 59 of 2009 on a land area of about 2.681 acres in Village Lakhnaula, Tehsil Manesar, Gurugram to its associates companies for development of a Commercial

- Colony in accordance with the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and Rules made thereunder in 1976.
- vii. That the complainants received a marketing call from the office of respondent in the month of December 2017 for booking in commercial project of the respondent, 'Baani Centre Point', situated at Sector M1D, Gurugram. The complainants had also been attracted towards the aforesaid project on account of publicity given by the respondent through various means like various brochures, posters, advertisements etc. The complainants visited the sales gallery and consulted with the marketing staff of the respondent. The marketing staff of the respondent painted a very rosy picture of the project and made several representations with respect to the innumerable world class facilities to be provided by the respondent in their project. The marketing staff of the respondent also assured that either the unit would be rented by the respondent itself within 3 years or that the respondent would hand over the possession of the unit on timely basis.
- viii. That the complainants, induced by the assurances and representations made by the respondent, decided to book a commercial unit in the project of the respondent as the complainants required the same in a time bound manner. This fact was also specifically brought to the knowledge of the officials of the respondent who confirmed that the possession of the commercial unit to be allotted to the complainants would be either positively handed over within the agreed time frame or the unit would be leased by the respondent. The respondent accordingly based on the booking made by the complainants vide their booking application form dated 09.03.2018 issued an allotment letter dated 09.03.2018 vide which

a commercial space no. LG-087 on lower ground floor having super Area of 477 sq ft @6000 per sq ft.

- ix. The complainants accordingly assured by the representations of the respondent, paid a sum of Rs.28,84,896/- at the time of booking. The respondent accordingly issued receipts dated 09.03.2018 pertaining to the said amount.
- x. That a copy of the memorandum of understanding was shared by the respondent with the complainants. It was proposed vide the said MOU that the total sale consideration of the unit was Rs. 32,18,319/-. Moreover, as per Clause 2 of the said MOU, the respondent promised to pay an Assured return of Rs 44,202/- per month to the complainants on the amount received for a period of 36 months starting from 13.03.2018.
- xi. The respondent categorically assured the complainants that they need not worry, and that the respondent would complete the project on time and would keep on making payment towards the committed returns and thereafter the lease returns, after the unit was leased out. The complainants were also assured by the respondent that as per clause 2 of the MOU, it was specifically observed that the offer of possession was to be made by the respondent to the complainants and only thereafter, the respondent would either lease the unit in question or would hand over the possession, subject to the stopping of payment of the assured return amount, if the said offer was made within 3 years period from 13.03.2018.
- xii. Since the complainants had already parted with a huge amount, they were left with no other option but to accept the terms of the memorandum. The complainants felt trapped and had no other option but to sign the dotted lines.

- xiii. It is pertinent to mention herein that the respondent had even issued a letter dated 09.03.2018 to the complainants admitting the fact that the respondent would execute the sale agreement with the complainants on or before 31.03.2018.
- xiv. The complainants vide several telephonic conversations and meetings requested the respondent for execution of the commercial space buyer's agreement in respect of the said unit. However, no satisfactory response was ever received from the respondent. thereafter, upon receiving several reminders from the complainants, the respondent finally agreed to execute the commercial space buyer's agreement. A copy of the commercial space buyer's agreement was shared with the complainants which was a wholly one-sided document containing totally unilateral, arbitrary, one-sided, and legally untenable terms favoring the respondent and was totally against the interest of the purchaser, including the complainants herein.
- xv. That the complainants made vocal their objections to the arbitrary and unilateral clauses of the commercial space buyer's agreement to the respondent. The complainants repeatedly requested the respondent for execution of the commercial space buyer's agreement with balanced terms. However, during such discussions, the respondent summarily rejected the bonafide request of the complainants and stated that the agreement terms were non-negotiable and would remain as they were. The respondent/ promoter refused to amend or change any term of the pre-printed Buyer's Agreement and further threatened the complainants to forfeit the previous amounts paid by. It is pertinent to mention herein that the complainants had made complete payment before the execution of the agreement. Since the complainants had already parted with a

- complete amount of the sale consideration, they were left with no other option but to accept the lopsided and one-sided terms of the commercial space buyer's agreement. However, when the complainants requested the respondent to execute the agreement, the respondent blatantly refused citing pending approvals from the concerned authorities. Hence, though, the complainants throughout showed their willingness and readiness to execute the agreement, the respondent very conveniently wriggled out of the same as per its own whims and fancies.
- xvi. That it is pertinent to mention here that despite having made the mou and the agreement containing terms very much favorable as per the wishes of the respondent, still the respondent miserably failed to abide by its obligations thereunder. The respondent/promoter even failed to perform the most fundamental obligation of the agreement which was to complete the construction of the unit within the promised time frame and to offer the possession which in the present case is delayed for an extremely long period of time.
- xvii. As per the information disclosed at the time of registration by the respondent, the due date of the completion of the project was 30.06.2020. Therefore, the due date of handing over of possession lapsed on the aforesaid date.
- xviii. That since the time period to handover the possession stated by the respondent in the commercial space buyer's agreement had lapsed, the complainants requested the respondent telephonically, and by visiting the office of the respondent to update them about the status of the project. The representatives of the respondent assured the complainants that the respondent would keep on making the payment towards the assured return amount and would take all possible efforts to complete the

construction and lease the unit in question. It was also categorically informed that if the respondent fails to lease the unit, then the respondent would hand over the possession as per the terms of the agreement. The respondent has continuously been misleading the allottees including the complainants by giving incorrect information and timelines within which it was to hand over the possession of the unit to the complainants. The respondent/promoter had represented and warranted at the time of booking that it would deliver the commercial unit of the complainants to them in a timely manner. However, the failure of the respondent company has resulted in serious consequences being borne by the complainants.

- xix. That the respondent deliberately, mischievously, fraudulently and with malafide motives cheated the complainants. When the complainants confronted the respondent about the delay in handing over of possession which reflected nothing but deliberate lethargy, negligence and unfair trade practice by the respondent, its representatives started making excuses for non-disbursal of the amount. Thereafter, yet again the representatives of respondent assured the complainants that the possession of the unit would be handed over to them very shortly as the construction was almost over. It was also assured that respondent would make the payment towards the delayed possession interest as per the prescribed rate as stipulated in the then newly enacted Real Estate (Regulation and Development) Act, 2016. Although, the complainants were reluctant to believe the representations made by the respondent, it decided to give one more chance to respondent. The high headedness of the respondent is an illustration of how the respondent conducts its business which was only to maximize the profits with no concern towards the buyers including the complainants.

- xx. The respondent has not raised construction within the agreed time frame. There has been virtually no progress, and the construction activity is lying suspended since long. It is reasserted that the complainants have made the payment towards the full sale consideration as demanded by the respondent and the respondent has done nothing but has only utilized the hard-earned amount of the complainants for its own use and purposes. The fact that no intimation regarding the application for the grant of the occupation certificate was given by the respondent to the complainants speaks about the volume of illegalities and deficiencies on the part of the respondent/promoter. There is an inordinate delay in developing the project well beyond what was promised and assured to the complainants.
- xxi. That the respondent has misused and converted to its own use the huge hard-earned amounts received from the complainants and other buyers in the project in a totally illegal and unprofessional manner and the respondent was least bothered about the timely finishing of the project and delivery of possession of the unit in question to the complainants as per the terms of the commercial space buyer's agreement. The respondent has deliberately, mischievously, dishonestly and with malafide motives cheated and defrauded the complainants. It is unambiguously lucid that no force majeure was involved and that the project has been at standstill since several years. The high headedness of the respondent is an illustration of how the respondent conducts its business which is only to maximize the profits with no concern to the buyers.
- xxii. That the complainants have been duped of their hard-earned money paid to the respondent regarding the commercial unit in question. The complainants requested the respondent to hand over the possession of the allotted unit to them but the respondent has been dilly-dallying the matter.

The complainants have been running from pillar to post and have been mentally and financially harassed by the conduct of the respondent.

- xxiii. That the respondent has even failed to renew registration certificate of the project from this Hon'ble Authority and has acted in blatant violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016. The respondent was bound to comply with provisions of the Act and the Rules and Regulations made thereunder. It is, thus clear that the respondent/promoter has been acting not only in contrary to the terms of the agreement which were drafted by the respondent itself but has also on account of its own acts and has reduced the complainants at its mercy wherein and the complainant's questions have been left un-answered and the respondent/promoter is continuing with its illegal acts acting strictly in violation of the provisions of the RERA Act, 2016 and Haryana Rules, 2017. It is thus, also clear, that without getting the renewal of the registration certificate done, the respondent cannot raise or collect any further amount from the complainants.
- xxiv. That the respondent is enjoying the valuable amount of consideration paid by the complainants out of their hard-earned money and the complainants realizing the same demanded delayed possession charges from the respondent/promoter. But a week ago, the respondent has in complete defiance of its obligations refused to hand over the possession to the complainants along with delayed possession charges leaving them with no other option but to file the present complaint. Since respondent miserably failed in its obligations, hence the complainants are entitled to delayed possession charges at the rate prescribed as per the Real Estate (Regulation and Development) Act, 2016 and Haryana Real Estate (Regulation and Development) Rules, 2017.

- xxv. That the respondent by adopting unfair trade practices, misuse of funds, failed to execute the conveyance deed of the unit allotted to the complainants as well as the other similarly placed allottees. Moreover, the obligation to execute the Conveyance deed has been detailed in provisions of Real Estate (Regulation and Development) Act, 2016 as well.
- xxvi. That the cause of action for the present complaint is recurring one on account of the failure of the respondent to perform its obligations within the agreed time frame. The cause of action again arose when the respondent failed to hand over the possession and pay compensation for delay on its part and finally about a week ago when the respondent refused to compensate the complainants with the delayed possession interest amount and compensation.

C. Relief sought by the complainants:

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

- i. To handover the possession of the unit, in a habitable state, after obtaining the Occupation Certificate from the concerned authorities.
- ii. To execute the conveyance deed of the allotted unit in favour of the complainant.
- iii. To not raise any payment demand, in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the agreement.
- iv. Pass an order imposing penalty on the builder 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 the commercial relationship between the parties revolves around a commercial unit in the project. That upon gaining knowledge of the Project, the complainant being an investor, sought to apply for a provisional unit in the Project by submitting an application form dated 09.03.2018. That the terms of the booking were categorically, willingly and voluntarily agreed by the complainant.
- ii. that the said request of allotment was accepted by the respondent, subject to such terms and conditions as came to be agreed between the parties and hence, the aforementioned provisional unit bearing tentative number LG-087 on lower ground floor tentatively admeasuring 477 sq. ft. was allotted.
- iii. That thereafter, a memorandum of understanding was executed between the parties on 09.03.2018. As per the MOU, the assured return was payable for the period of 36 months.
- iv. That thereafter, the parties agreed to execute the buyer's agreement to handover the physical possession of the unit and accordingly, the respondent requested for details of allottees for execution of the space buyer's agreement and sent the BBA to the complainant, but the said agreement was never returned for the reason best known to the complainant till date without providing any justification or reason for such non-compliance, thereby causing unnecessary delay in the process.
- v. That due to the complainant's own default and failure to execute the space buyer agreement, the said agreement could not be formalized. however, the said agreement is purported to have been signed by the complainant as annexed in the complaint, which reflects the conduct of

the complainant to place reliance upon the terms of the builder buyer agreement, which establishes their acceptance of the same.

- vi. That from the beginning of the implementation of the project, there have been various intervening circumstances, beyond the control and apprehension of the respondent that have affected this commercial relationship between the parties. For ease of reference all the factors and events having a direct effect on the project have been delineated herein below. For a detailed comprehension, the events having a direct effect on the jural relationship between the parties has been diving into 4 categories:

Category I:	Period between 06.04.2004 and 23.04.2015	The events that transpired under this category show that there was not one event that could have been pre-conceived by the Respondent and neither was there any event / default on part of the Respondent that has led to the subsequent stay and the departmental delays.
Category II:	Period between 24.04.2015 and 13.03.2018 (hereinafter referred to as Zero Period I)	Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time, the company was in constant follow up with DTCP (enforcement) with respect to grant of necessary permissions concerning the project.
Category III:	Period Between 14.03.2018 and 12.10.2020	After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in

		following up with the concerned departments.
Category IV:	Period Between 13.10.2020 - 21.07.2022 (hereinafter referred to as the Zero Period II)	The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC.
Category V:	Period from 22.07.2022 till Date	The Respondent is seeking the benefit of this period as a grace period from this Id. Authority. The entire list of events ex facie show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on part of the Respondent.

vii. That the project land had become a part of certain land acquisition proceedings by the State. The following detailed list of dates, shows the detailed events that have transpired relating such land acquisition proceedings, within the period falling in the aforesaid categories:

S. No.	CATEGORY	DATE	EVENTS
1	CATEGORY I: The events that transpired prior to the effect of the Hon'ble Supreme Court's orders over the Project. This shows the required permissions for the project were obtained in a timely fashion.	06.04.2004	Paradise Systems Pvt. Ltd. purchased 2.681 acres of land in the village Lakhnaula by registered sale deeds; hence Paradise Systems Pvt. Ltd. is the landowner of the project in question (hereinafter referred to as " Paradise ")
		07.04.2024	
2		27.08.2004 24.08.2007	A notice was issued by Haryana Govt, industries Department under Section 4 of Land Acquisition Act, 1894 for acquiring land admeasuring 912 acres 7 Marlas from village Manesar, Lakhnaula and Naurangpur, Tehsil & Dist Gurugram for setting up Chaudhari Devi Lal Industrial Township. Paradise's Land fell under the above mentioned 912 acres. The land acquisition proceedings were withdrawn by the State Government on 24.08.2007

3	09.09.2007	Paradise entered into a collaboration agreement with the erstwhile developer - Sunshine Telecom Services Pvt. Ltd. Paradise granted the 'absolute developmental right' of land for construction of commercial office space to Sunshine.
4	20.09.2007	Haryana State Industrial & Infrastructure Development Corporation (hereinafter referred to as the "HSIIDC") proposed to constitute an Inter Department Committee to submit a report with recommendations regarding issuance of fresh acquisition.
5	26.10.2009	Paradise had obtained license for of land measuring 2.681 acres situated at village Lakhnula Manesar MID, from the Town and Country Planning Department, Govt. of Haryana (hereinafter referred to as the "DTCP") vide License No. 59/2009 dated 26.10.2009, being valid up to 25.10.2013. The license was granted for the development of the Project in question.
6	29.01.2010	The report of the interdepartmental committee was submitted and the said report was duly endorsed by HSIIDC. The State Government in Industries and Commerce Department decided to close the acquisition proceedings in view of the recommendations of the Inter Departmental Committee.
7	30.03.2013	Paradise alleged that Sunshine did not adhere to the terms of the collaboration agreement. Paradise claims to have refunded all amounts received by it and annulled that transaction by deed dated 30.03.2013.
8	30.03.2013	Paradise thereafter entered into a collaboration agreement with Green Heights projects Pvt. Ltd. (the

			Respondent herein) for the development of the Project in question.
9		22.05.2013	The <i>bonafide</i> of the Respondent is evident from the fact that in order to comply with the then applicable guidelines and regulations, the Respondent paid the entire External Development Charges and Internal Development Charges (EDC & IDC) to the DTCP.
10		01.04.2014	Paradise was granted the NOC for Height clearance from the Airports Authority of India.
11		23.07.2014	The building plans for the development of the Project in question were approved by DTCP.
12		17.10.2014	Environment clearance was granted for construction of the commercial project in question.
13		24.04.2015	The said Land became the subject of the proceedings before the Hon'ble Supreme Court in a case titled <i>Rameshwar & Ors. vs. State of Haryana & Ors.</i> bearing Civil Appeal No. 8788 of 2015. The Hon'ble Apex Court, vide its order dated 24.04.2015 in the <i>Rameshwar</i> Case, stayed the construction on the said land with effect from 24.04.2015, which was eventually affected till 12.03.2018. Notably, on 24.04.2015, the Project land, <i>inter alia</i> , became the subject land in the legal proceedings in the <i>Rameshwar</i> Case.
14		27.04.2015	Pursuant to the directions passed by the Apex Court, the DTCP directed all Owners/Developers to stop construction in respect of the entire 912 Acres of land which included our Real Estate Project Baani Center Point vide letter dated 27.04.2015.

15	<p>CATEGORY II:</p> <p>ZERO PERIOD I</p> <p>Due to the pendency of the proceedings before the Hon'ble Supreme Court, a stay was affected over the project land, however, permission was granted to Paradise to approach DTCP to seek clarifications qua the applicability of stay over the project in question. During this time the company was in constant follow up with DT P (enforcement) with respect to grant of necessary permissions</p>	21.08.2015	Paradise approached the Hon'ble Supreme Court of India for the clarification of the stay order as to whether order dated 24.04.2015 was applicable to the land and license no. 59 of 2009. Paradise contended that their land was distinct from the land involved in the Rameshwar case. The Hon'ble Supreme Court directed Paradise to seek clarifications from DTCP, designating the DTCP as the appropriate authority to issue orders in the matter.
16		25.08.2015 08.01.2016	Paradise approached DTCP on 25.08.2015 for clarification and stated that the land owned by Paradise doesn't fall within the ambit of the Rameshwar case. Paradise had also issued a reminder dated 08.01.2016 to DTCP for the clarification being sought.
17		15.01.2016	In the meanwhile, the permissions and approvals, previously granted qua the project had expired and hence, Paradise had also requested DTCP for renewal of the permissions. Paradise also submitted an application for transfer of license and change in developer, in favour of Green Heights Projects Pvt. Ltd.
18		20.04.2016	That Paradise approached DTCP vide various representations however DTCP did not take any decision as the matter was pending in the Supreme Court. It was further represented by DTCP that the original files in respect of land portions of

	concerning the project.		entire 912 acres have been taken by Central Bureau of Investigation (hereinafter referred to as the "CBI") of all the projects and till original files are returned by CBI, DTCP will not be in a position to provide clarification in respect of various representations.
19		13.09.2016 (receiving dated 14.09.2016) 21.10.2016 (receiving dated 25.10.2016) 01.02.2017 (Received on 02.02.2017)	Paradise again wrote to DTCP to retrieve the original files from CBI. It was informed that in the writ petition filed seeking retrieval of the original files, directions for handing back of the original files as already passed. It was requested that such retrieval be done and DTCP should process the pending application for renewal and transfer of License and sanction of revised building plans. Due to the non-action part of DTCP, multiple reminders and representations were written by Paradise with a <i>bonafide</i> attempt towards the completion of the project.
20		27.03.2017	Paradise then approached Punjab and Haryana High Court for directions to CBI to handover original files in respect of the project of Green Heights and the High Court by order dated 27.03.2017 noting the handover.
21		09.05.2017	Paradise approached DTCP to issue BR-III for revised building plans stating that the conditions of the in-principle approval have been complied with.
22		07.08.2017	Paradise again approached DTCP to issue BR-III for revised building plans.
23		2015-2017	Despite various efforts and representatives DTCP did not clarify about the status of land and license of Paradise thus the order of the Supreme Court de-facto remained applicable on the said project.

24	14.09.2017	After the implementation of the RERA Act, the Real Estate Project Bani Center Point was registered under RERA Act 2016 and Haryana RERA Rules 2017. The project was registered on 14.09.2017 vide registration no. 187 of 2017.
25	23.10.2017	Paradise wrote to DTCP detailing all the facts and events that have led to the present situation and again requested the DTCP to issue BR-III revised building plans. It was also highlighted that the delay in issuance of BR III is also delaying the service plan estimates and fire scheme approvals.
26	27.11.2017	Paradise requested DTCP to consider the period during which the no construction order is in frame, as the cooling period and extend the license accordingly.
27	15.12.2017	DTCP wrote to Paradise that the final approval for sanction of building plans on BR-III will be issued only after the Hon'ble Supreme Court of India removes the restrictions imposed for not raising further construction in the area.
28	12.03.2018	The stay of supreme court was lifted and the project Bani Center Point was not included in tainted projects.



29	<p>CATEGORY III:</p> <p>After the removal of the stay by the Hon'ble Supreme Court, continuous follow ups were made by the Respondent regarding the grant of pending permissions. The Respondent herein is seeking the grace of this period as the entire time was utilised in following up with the concerned departments</p>	14.03.2018	<p>Paradise wrote to DTCP that the order dated 12.03.2018 has clarified that lands transferred/purchased prior to 24.08.2004 are not governed by the directions being given by Hon'ble Supreme Court which only pertain to lands transferred/purchased between the period from 27.08.2004 till 29.01.2010 only. The land owned by Paradise stands excluded from the dispute as the land was purchased on 06.04.2004 and 07.04.2004. Paradise requested DTCP to consider the period as Zero Period and requested for the renewal of the license and issue BR-III.</p>
30		23.07.2018	<p>Paradise approached DTCP for renewal of license to begin construction which was granted to them on 23.07.2018. That while renewing the license the entire period of 24.04.2015 till 12.03.2018 was exempted as Zero period by DTCP.</p>
31		01.07.2019	<p>The HSIHDC filed an application in the Hon'ble Supreme Court of India dated 01.07.2019 in the matter of Rameshwar & Ors. Vs. State of Haryana & Ors. to include the land of Paradise developed by Green Heights in the award dated 26.08.2007, being Application for Clarification of Final Judgment dated 12.03.2018 passed by the Supreme Court.</p>

32		31.08.2019 13.09.2019	DTCP has passed an order dated 31.08.2019 stating that the renewal and transfer of license of Paradise and approval of revised building plan will be processed only after clarification is given by the Hon'ble Supreme Court on the application filed by HSIIDC. The intimation of this order was received from DTCP vide letter dated 13.09.2019.
33	CATEGORY IV: ZERO PERIOD II	13.10.2020	The Hon'ble Supreme Court through its order dated 13.10.2020 granted injunction on further construction and creating third party rights of projects to the said case including project Baani Center Point.
34	The Project was under injunction by the Hon'ble Supreme Court due to an application filed by HSIIDC	21.07.2022	Through the judgment dated 21.07.2022 in <i>Rameshwar Case</i> , the stay on construction was cleared by the Hon'ble Supreme Court of India with directions to Green Heights for payment of Rs. 13,40,50,000/- (Rupees Thirteen crores forty lakhs and fifty thousand only) as additional cost of land payable to HSIIDC @ Rs. 5 crores per acre. This order was passed by the Hon'ble Supreme Court after considering the development status of the project, amount received from the allottees, and to protect the interest of the allottees.
35	CATEGORY V: The Respondent is seeking the benefit of this period as a grace period from this Id. Authority. The entire list of events ex facie	25.07.2022 (Receiving dated 26.07.2022) 04.08.2022 (Receiving dated 05.08.2022)	Paradise approached DTCP to issue BR-III for revised building plans as the land owned by Paradise shall be excluded from the deemed award after depositing a sum of 13,40,50,000/- to HSIIDC. It was highlighted that DTCP had previously (vide its letter dated 15.12.2017) stated that any application of the Project will be processed only after the restrictions imposed by Hon'ble Supreme Court were removed. Due to such acts of DTCP, there had been

	<p>show that the Respondent has been left at the mercy of the competent department and has been entangled in the procedural requirements and departmental delays due to no fault whatsoever on part of the Respondent.</p>		<p>many delays in getting the necessary permissions. It was intimated that no such restriction is effective now and hence, DTCP was requested to process the following:</p> <ul style="list-style-type: none"> • Renewal of license no. 59 of 2009; • Application dated 07.09.2020 with request to consider the period between 23.07.2018 till 21.07.2022 as cooling / zero period as no approvals were granted; • BR-III for revised building plans which were approved on 22.02.2017 • Grant of approval of transfer of license and change of developer
<p>36</p>		<p>04.08.2022</p>	<p>Green Heights filed an application for extension of the RERA registration under section 7 sub clause 3 dated 04.08.2022 which is awaited.</p>

37	16.11.2022 14.12.2022	In complete compliance of the order passed by the Hon'ble Supreme Court, and with an intent to complete the development of the Project, Green Heights projects Pvt. Ltd. paid the amount ₹ 13,40,50,000/- from its own resources on 16.11.2022 and requested for confirmation of such compliance. HSIIDC wrote to Green Heights confirming the amount 13,40,50,000/- received in HSIIDC account and that Green Heights has complied with the orders of Hon'ble Supreme Court.
38	15.12.2022 (Receiving dated 16.12.2023)	Paradise approached DTCP to issue BR-III for revised building plans as the sum of 13,40,50,000/- was deposited by Green Heights to HSIIDC and now the land was excluded from the deemed award.
39	05.01.2023 (Receiving dated 11.01.2023)	Paradise approached DTCP to process the pending applications for transfer of license.
40	02.09.2023 (Receiving dated 04.09.2023)	Paradise again approached DTCP to process the pending applications for renewal and transfer of license and issuance of BR-III.
41	03.10.2023	Paradise vide letter dated 03.10.2023 again approached for renewal of license no. 59 of 2009 and grant of approval for transfer of license and change of developer.
42	17.10.2023 23.10.2023	DTCP renewed the license no.59. of 2009 up to 21.01.2025. DTCP granted Zero Period from 23.07.2018 to 21.07.2022 BR III was also issued.
43	31.10.2023	Paradise vide letter dated 31.10.2023 again approached DTCP for grant of

			pending approval of transfer of license no. 59 of 2009 and change of developer.
44		20.02.2024 04.04.2024	<p>The Hon'ble Supreme Court had directed the enforcement directorate to inquire about the projects falling within the purview of the subject matter. While following up from DTCP, it came within the knowledge of Green Heights Projects Pvt. Ltd. that DTCP is awaiting clearance from the enforcement directorate before proceeding towards the grant of pending permissions.</p> <p>Taking matters in its own hands, Green Heights Projects Pvt. Ltd. approached the enforcement directorate seeking a closer report.</p>
45		15.04.2024 17.05.2024 (Receiving dated 20.05.2024) 03.06.2024	<p>Paradise has been approaching DTCP, time and again, seeking the issuance of the pending permission for change of developer and transfer of license. Highlighting the urgency of the matter, it was informed that the project has been completed and around 400 customers are awaiting the possession.</p> <p>As part of the proactive approach of the company, Paradise also conveyed DTCP of the relevant email ids that need to be addressed while seeking clarifications from the enforcement directorate.</p>
46		26.11.2024	<p>Paradise again wrote to DTCP. It was highlighted that while DTCP allowed the BR III on 26.10.2023 and had also renewed the license, no further approvals were granted. It was highlighted that the project is complete and requested for grant of pending approvals.</p>

47		As on date	The approval for transfer of license and change of developer is pending at the department's end, due to no fault of the Respondent or Paradise.
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- viii. That the complainant has prayed for the relief of "assured returns", inter alia, on the basis of a memorandum of understanding, which is beyond the jurisdiction that the Ld. Authority. That from the bare perusal of the RERA Act, it is clear that the said Act provides for three kinds of remedies in case of any dispute between a Developer and allottee with respect to the development of the project as per the agreement for sale. That such remedies are provided under Section 18 of the RERA Act, 2016 for violation of any provision of the RERA Act, 2016. That the said remedies are of "refund" in case the allottee wants to withdraw from the project and the other being "interest for delay of every month" in case the allottee wants to continue in the project and the last one is for compensation for the loss occurred by the allottee. That it is relevant to mention here that nowhere in the said provision the Ld. Authority has been dressed with jurisdiction to grant "Assured Returns". It is additionally pertinent to note that the RERA Act also does not define a 'Memorandum of Understanding' on the basis of the which, relief has been sought by the Respondent.
- ix. That it is germane to note that the non-payment of assured return, as alleged by the complainant in his complaint is bad in law. It is pertinent to mention herein that the payment of assured return is not maintainable before the Ld. Authority upon enactment of the Banning of Unregulated Deposits Schemes Act, 2019 [BUDS Act] wherein, under section 7 thereof, the Legislature, in its utmost wisdom, has noted that the 'competent

authority' shall have the jurisdiction to deal with cases pertaining to the Act. That any direction for payment of assured return shall be tantamount to violation of the provisions of the BUDS Act. It is stated that the assured returns or assured rentals under the said Agreement, clearly attracts the definition of "deposit" and falls under the ambit of "Unregulated Deposit Scheme". Thus, the complainant is barred under section 3 of BUDS Act from making any payment towards assured return in pursuance to an "Unregulated Deposit Scheme" and the competent authority to adjudicate such issue has to be notified under section 7 of the BUDS Act.

- x. It is imperative to mention that the issue pertaining to the assured return is already pending for adjudication before the Hon'ble Punjab and Haryana High Court. Wherein, the Hon'ble High Court in the matter of *Vatika Limited vs. Union of India and Anr.* in CWP No. 26740 of 2022, had issued notice to the Respondent Parties and had also restrained the competent authorities from taking any coercive actions against the Petitioner therein cases seeking recovery against the deposits till the next date of hearing. This interim order has been further continued vide order dated 15.02.2023 till the next date of hearing which is 17.05.2023.
- xi. That it is pertinent to note that as per clause 2 of the MOU, the Respondent was under the obligation to make the payment of assured return cum lease rent for period of 36 months.
- xii. That hence the performance of payment of assured return was only when no events beyond the control of the respondent existed. However, the peculiar facts of the present case categorically show that the not only was the project in question was gravely hindered, but also, there was a change in the law, as noted above – with the implementation of the BUDS Act.

That without prejudice to the rights and submissions of the respondent, it is most humbly submitted that the respondent has already paid its complete obligation of assured returns to the complainant till April 2021. The respondent seeks leave of this court to file the assured return proof/ sheet.

- xiii. Because it is a matter of fact that the obligations of payment of the assured returns as per the MOU have been rightfully completed. That the Respondent diligently fulfilled its obligations and it was only due to unforeseen circumstances of the stay of the Supreme Court, the Respondent stopped the payment of the assured return.
- xiv. That it is a matter of fact that the obligations of payment of the Assured Returns as per the MOU have been rightfully completed. That the MOU was replaced by the BBA on 01.08.2019 and thus all the rights and obligations under the MOU stands discharged.
- xv. That thereafter, as a Bonafide gesture and the payments of assured returns were continued for some extra time. That the same was paid till April 2021, without there being any contractual obligation on part of the Respondent, in any manner whatsoever.
- xvi. The complainants have failed in noting that the agreement having been novated has superseded the MOU, as is also evident from clause 37 of the BBA. In any circumstance, whatsoever, the Act does not speak of recognition of multiple agreements for sale of property.
- xvii. That the said clause expressly excludes the applicability of any prior understanding, including the MOU and any other such condition which stands at variance with the present agreement, thereby making the BBA the sole operative contract between the parties. A literal interpretation of Clause 37 must be applied, leaving no scope for parallel enforcement of

the MOU. Hence, all rights and obligations of the parties are governed exclusively under the BBA.

- xviii. In the present case it is pertinent to highlight that the novated agreement was entered into voluntarily, with the free consent of all concerned parties, and in conformity with the essential requirements prescribed under law, namely, lawful consideration, lawful object, and competency of parties to contract. As such, the novated contract is valid, enforceable, and complete in itself.
- xix. It is a well-settled principle that once novation occurs, the previous agreement is rendered null and void by operation of law. Accordingly, any attempt by the opposing party to place reliance on the earlier contract is legally misconceived and wholly unsustainable, since that MOU has already been extinguished and now, stands replaced by BBA. The parties are bound only by the terms of the novated agreement, which alone governs their respective rights and obligation.
- xx. That this principle of law of novation has also been duly noted, as well as implemented in matters pertaining to the RERA Act. That the Hon'ble Supreme Court has also upheld the applicability of such a principle, time and again, and has also specifically noted that there stands no obligation or an enforceable right, arising out of the old agreement, after the execution of the new agreement.
- xxi. That in the same circumstances, in the present case, the transaction of execution of BBA and binding nature of clauses thereof, discharges the previous MOU and all the terms therein. That in the present case, the specific discharge and non-continuation of obligations under the MOU have been noted, in Clause 37 noted above. That in such a circumstance,

the BBA has successfully novated the MOU, and with the execution of the BBA, the MOU ceases to exist.

- xxii. That at the outset, as per the contents of the complaint, the issue at hand arises out of the alleged delayed construction, however, it is most vehemently noted that there has been no effective delay in the present circumstance, the details of which have been noted in the following paragraphs. It is submitted that the entire project, along with other land parcels, were entangled with the land acquisition proceedings, as noted above. However, at every stage and instant, the respondent had, communicated the complainant, of all the updates of the matter. For instance, reference may be given to the letters dated 26.03.2021, 26.07.2022, and 06.12.2022 which show that the respondent had duly informed the complainants about the injunction over the project, the resumption of the construction works, and the imposition of additional fee of 13.4 crore upon the respondent.
- xxiii. That a perusal of the builder buyer agreement dated 01.08.2019 shows that as per clause 9 of the agreement, the promoter proposed to handover possession of the commercial unit subject to the force majeure circumstances. It was duly agreed between the Parties that in case of the Project being affected by force majeure circumstances, the due date for handover shall be extended and for this reason, the no specific due date was calculated and is required to be computed on basis of the *force majeure* circumstances.
- xxiv. In the absence of a stipulated timeline, the standard legal presumption applies, wherein possession is to be handed over within a reasonable period—commonly interpreted as three years from when date of BBA plus six months which comes out to be 01.02.2023 Therefore, it is

- justifiable to calculate the due date of possession as three years from the execution date, aligning with prevailing legal norms and judicial precedents governing real estate transactions and consumer protection.
- xxv. That at the sake of repetition, it is pertinent to mention herein that the Hon'ble Supreme Court in the matter titled *Rameshwar & Ors. vs. State of Haryana & Ors.* bearing Civil Appeal No. 8788 of 2015 vide its order dated 24.04.2015 stayed the construction on the project land for the period between 24.04.2015 till 12.03.2018. That in lieu of the same, DTCP on 23.07.2018, exempted the period from 24.04.2015 till 12.03.2018 as 'Zero Period I'. That the said period of Zero Period I amounts to a period of 1054 days
- xxvi. That although the project land was freed by the Hon'ble Supreme Court in *Rameshwar (Supra)*, however, HSIIDC filed an application seeking clarification and inclusion of project land in the Award. During this period, the Hon'ble Supreme Court had again effective an injunction on further construction from 13.10.2020. The said application was dismissed with directions of payment of Rs. 13.405 Cr to HSIIDC vide order dated 21.07.2022. Considering all the facts, the DTCP renewed License No. 59 of 2009 up till 21.01.2025 and granted 'Zero Period II' for the period of 23.07.2018 to 21.07.2022. That the said period of Zero Period II amounts to a period of 1460 days.
- xxvii. That was evident from above, in the second round of litigation, after considering the development done over the project land, an amount of Rs. 13.4 Cr has already been imposed upon the Respondent, which the Respondent had rightly and timely, discharged. That the aforementioned paragraphs categorically show that the Hon'ble Supreme Court was well aware of the development status as well as the previous litigation.

- xxviii. That it is most respectfully submitted that only minimal works to ensure the upkeep of the construction already carried prior to imposition of the Supreme Court order were carried out. That if the same would have not been done, the building that had been constructed would have been depleted.
- xxix. That it is of essence to note that the benefit of the Zero Period I was allowed by the Hon'ble DCDRC in case titled Vigeshwari Deswal vs Green Heights Projects Pvt. Ltd. Gurugram District Consumer Complaint No. CC/1076 OF 2023. That hence, the benefit of the same should be rightly allowed.
- xxx. Because the effect of complete force majeure circumstances needs to be considered, apart from the Zero Period I and Zero Period II.
- xxxi. That in the aforementioned categories, while Zero Periods have already been granted as noted under Categories II & IV, however, the period in between the said zero periods and after the Zero Period II is also the term during which, despite the best efforts of the Respondent, the Respondent has been facing various difficulties in getting the necessary permissions.
- xxxii. That a bare perusal of the list of dates noted hereinabove shows that the complete *bonafide* and diligent manner in which the Respondent has acted throughout the aforementioned periods. That during the 1st period (category III), the Respondent had time and again approached the DTCP seeking necessary permissions and approvals, however, DTCP had refused to deal with the same despite the fact that the Hon'ble Supreme court had allowed the Respondent to approach DTCP.
- xxxiii. That the Respondent has gone over and beyond and filed writ petition before the Punjab and Haryana High Court when as per DTCP the original files of the land in question were in custody of CBI. This led to the

eventual finding that the files had already been returned by CBI to DTCP. Additionally, now that the entire matter has concluded and the amount of Rs. 13.4 Cr stands paid, DTCP is now stating that they need closure from ED. Going beyond its obligations, the Respondent has time and again approached the ED seeking the closure report. The constant and diligent approach taken by the Respondent is evident from the copies of reminders, representations and letters issued to DTCP in respect to the Project land not being a part of Rameshwar case and constant follow ups with respect to grant of pending permissions dated, 13.09.2016, 21.10.2016, 01.02.2017, 09.05.2017, 07.08.2017, 23.10.2017, 25.07.2022, 04.08.2022, 15.12.2022, 05.01.2023, 02.09.2023, 31.10.2023, 15.04.2024, 17.05.2024, 03.06.2024, and 26.11.2024, which are annexed herewith.

- xxxiv. That a perusal of all the documents show that the Respondent has been left at the mercy of the DTCP and other departments and has been entangled with the procedural lacunae when in fact, the project has been completed. That presently, the permission for the transfer of license and the change of developer and approval of service plan estimate is pending before the DTCP, due to which the further process of fire approvals, occupation certificate, etc has been halted. That none of these facts and circumstances point to any default on part of the Respondent in any manner whatsoever. In such a circumstance, the benefit of such periods, as grace, need to be rightly considered by this Ld. Authority.
- xxxv. That no person/entity should be prejudiced due to the such procedural difficulties, which eventually led to the lack in dispensation of justice and maintaining of equity between the parties.

xxxvi. That apart from the requirement of the permissions, as noted above, the real estate industry faced other force majeure circumstances from 2015 to 2023. Some of which, are detailed hereunder:

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 vehicles before the tribunal and provide the same to the police and other concerned authorities.	7 th of April, 2015 to 6 th of May, 2015	30 days	The aforesaid ban affected the supply of raw materials as most of the contractors/building material suppliers used diesel vehicles more than 10 years old. The order had abruptly stopped the movement of diesel vehicles more than 10 years old which are commonly used in construction activity. The order had completely hampered the construction activity.
2.	19.07.2016	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 Pollution Control Board, no objection from the concerned authorities and have the Environment Clearance from the competent Authority.		30 days	The directions of NGT were a big blow to the real estate sector as the construction activity majorly requires gravel produced from the stone crushers. The reduced supply of gravels directly affected the

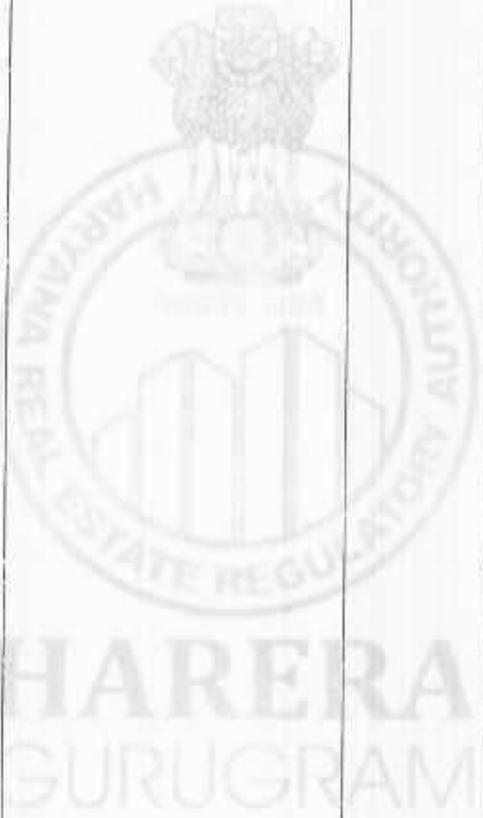
					supply and price of ready-mix concrete required for construction activities.
3.	08.11.2016	<p>National Green Tribunal had directed all brick kilns operating in NCR, Delhi would be prohibited from working for a period of 2016 one week from the date of passing of the order. It had also been directed that no construction activity would be permitted for a period of one week from the date of order.</p>	8 th Nov, 2016 to 15 th Nov, 2016	7 days	The bar imposed by Tribunal was absolute. The order had completely stopped construction activity.
4.	07.11.2017	<p>Environment Pollution (Prevention and Control Authority) had directed to the closure of all brick kilns, stones crushers, hot mix plants, etc. with effect from 7th Nov 2017 till further notice.</p>		90 days	The bar for the closure of stone crushers simply put an end to the construction activity as in the absence of 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 was consumed in doing so. The said period ought to be excluded while computing the alleged delay attributed to the

					Respondent by the Complainant. It is pertinent to mention that the aforesaid bar stands in force regarding brick kilns till date is evident from orders dated 21 st Dec, 19 and 30 th Jan, 20.
5.	09.11.20 17	National Green Tribunal has passed the said order dated 9 th 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 th 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 th Nov, 17 was vacated vide order dated 17 th Nov, 17.	09.11.20 17 to 17.11.20 17	9 days	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.
6.	29.10.20 18	Haryana State Pollution Control Board vide Notification HSPC B/MS/2018/2939-52	01.11.20 18 to 10.11.20 18	11 days	All construction activities involving excavation, civil construction (excluding internal finishing/work where no construction material is used) to remain closed in Delhi and other NCR Districts from November 01.10.2018
7.	24.12.20 18	Delhi Pollution Control Committee vide	24.12.20 18 to	3 days	Construction activities in Delhi,

		Notification DPCC/PA to MS/2018/7919-7954	26.12.2018		Faridabad, Gurugram, Ghaziabad and Noida to remain closed till December, 26 th 2018
8.	01.11.2019	Environment Pollution (Prevention and Control) Authority for National Capital Region vide Direction bearing no. EPCAR/2019/L-53	01.11.2019 to 05.11.2019	6 days	Construction activities in Delhi, Faridabad, Gurugram, Ghaziabad, Noida and Greater Noida to remain closed till morning of November 5, 2019 (current ban on construction was only 6 PM to 6 AM and this is now extended to be complete banned till Monday, November 5, 2019, morning)
9.	24.07.2019	NGT in O.A. no. 667/2019 & 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.		30 days	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 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.
10.	11.10.2019	Commissioner, Municipal Corporation, Gurugram has passed an order dated 11 th of Oct 2019 whereby the construction activity has been prohibited from 11 th Oct/ 2019 to 31 st Dec 2019. It was specifically mentioned in the aforesaid order that construction activity would be completely stopped during this period.	11 th Oct 2019 to 31 st Dec 2019	81 days	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.
11.	04.11.2019	The Hon'ble Supreme Court of India vide its order dated 04.11.2019 passed in writ petition bearing no. 13029/1985 titled as " <i>MC Mehta vs. 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.	04.11.2019 to 14.02.2020	102 days	These bans forced the migrant labourers to return to their native towns/states/villages creating an acute shortage of labourers in the NCR Region. Due to the said shortage the construction activity could not resume at full throttle even after the lifting of ban by the Hon'ble Apex Court.
12.	11.10.2019	Commissioner of Municipal Corporation Gurugram issued direction to issue Challan for Construction Activities and lodging of FIR from 11th October to 31st	11.10.2019 to 31.12.2019	81 days	

		December, 2019 as per the direction issued by the chairman of EPCA vide letter EPCA-R/2019/L-42 dated October 09, 2019.			
13.	02.11.2023 and 05.11.2023	Commission for Air Quality Management in NCR and Adjoining Areas vide Order No. 120017/27/GRAP/2021/CAQM	02.11.2023 to 18.11.2023	17 days	The commission for Air Quality Management in NCR and adjoining areas, vide Direction No. 77 dated 6 th October, 2023, issued statutory direction for implementation of the revised schedule of the Graded Response Action Plan (GRAP) with immediate effect as and when orders under GRAP are invoked. The Sub-Committee constituted for invoking actions under the GRAP in its meeting held on 2 nd November, 2023 comprehensively reviewed the air quality scenario in the region as well as the forecasts for meteorological conditions and air quality index made available by IMD/IITM. Keeping in view the prevailing trend of air quality, in an effort to prevent

			<p>further deterioration of the air quality, the sub-committee decided that ALL actions as envisaged under stage III of the GRAP -'Severe' Air Quality (DELHIAQ) ranging between 401-450) be implemented in right earnest by all the agencies concerned in the NCR, with immediate effect, in addition to the stage I and II actions are already in force. These include:</p> <p>4. Construction & Demolition activities.</p> <p>In furtherance of the same vide Order dated 05.11.2023 GRAP IV was implemented continuing the ban on construction and demolition activity.</p>
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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 submissions made by the parties.

E. Jurisdiction of the authority

12. The submission 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.

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 allottees 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;

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. Findings on the objections raised by the respondent.

F.I. Objection regarding Force Majeure circumstances and Zero Period to be taken into consideration.

16. The respondent took a plea that the project "Baani Centre Point" was under stay orders of the Hon'ble Supreme Court of India for 7 years 3 months (24.04.2015 to 21.07.2022) which was beyond the respondent's reasonable control and because of this no construction in the project could be carried. Hence, there is no fault of the respondent in delayed construction which has been considered by DTCP and the Authority while considering its applications of considering zero period, renewal of license and extension of registration by the Authority.
17. Due to reasons stated hereinabove it became impossible to fulfil contractual obligations due to a particular event that was unforeseeable and unavoidable by the respondent. It is humbly submitted that the stay on construction order by the Hon'ble Supreme Court is clearly a "Force Majeure" event, which automatically extends the timeline for handing over possession of the unit. The intention of the Force Majeure clause is to save the performing party from consequences of anything over which he has no control. It is no more res integra that force majeure is intended to include risks beyond the reasonable control of the party, incurred not as a product or result of the negligence or malfeasance of a party, which have a materially adverse effect on the ability of such party to perform its obligations, as where non-performance is caused by the usual and natural consequences of external forces or where the intervening circumstances are specifically contemplated. Thus, it was submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension.

18. The Authority is of the view that the pivotal issue arises from the builder's actions during the period between 13.10.2020 to 21.07.2022, there were specific directions for stay on further construction/development works in the said project passed by the Hon'ble Supreme Court of India in **M.A No. 50 of 2019** vide order dated 21.07.2022 which was in operation from **13.10.2020 to 21.07.2022** and there is no evidence that the respondent did not comply with such order. The Authority observes that during this period, there was no construction carried out in the project nor any demands made by the respondent from the allottees. In view of the above, the promoter cannot be held responsible for delayed possession interest during this period. Therefore, in the interest of equity, no interest shall be payable by the complainants as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order of Hon'ble Supreme Court on further construction/development works on the said project.

G. Findings on the reliefs sought by the complainants:

G.I Interest for every month of delay from due date of possession till actual handing over of possession.

19. The above-mentioned reliefs sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
20. In the present complaint, the complainants intend to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

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

21. Clause 9 of the space buyer's agreement provides for handing over of possession and is reproduced below for ready reference:

9. Possession

The Promoter Assures to Hand Over Possession of Commercial Unit Along with Parking as Per Agreed Terms Unless There Is Delay Due To Force Majeure Court Orders, Government Policy/ Guidelines, Decisions Affecting the Regular Development of the Real Estate Project.

22. The due date of possession as per clause 9 of the space buyer's agreement is to be calculated as disclosed at the time of registration of the project. Therefore, the due date of possession comes out to be 13.09.2019.
23. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges at prescribed rate of interest. Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under: -

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

- (1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

24. 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.

25. 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., 14.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
26. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:
- "(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
- Explanation. —For the purpose of this clause—*
- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*
27. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same as is being granted to the complainant in case of delay possession charges.
28. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date. Occupation certificate has not been granted by the concerned authority till date. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject flat and it is

failure on part of the promoter to fulfil its obligations and responsibilities to hand over the physical possession within the stipulated period.

29. Accordingly, the non-compliance of the mandate contained in in Section 11(4) (a) read with Section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to delay possession charges at prescribed rate of the interest @ 10.85 % p.a. till the date of offer of possession plus 2 months after obtaining the occupation certificate or actual handover, whichever is earlier as per provisions of Section 18(1) of the Act read with rule 15 of the rules.

G.III To Handover the possession of the unit, in a habitable state, after obtaining the occupation certificate from the concerned Authority.

30. It is a matter of fact that till not no occupation certificate has been obtained by the respondent. Therefore, the respondent is directed to handover the possession of the subject unit after obtaining occupation certificate from the competent Authority.

G.IV Direct the respondent to execute sale deed after completion of the project in favour of the complainants.

31. Under Section-17(1) proviso of the Act, 2016, the respondent/promoter is under an obligation to execute the registered conveyance deed in favour of the allottee/complainant within three months from the date of issue of occupancy certificate. The relevant provision is reproduced below:

"Section 17. Transfer of title

the promoter shall execute a registered conveyance deedlocal laws:

Provided that, in absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from the date of issue of occupancy certificate.

[Emphasis supplied]

32. The Authority hereby directs the respondent to execute the conveyance deed in favour of the complainants within 3 months after obtaining the occupation certificate from the competent authorities.

G.V To not raise any payment demand, in violation of the provisions of RERA Act, 2016 and/or contrary to the terms of the Agreement.

33. The respondent is directed not to charge anything, which is not part of commercial space buyer agreement.

G.VI Pass an order imposing penalty on the builder on account of various defaults and illegalities under Rera Act, 2016 and the same be ordered to be paid to the complainant.

34. The above said relief was not pressed by the complainant counsel during the arguments in the course of hearing. Also, the complainant failed to provide or describe any information related to the above-mentioned relief sought. The authority is of the view that the complainant counsel does not intend to peruse the relief sought by the complainant. Hence, the authority has not returned any findings with regard to the above-mentioned relief.

H. Directions of the Authority

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

- i. The respondent/promoter is directed to pay delay possession charges to the complainants against the paid-up amount at the prescribed rate i.e., 10.85% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 13.09.2019 (On P.O.D dated 14.11.2025 due date of possession was inevitably mentioned as 30.03.2018) till expiry of 2 months from the date of offer of possession

or actual handover, whichever is earlier as per section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*.

- ii. No interest shall be payable by the complainant as well as respondent from 13.10.2020 to 21.07.2022 in view of the stay order of Hon'ble Supreme Court on further construction/development works on the said project.
 - iii. The respondent is directed to execute the registered conveyance deed in favour of the complainant within 3 months from the date of obtaining the occupation certificate.
 - iv. The respondent shall not charge anything from the complainants which is not the part of the agreement of sale.
36. Complaint stands disposed of.
37. File be consigned to registry.



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 14.11.2025