

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

Complaint no. : 4487 of 2024
Date of complaint : 17.09.2024
Date of order : 21.11.2025

Babu Singh

Address: House No. 15/72, Moti Colony, Palwal -
121102.

Complainant

Versus

Sunrays Heights Private Limited

Address: - 211, Ansal Bhawan, 16 Kasturba Gandhi Marg,
New Delhi -110001 Through its Managing Director

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Tapish Mangla (Advocate)

Sh. Gagan Sharma (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S.N.	Particulars	Details
1.	Name of the project	63 Golf Drive, Sector-63-A, Gurugram, Haryana
2.	Project area	5.90 acres
3.	Nature of the project	Affordable group housing
4.	RERA registered/not registered	Registered vide registration no. 249 of 2017 dated 26.09.2017 Valid till 25.09.2022
5.	DTPC License no.	82 of 2014 dated 08.08.2014
	Validity status	31.12.2023
6.	Allotment letter dated	19.06.2017 [Page 54 of complaint]
7.	Unit no.	B142, tower-B [Page 54 of complaint]
8.	Unit admeasuring	604.83 sq. ft. (carpet area) 95.10 sq. ft. (balcony area) [Page 54 of complaint]
9.	Date of execution of Buyers agreement	04.02.2016 [Page 18 of complaint]
10.	Date of approval of building plan	10.03.2015
11.	Date of environment clearance	16.09.2016

12.	Possession clause	<p><i>*Note: As per affordable housing policy 2013</i></p> <p><i>1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The license shall not be renewed beyond the said 4 years from the date of commencement of project.</i></p>
13.	Due date of possession	<p>16.03.2021</p> <p>[Due date of possession is calculated from the date of environmental clearance i.e., 16.09.2016 being later + 6 months on account of COVID-19]</p>
14.	Total sale consideration	<p>Rs.24,66,870/-</p> <p>[Page 11 of the complaint]</p>
15.	Amount paid by the complainant	<p>Rs.22,47,111/-</p> <p>[As alleged by the complainant on page 20 of the complaint and as per Receipt information on page 68 of complaint]</p>
16.	Reminder letter	<p>Reminder 1 dated 24.07.2024</p> <p>Reminder 2 dated 30.08.20224</p>
17.	Occupation certificate	N/A
18.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions: -

- I. That the Complainant, with the bona fide intention to purchase an affordable residential unit, applied for allotment in the Respondent's group housing colony namely "Sixty Three Golf Drive", an Affordable Housing Project situated at Golf Course Road, Sector-63A, Village Ullahwas, Tehsil Wazirabad, District Gurugram (hereinafter referred to as the "Project"), under the Affordable Group Housing Policy, 2013 notified by the Government of Haryana vide notification dated 19.08.2013. The Complainant submitted Application No. SGD(A)-7226 dated 17.04.2015 along with an affidavit dated 27.03.2015 and paid a sum of ₹1,23,393/- vide Cheque No. 103601 dated 15.04.2015 towards registration amount.
- II. That as per Clause 7(a) of the Application Form, it was expressly represented and assured by the Respondent that the Project, including the unit allotted to the Complainant, would be completed within a period of four (4) years from the date of grant of sanction of building plans or receipt of all requisite environmental clearances, whichever was later. Accordingly, the committed date of possession was calculated to be 16.09.2020.
- III. That the Complainant was allotted Flat No. B-142 having a carpet area of 604.83 sq. ft. (approx.) at the rate of ₹4,000/- per sq. ft. (BSP) and balcony area of 95.10 sq. ft. (approx.) at ₹500/- per sq. ft., along with free two-wheeler parking, for a total sale consideration of ₹24,66,870/- (hereinafter referred to as the "said Unit"), pursuant to the draw of lots conducted on 06.01.2016 in the presence of officials of the committee constituted by the State of Haryana under the Affordable Housing Policy dated 19.08.2013. A

- Provisional Allotment-cum-Demand Letter dated 11.01.2016 was issued demanding ₹5,44,433/- towards confirmation of allotment.
- IV. That relying upon the representations and assurances of the Respondent, and acting in good faith, the Complainant paid ₹5,44,432/- (approximately 25% of the total sale consideration), which was duly acknowledged by the Respondent.
- V. That it is pertinent to submit that the Respondent collected approximately 25% of the total sale consideration prior to execution of the Builder Buyer Agreement, whereas as per settled legal position and applicable provisions, not more than 10% of the sale consideration could have been demanded prior to execution of a formal agreement. The said act of the Respondent is illegal, arbitrary and in violation of statutory provisions.
- VI. That the Builder Buyer Agreement (BBA) was executed between the parties on 04.02.2016 (as per date reflected on the stamp paper annexed thereto). As per Clause 4.1 of the Agreement, possession of the allotted unit was to be delivered within 48 months from the date of commencement of the Project. However, the Agreement does not specify any definite date of commencement of the Project, thereby rendering the possession timeline vague and uncertain.
- VII. That subsequently, the Respondent issued an Allotment Offer Letter dated 19.06.2017 upon receiving an additional 12.5% of the total sale consideration and re-offered the allotment of the said unit, despite the fact that provisional allotment had already been made vide letter dated 11.01.2016. As per the payment plan annexed thereto, the total cost of the flat remained ₹24,66,870/-.

- VIII. That it was an implied as well as express obligation of the Respondent under the Agreement to obtain all requisite sanctions, approvals, completion certificate and Occupation Certificate within the stipulated period so as to offer possession within the timeline prescribed under Clause 4.1 of the BBA. However, till date, no valid offer of possession along with Occupation Certificate has been made to the Complainant.
- IX. That despite repeated follow-ups and requests by the Complainant seeking updates regarding the status of construction, the Respondent failed to provide any satisfactory response. The Complainant had already paid approximately 25% of the total consideration at the time of booking and the remaining amount was structured in six equated half-yearly installments over a period of three years. The Complainant reasonably believed that the amounts so collected would be utilized exclusively for construction of the Project. However, even after expiry of four years from the relevant date, i.e., 16.09.2020, possession was not handed over. Even after granting a grace period of six months on account of force majeure due to the COVID-19 pandemic, the extended due date of possession expired on 16.03.2021.
- X. That the acts and omissions of the Respondent constitute clear deficiency in service, adoption of unfair trade practices, breach of contractual obligations, and have caused immense mental agony, harassment and financial hardship to the Complainant. That despite repeated personal visits, communications and requests, the Respondent failed to provide any definite timeline for

completion and delivery of possession, nor furnished any transparent status report regarding the Project.

- XI. That the Complainant has paid approximately 87.5% of the total sale consideration and has always been ready and willing to pay the remaining justified amount, if any. However, the Respondent has failed to deliver possession of the allotted Unit within the promised timeline and the Project remains incomplete and devoid of promised amenities.
- XII. That despite the committed date of possession being 16.03.2021 (after granting grace period), the Respondent has neither delivered possession nor paid any interest for delay. The Complainant does not seek withdrawal from the Project but seeks enforcement of rights under law. In terms of Section 18(1) proviso of the Real Estate (Regulation and Development) Act, 2016, the Respondent/Promoter is statutorily obligated to pay interest at the prescribed rate for every month of delay until handing over of lawful possession of the Unit.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- I. Direct the respondent to complete the development of the flat along with all the facilities and amenities like water, electricity, roads, parks etc.
 - II. To direct the respondent to handover the possession of the unit and DPC.
 - III. Direct the respondent to charge interest from allottee at the prescribed rate of interest.

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 the respondent.

6. The respondent contested the complaint on the following grounds:

- I. That the Complainant is estopped by their own acts, conduct, acquiescence, delay, laches and omissions from maintaining the present Complaint.
- II. That the Complainant has not approached this Authority with clean hands and has suppressed material and vital facts. The true and correct facts are being set out hereinbelow for proper adjudication of the matter. That the Complainant, after conducting independent inquiries and being fully satisfied with all aspects of the Project, approached the Respondent for booking of an apartment in the affordable group housing project known as "Sixty-Three Golf Drive" situated at Sector 63, Gurugram, Haryana (hereinafter referred to as the "Project"). The decision to book the unit was taken voluntarily, without any coercion, inducement or misrepresentation on the part of the Respondent.
- III. That pursuant to the application submitted by the Complainant, Flat No. B-142 in Tower B, admeasuring carpet area 604.83 sq. ft. (approx.) and balcony area 95.10 sq. ft. (approx.) (hereinafter referred to as the "Unit"), was allotted vide Provisional Allotment

Letter dated 11.01.2016. The Complainant assured the Respondent that all installments would be paid strictly in accordance with the agreed payment plan. Acting upon such assurance, the Respondent proceeded with the allotment.

- IV. That thereafter, an Agreement to Sell/Builder Buyer Agreement (hereinafter referred to as the "Agreement") was duly executed between the parties. The Agreement was entered into consciously, voluntarily and after due understanding of its terms and conditions, which are binding upon both parties.
- V. That as per Clause 4.1 of the Agreement, possession was to be offered within 48 months from the date of commencement of the Project, subject to force majeure conditions and timely payment of installments by the allottee. The possession clause is in consonance with Clause 1(iv) of the Affordable Housing Policy, 2013, which mandates completion within four years from approval of building plans or grant of environmental clearance, whichever is later.
- VI. That the Building Plans were approved on 10.03.2015 by DGTCP and Environmental Clearance was granted on 16.09.2016. Therefore, the due date of possession, calculated from the date of Environmental Clearance, fell on 16.09.2020. Further, vide notification dated 26.05.2020, the competent Authority granted a blanket extension of six months on account of COVID-19. Accordingly, the extended due date stood revised to 16.03.2021.

- VII. That the offer of possession was further subject to force majeure circumstances as defined under Clause 16 of the Agreement. The Respondent's ability to complete the Project was materially affected by circumstances beyond its control, including judicial orders, regulatory restrictions and statutory prohibitions.
- VIII. That the Respondent faced severe disruption due to orders passed by the Hon'ble Punjab & Haryana High Court, National Green Tribunal and other authorities regulating mining activities, brick kilns and construction operations in the NCR region. These restrictions resulted in acute shortage and abnormal escalation in prices of essential construction materials such as sand and gravel for a prolonged period. Despite such adversities, the Respondent continued construction without shifting additional burden upon the allottees.
- IX. That before normalcy could be restored, the unprecedented COVID-19 pandemic struck the nation, resulting in complete lockdowns from March 2020 onwards, stoppage of construction activities, reverse migration of labour and disruption of supply chains. The State of Haryana imposed strict curfews and restrictions including night curfew, weekend lockdown and complete shutdown during the second wave from April 2021 to July 2021. The Haryana Real Estate Regulatory Authority granted a six months extension recognizing COVID-19 as force majeure.

- X. That the Project falls under Section 7B of the Haryana Development and Regulation of Urban Areas Act, 1975, mandating completion within four years from Environmental Clearance. However, such period necessarily contemplates a hindrance-free timeline. Any prohibitory orders by statutory authorities are liable to be excluded from computation of the said period. That cumulatively, a period of approximately 422 days was lost due to force majeure circumstances and statutory prohibitions, which deserves exclusion while computing delay, if any.
- XI. That in analogous matters, including Complaint No. 3890 of 2021 titled "Shuchi Sur & Anr. vs. M/s Venetian LDF Projects LLP" decided on 17.05.2022, the Ld. Authority has granted benefit of grace period on account of similar restrictions. That other Regulatory Authorities including UPRERA and UPREAT have also granted exclusion of time to developers on account of NGT/Supreme Court bans and COVID-19 related restrictions.
- XII. That despite numerous defaulters in the Project, the Respondent infused substantial funds and obtained financial assistance of ₹44.30 Crores under the SWAMIH Fund scheme for completion of the Project and has already invested approximately ₹35 Crores therefrom. The Respondent has also obtained Fire NOC, Lift NOC, sanction for water connection and electrical inspection approvals.

- XIII. That the Respondent applied for Occupation Certificate on 08.12.2023. Once such application is submitted, the matter lies within the domain of the statutory authority and the Respondent has no control over the time taken for its issuance. The period consumed in grant of Occupation Certificate deserves exclusion.
- XIV. That as per Clause 3.2 of the Agreement, the Complainant was obligated to pay 25% of the total consideration at the time of signing and the balance 75% in six equated half-yearly installments over three years. That the Complainant defaulted in payment of installments due in April 2019 and thereafter failed to clear outstanding dues despite repeated reminders. Such defaults adversely impacted the cash flow and progress of the Project. That under Clause 5(iii) of the Affordable Housing Policy, 2013 and Sections 19(6) & 19(7) of the Real Estate (Regulation and Development) Act, 2016, the allottee is under a statutory obligation to make timely payments and is liable to pay interest for delay.
- XV. That the Respondent issued various demand notices and a final reminder dated 20.07.2024. Upon continued default, publication was also made in a regional newspaper in compliance with Policy provisions. Despite such compliance, the Complainant failed to regularize the account. That further, any delay compensation, if determined, can only be computed on the principal amounts

actually deposited towards sale consideration and not on delayed payment charges, taxes, or other statutory payments. That in view of the bona fide conduct of the Respondent, the force majeure circumstances affecting the Project, and the admitted defaults on part of the Complainant, the present Complaint is liable to be dismissed with exemplary costs.

XVI. That the Respondent craves leave of this Authority to add, amend, alter or modify the present Reply, if so required, at any stage of the proceedings.

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

E. Jurisdiction of the authority

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

E.1 Territorial jurisdiction

9. 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

10. 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;

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.

11. 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 relief sought by the complainant.

- F.I Direct the respondent to complete the development of the flat along with all the facilities and amenities like water, electricity, roads, parks etc.
- F.II To direct the respondent to handover the possession of the unit and DPC.
- F.III Direct the respondent to charge interest from allottee at the prescribed rate of interest.
12. The complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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."

13. **Due date of handing over possession:** It is pertinent to mention here that the project was to be developed under the Affordable Housing Policy, 2013. However, the respondent has chosen to disregard the policy provision. Clause 1(iv) of the Affordable Housing Policy, 2013 deals with the date of possession of the unit and completion of the project. The relevant clause is reproduced as under:

"1(iv) All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licences shall not be renewed beyond the said 4 years period from the date of commencement of project."

(Emphasis supplied)

14. In the present case, the date of approval of building plans is 10.03.2015, and the date of environment clearance is 16.09.2016. The due date of handing over of possession is reckoned from the date of environment clearance being later. Therefore, the due date of handing over of possession comes out to be 16.09.2020. Further as per **HARERA notification no. 9/3-2020 dated 26.05.2020**, an extension of 6 months is granted for the projects having a completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 16.09.2020 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date of handing over possession in view of notification

no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to the outbreak of Covid-19. As such the due date for handing over of possession comes out to be 16.03.2021.

15. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges till the date of delivery of possession to the complainant. 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, *ibid*. Rule 15 has been reproduced as under:

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

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

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

16. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid*, has determined the prescribed rate of interest. The rate of interest, determined by the legislature, is reasonable and if the said rule is followed to award interest, it will ensure uniform practice in all cases.
17. 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., 21.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.

18. The definition of term 'interest' as defined under Section 2(za) of the Act provides that 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. 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;"*

19. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent which is the same as is being granted to them in case of delayed possession charges.
20. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained 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 the prescribed rate of interest i.e., @ 10.85% p.a. w.e.f. 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

21. Furthermore, in terms of Section 17(1) of the Act, the Respondent is obligated to hand over physical possession of the allotted unit to the Complainant. Accordingly, the Respondent is directed to hand over possession of the subject unit, as per the specifications mentioned in the Builder Buyer Agreement, after obtaining the Occupation Certificate from the competent authority.
22. Further, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the occupation certificate /completion certificate from the competent authority. Whereas as per Section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question. In view of above, the respondent shall execute the conveyance deed of the allotted unit within a period of 3 months after obtaining occupation certificate from the competent authority.

G. Directions of the authority

23. 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 is directed to pay interest on the amount paid by the complainant at the prescribed rate of 10.85% p.a. for every



- month of delay from the due date of possession i.e., 16.03.2021 till the offer of possession plus 2 months or actual handing over of possession, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- II. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules, *ibid*.
 - III. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act. Further, no interest shall be payable by both the parties for delay, if any between 6 months Covid period from 25.03.2020 to 24.09.2020.
 - IV. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainant is directed to pay outstanding dues if any remains, after adjustment of delay possession charges within a period of next 30 days.
 - V. The Respondent is directed to hand over possession of the subject unit, as per the specifications mentioned in the Builder Buyer Agreement, after obtaining the Occupation Certificate from the competent authority.

- VI. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months after obtaining occupation certificate from the competent authority upon payment of outstanding dues and requisite stamp duty by the complainant as per norms of the state government as per Section 17 of the Act.
- VII. The respondent shall not charge anything from the complainant which is not part of the buyer's agreement and the provisions of the Affordable Housing Policy, 2013.
24. Complaint as well as applications, if any, stand disposed off accordingly.
25. Files be consigned to the registry.

Dated: 21.11.2025



(Arun Kumar)

Chairman
Haryana Real Estate Regulatory
Authority, Gurugram