

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

Date of decision: 23.12.2025

NAME OF THE BUILDER		M/S BRAHMA CENTRE DEVELOPERS PRIVATE LIMITED & M/S BESTECH INDIA PRIVATE LIMITED	
PROJECT NAME		"ATHENA"	
S. No.	Case No.	Case title	Appearance
1	CR/4623/2024	NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited	Shri Divjyot Singh Advocate for the Complainant. Shri Venkat Rao for Respondent No.1 & Shri Ishan Dang for Respondent No.2
2	CR/4626/2024	NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited	Shri Divjyot Singh Advocate for the Complainant. Shri Venkat Rao for Respondent No.1 & Shri Ishan Dang for Respondent No.2
3	CR/4630/2024	NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited	Shri Divjyot Singh Advocate for the Complainant. Shri Venkat Rao for Respondent No.1 & Shri Ishan Dang for Respondent No.2
4	CR/4631/2024	NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited	Shri Divjyot Singh Advocate for the Complainant. Shri Venkat Rao for Respondent No.1 & Shri Ishan Dang for Respondent No.2

CORAM:

Shri Arun Kumar

Shri Phool Singh Saini

Chairman

Member

ORDER

1. This order shall dispose of all the 4 complaints titled as above filed before the authority under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "the rules") for violation of section 11(4){a) of the

- Act wherein it is inter alia prescribed that the promoter shall be responsible for all its obligations, responsibilities and functions to the allottees as per the agreement for sale executed *inter se* between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Athena" (commercial project) being developed by the same respondents/promoters i.e., Brahma Center Developers Private Limited & Bestech India Private Limited. The terms and conditions of the buyer's agreements fulcrum of the issues involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of delay possession charges along with interest and the compensation.
 3. The details of the complaints, reply to status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project: Athena, Sector- 16, Gurugram

Possession clause: 24

Subject to other terms of this Agreement including but not limited to Section 23 above and timely payment of the Total Price and Additional Charges as mentioned in this Agreement, **the Company shall endeavor to complete the construction of the Said Unit for the purpose of fit outs by [December 31, 2016].** The Company agrees to pay compensation @ Rs. 20/- (Rupees Twenty only) per sq. ft. of the Super Area of the Said Unit to the Buyer (which both Parties agree is a just and equitable estimate of the damages that the Buyer may suffer) and the same may be adjusted/appropriated towards the Total Price and/or the Additional Charges payable by the Buyer to the Company. Thereafter, the Company shall offer the possession of the Said Unit to the Buyer within [45] days and shall execute a conveyance deed in respect thereof ("Conveyance Deed") upon the Buyer accepting the offer of possession in writing, as decided by the Company. Any delay by the Buyer in taking the possession of the Said Unit allotted within thirty (30) days from the date of offer of possession by the Company would attract charges @ Rs.20 per sq. ft. per month of the Super Area of the Said Unit and the Maintenance Charges as determined by the Company / Maintenance Agency for the entire period of such delay until the date the actual physical possession of the Said Unit is taken over by the Buyer.

Note:

1. Due date of handing over of possession- As per clause 24 of buyer's agreement, the due date of handing over of possession is 31.12.2016.

2. Occupation certificate- Not obtained.

Sr. no	Complaint no. /title/ date of filing complaint/date of reply received	Unit no. and area admeasuring	Date of Execution of buyer's agreement	Due date of Possession & offer of possession	Total sale consideration and amount paid by the Complainant(s)	Relief Sought
1.	<p>CR/4623/2024 titled as NBI Research Private Limited</p> <p>VS</p> <p>Brahma Center Developers Private Limited & Bestech India Private Limited</p> <p>DOR- 07.10.2024</p> <p>Reply received on- Not received</p>	<p>1001 on 10th floor, admeasuring 3145 sq. ft.</p> <p>(As per page no. 20 of complaint)</p>	<p>14.06.2014</p> <p>(As per page no. 22 of complaint)</p>	<p>31.12.2016</p> <p>Offer of possession- Not Offered</p>	<p>TSC: Rs. 3,44,65,668/-</p> <p>(As per page no. 62 of complaint)</p> <p>AP: Rs. 2,64,27,456/-</p> <p>(Sated by the complainant at page 10 of complaint)</p>	<p>1. Possession</p> <p>2. DPC</p> <p>3. Renewal of registration of project.</p>
2.	<p>CR/4626/2024 titled as NBI Research Private Limited</p> <p>VS</p> <p>Brahma Center Developers Private Limited & Bestech India Private Limited</p> <p>DOR- 07.10.2024</p> <p>Reply received on- Not received</p>	<p>1008 on 10th floor, admeasuring 2635 sq. ft.</p> <p>(As per page no. 56 of complaint)</p>	<p>14.06.2014</p> <p>(As per page no. 23 of complaint)</p>	<p>31.12.2016</p> <p>Offer of possession- Not Offered</p>	<p>TSC: Rs. 2,95,65,855/-</p> <p>(As per page no. 63 of complaint)</p> <p>AP: Rs. 2,26,81,179/-</p> <p>(Sated by the complainant at page 10 of complaint)</p>	<p>1. Possession</p> <p>2. DPC</p> <p>3. Renewal of registration of project.</p>



3.	<p>CR/4630/2024 titled as NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited DOR- 07.10.2024 Reply received on- Not received</p>	<p>1007 on 10th floor, admeasuring 2280 sq. ft. (As per page no. 55 of complaint)</p>	<p>14.06.2014 (As per page no. 22 of complaint)</p>	<p>31.12.2016 Offer of possession- Not Offered</p>	<p>TSC: Rs. 2,52,73,648/- (As per page no. 62 of complaint) AP: Rs. 1,93,82,847/- (Sated by the complainant at page 10 of complaint)</p>	<p>1. Possession 2. DPC 3. Renewal of registration of project.</p>
4.	<p>CR/4631/2024 titled as titled as NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited DOR- 07.10.2024 Reply received on- Not received</p>	<p>1002 on 10th floor, admeasuring 4850 sq. ft. (As per page no. 20 of complaint)</p>	<p>14.06.2014 (As per page no. 22 of complaint)</p>	<p>31.12.2016 Offer of possession- Not Offered</p>	<p>TSC: Rs. 3,44,65,668/- (As per page no. 62 of complaint) AP: Rs. 4,07,20,259/- (Sated by the complainant at page 10 of complaint)</p>	<p>1. Possession 2. DPC 3. Renewal of registration of project.</p>

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOR- Date of receiving complaint

TSC- Total Sale consideration

AP- Amount paid by the allottee(s)

DPC- Delayed possession charges

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the buyer's agreement executed

between the parties in respect of said unit for not handing over the possession by the due date, seeking award of delay possession charges the entire amount along with interest and compensation.

5. It has been decided to treat the said complaint(s) 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 allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaint(s) filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case **CR/4623/2024 NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited** are being taken into consideration for determining the rights of the allottee(s).

A. Project and unit related details

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

CR/4623/2024 NBI Research Private Limited VS Brahma Center Developers Private Limited & Bestech India Private Limited.

S. N.	Particulars	Details
1.	Name and location of the project	"Athena", Sector-16, Gurgaon
2.	Nature of the project	Commercial Project
3.	Project area	12.206 acres
4.	HSIIDC License no.	Vide Memo No. HSIIDC/IPD/2011/3144 dated 04.03.2011
5.	RERA registered or not	Registered (Lapsed on 31.12.2019)



		Vide no. 205 of 2017 dated 15.09.2017
6.	Provisional allotment letter	31.05.2014 (Page 20 of complaint)
7.	Unit No.	1001, 10 th Floor (Page no. 20 of complaint)
8.	Unit area admeasuring	3145 sq. ft. (page no. 20 of complaint)
9.	Date of builder buyer agreement	14.06.2014 (Page 22 of complaint)
10.	Possession Clause	24. <i>Subject to other terms of this Agreement including but not limited to Section 23 above and timely payment of the Total Price and Additional Charges as mentioned in this Agreement, the Company shall endeavor to complete the construction of the Said Unit for the purpose of fit outs by [December 31, 2016]. The Company agrees to pay compensation @ Rs. 20/- (Rupees Twenty only) per sq.ft. of the Super Area of the Said Unit to the Buyer (which both Parties agree is a just and equitable estimate of the damages that the Buyer may suffer) and the same may be adjusted/appropriated towards the Total Price and/or the Additional Charges payable by the Buyer to the Company. Thereafter, the Company shall offer the possession of the Said Unit to the Buyer within [45] days and shall execute a conveyance deed in respect thereof ("Conveyance Deed") upon the Buyer accepting the offer of possession in writing, as decided by the Company. Any delay by the Buyer in taking the possession of the Said Unit allotted within thirty (30) days from the date of offer of possession by the Company would attract charges @ Rs.20 per sq. ft. per month of the Super Area of the Said Unit and the Maintenance Charges as determined by the Company / Maintenance Agency for the entire period of such delay until the date the actual physical possession of the Said Unit is taken over by the Buyer.</i> (Page 45 of complaint)
11.	Due date of possession	31.12.2016 (As per clause 24 of agreement)
12.	Payment Plan	Construction Linked (Page 62 of complaint)
13.	Sale consideration	Rs.3,44,65,668/-

		(As per payment plan annexed with buyer's agreement at page no. 62 of complaint)
14.	Amount paid by the complainant	Rs.2,64,27,456/- (As stated at page 10 of complaint)
15.	Demand letter dated	30.06.2014, 08.08.2014, 27.06.2016, 27.06.2016, 10.08.2016, 18.01.2017, 26.04.2017, 27.09.2017 (Page 66-73 of complaint)
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint

8. The complainant has made the following submissions in the complaint: -
- I. The complainant is a private limited company duly incorporated under the Companies Act, 1956. The Complainant company is an allottee within the meaning of Section 2 (d) of The Real Estate (Regulation and Development) Act, 2016. The respondent are also limited companies incorporated under the Companies Act, 1956 and is *inter alia* engaged in the business of providing real estate services.
 - II. The present complaint is being filed against the respondents for their gross failure in complying with the terms of the unit buyer agreement dated 14 June 2014 and provisions of the Act. Due to various arbitrary actions of the respondents as explained hereinafter, the complainant has gross financial loss.
 - III. Sometime in the year 2014 the respondents invited applications for the allotment of office space in a commercial project known as 'Brahma Bestech Athena' which was proposed to be constructed in Sector 16, Gurugram, Haryana ('project') by the respondent no. 1 in collaboration with Bestech India Private Limited i.e. the respondent no. 2.

- IV. The respondents represented to the complainant that this project would be a high-tech project having world class facilities and since robust commercialization is taking place in Gurugram and its vicinity therefore, investing in such kind of project would be a boon for the investor as the investment made would fetch high returns in the near future. The abovesaid representations were also made by the Respondent in the form of advertisements, project brochures and notices. The marketing officials of the respondents even held personal meetings with the officials of the complainant company and portrayed a rosy picture about the project.
- V. The complainant, being lured by the picture portrayed by the respondents agreed to invest in the said project. Pursuant to the submission of application form and the payment of booking amount, the complainant was allotted unit bearing no. 1001 ad measuring 3145 sq. ft. on 10th floor of the project along with two car parking spaces ('the unit') vide allotment letter dated 31 May 2014. At the time of booking, the complainants paid a sum of INR 33,65,326/- towards provisional allotment to the respondents. The receipt of the said payment was duly acknowledged by the respondents by issuing receipt thereof. The respondents handed over to the complainant a standard document containing the payment plans and terms and conditions for provisional allotment.
- VI. Further, for the purpose of making further payment the respondents offered two payment plans to the complainant, namely construction linked plan ('CLP') and down payment plan ('DPP'). In the CLP, the instalments were linked to the construction milestones achieved by the respondents whereas in the DPP, the entire sale consideration was to be paid at the time of booking. In the present case the complainant opted for CLP.
- VII. Subsequently, a unit buyer agreement dated 14 June 2014 ('the agreement'), was also executed between the parties in relation to the said

unit. The basic sale price ('BSP') for the unit was agreed to be INR 3,24,50,016/- and after the inclusion of Interest Free Maintenance Security Deposit ('IFMSD') amounting to INR 7,86,250/- and service tax amounting to INR 12,32,401/- the total amount to be paid by the complainant towards was INR 3,44,68,666/-. Respondents have raised payment demands and the complainant has made the payment according to the provisional allotment letter.

- VIII. That in terms of clause 24 of the agreement the respondent was to deliver the possession of the unit by 31 December 2016, i.e., within 30 months from the date of allotment. The Respondents have not offered the possession of the Unit to the Complainant. To worsen matters, the Respondents have not even raised payment demands for stages of completion of the façade and ground floor lobby as per the CLP, which bolsters the suspicion about non-completion of the project. Therefore, as on date of filing of the present complaint, there is a total delay of 7 years 7 months in handing over the possession of the allotted unit.
- IX. The time was the essence of the agreement, and the respondents were liable to hand over the possession by 31 December 2016. The respondents however failed to hand over the possession within the stipulated time period. Clause 24 of the agreement provides for compensation at an unreasonable and absurdly nominal rate of INR 20/- per sq. ft. per month of the super area of the unit for the delay in handing over the possession of the apartment. To the contrary, the same agreement provides that in case delay in the payment of any sum by the complainant, the complainant is liable to pay to the respondents an interest at the rate of 15% per annum compounding quarterly on the outstanding dues. The aforesaid clauses of the agreement are totally unilateral, usurious, arbitrary, unjust, unconscionable and loaded in favour of the respondents. The agreement

was also was a non-negotiable document and the terms and conditions contained therein were unilaterally added by the respondents without any discussion or consent of the complainant.

- X. The complainant has already paid a sum of INR 2,64,27,456/- (including taxes) to the respondents against the total consideration of INR 3,44,68,666/-. The complainant therefore has already paid approximately 80% of the total sale consideration. The abovesaid amount has been paid by the complainant as per the CLP and as per the demands made by the respondents from time to time. There was a delay on the part of respondents to issue demand for 5th and 7th month as per the payment schedule. However, when the demands were raised the same were paid by the complainant in a timely manner. The last payment was made by the complainant on 15 November 2017 pursuant to the demand letter dated 27 September 2017 issued by the respondents on installment of 'on start of the 18th Floor Slab'. As per the CLP plan, there are three more tranches on 'completion of the façade', 'completion of ground floor lobby' and 'at the time of handover of possession' and subsequently demand letters were to be issued by the respondents. However, after 27 September 2017 no demand has been raised by the respondents till date. Furthermore, the respondents have also acknowledged the receipt of the above-said amount by issuing the receipts thereof.
- XI. The respondents, even after receiving the approximately 80% of the total sale consideration, has failed to handover the physical possession of the unit till date. The respondent has no provided any update about the project since September 2017. The complainant has several times requested the respondents to provide them update about the status of the project and the date when the physical possession will be handed over. The complainant has a statutory right, and the respondents have a positive

- obligation under the Act, regarding information about the stage of completion of the project. Despite the repeated requests of the complainant and statutory obligation, the respondents are neither have neither provided any update to the complainant nor delivered the physical possession of the unit.
- XII. In addition to their unlawful inactions, the respondents have levied an additional delayed interest of INR 1,73,152/- on the payment made by the unit buyer supposed to be made on 5th and 7th month timeline in lieu of the unit, despite such delay having arisen on the account of the respondent's failure to complete the project. The respondents issued the payment demand for the 5th and 7th month on 27 June 2016, i.e., with a delay 15 months from the stipulated timelines, despite multiple enquiries from the complainant regarding the payments but charged the delay interest on the complainant – seeking to benefit from its own failures and inactions.
- XIII. Aggrieved by the actions and misconduct of the respondents, the complainant therefore issued a notice dated 27 November 2023 to the respondents seeking an update about the status of the project and immediate possession of the unit. in the said notice also, the complainant has highlighted the fact about the expiry of the registration of project on 31 December 2019. Despite receiving the said notice and upon multiple reminders and follow-ups, the respondents have neither delivered the possession of the unit nor provided any definite timeline by when the possession of the unit would be delivered. The respondents have further failed to provide any information as to whether any extension has been provided to the Respondents in respect to the project or not.
- XIV. The officials of the complainant have even visited the project site, the main tower where the unit has been allotted to be complainant seems to be completed from outside however when the officials entered the tower,

they were surprised to find that there was a lot of work that was still not completed despite a lapse of 7 (seven) years from the proposed date of possession, and the work was at the standstill. That there is an extension block next to the main tower and the same was also incomplete and under construction. The survey of the project site therefore revealed that there is a lot of work that needs to be done both in the main tower and the extension block. The complainant even tried to enquire from the officials present at the site as to why the work was at the standstill however the said officials failed to give any plausible explanation to the complainant.

- XV. The project is an 'ongoing project' as per section 2 (o) of the Haryana RERA Rules, 2017. Further, to the knowledge of the complainant the respondents have not got the occupancy certificate/completion certificate in respect to the project from the competent authorities.
- XVI. In view of the abovesaid backdrop the present complaint has been filed under Section 31 of The Real Estate (Regulation and Development) Act, 2016 ('the Act') and Rule 15 and Rule 28 of The Haryana Real Estate (Regulation and Development) Rules, 2017. Furthermore, the respondents have failed to fulfill its obligations under Section 11 of the Act.

C. Relief sought by the complainant: -

9. The complainant has sought following relief(s):
- Direct the respondents to hand over the vacant physical possession of the unit to the complainant along with all the necessary specifications and approvals as agreed in the unit buyer agreement dated 14 June 2014 by fixing an appropriate deadline.
 - Direct the respondent to pay the delayed possession charges at the rate of 10.75% per annum on the amount i.e. INR 2,64,27,456/- already deposited by the complainant from 16 November 2017 till the date of handing over of the possession of the unit.

- c. Direct the respondents to immediately renew the registration of the project within a fixed timeline.
 - d. In the event the respondents fails to renew the registration of the Project within the fixed timeline an order directing the Director, Town & Country Planning Department, Haryana to immediately make an assessment of the assets of the Project and take appropriate decision for getting the project completed by taking it over themselves or through any other appropriate agency.
10. 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.
 11. The Authority issued a notice dated 09.10.2024 to the respondents by speed post and also on the given email address at compliance@brahmare.co.in , and seceretarial@bestechgroup.com for filing of reply and putting up appearance on the date fixed for hearing. The delivery reports have been placed in the file. Despite given ample opportunities vide hearings dated 30.01.2025, 17.04.2025, 15.05.2025, 28.08.2025, 11.12.2025, 23.11.2025 and 23.12.2025 the counsel for the respondents did not file any reply to the complaint within the stipulated period. Accordingly, the Authority was left with no other option but to struck off the defence of the respondents and decide the complaint on the basis of documents and pleadings filed by the complainant which are not disputed.
 12. 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 both the parties.

D. Jurisdiction of the authority

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

D. I Territorial jurisdiction

14. 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.

D. II Subject matter jurisdiction

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

Section 11

.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

16. 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 leaving aside compensation which is to be

decided by the adjudicating officer if pursued by the complainants at a later stage.

17. The counsel for the respondent no. 2 has filed an application dated 30.01.2025 for deleting the name of respondent no.2 from array of parties. The respondent no.2 contended that as per clause 12 of settlement agreement dated 07.11.2019 executed between respondent no.1 and respondent no.2, respondent no.1 is solely liable for any claim arising out of the said unit since the same falls into the area allocated to respondent no.1.
18. Further, the respondent no.1 vide proceedings dated 23.12.2025 stated before this Authority that arbitration proceedings against the respondent no. 1 are going on, details of which respondent no.1 will be filing within a week. However, no such documents evidencing arbitration proceedings have been placed on record.

E. Findings on the relief sought by the complainants

- E.I Direct the respondent to hand over the vacant physical possession of the unit to the complainant along with all the necessary specifications and approvals as agreed in the unit buyer agreement dated 14 June 2014 by fixing an appropriate deadline.**
- E.II Direct the respondent to pay the delayed possession charges at the rate of 10.75% per annum on the amount i.e. INR 2,64,27,456/- already deposited by the complainant from 16 November 2017 till the date of handing over of the possession of the unit.**

19. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.
20. The complainant booked a unit in the project of the respondent "Athena", situated in sector- 16, Gurugram. The complainant-allottee has paid an amount of Rs. 2,64,27,456/- against the sale consideration of Rs. 3,44,65,668/- for the unit in question to the respondents. The promoter had proposed to hand over the possession of the apartment on or before 31.12.2016 as per clause 24 of the agreement dated 14.06.2014. However,

the respondents have not obtained occupation certificate qua the unit in question till date.

21. In the instant case, the complainant wishes to continue with the project and is seeking delayed possession charges as provided under the proviso to sec 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."

22. Moreover, it has been brought in light by the complainant by way of brief submissions dated 20.1.2026 that both the respondents had entered into a collaboration agreement dated 16.08.2011 followed by first addendum to the aforesaid agreement executed on 29.11.2012. The respondent no.2 was engaged as a "Developer" and was responsible for development of the project at its own cost and expenses. Respondent no.2 also held the power of attorney on respondent no. 1's behalf to obtain statutory approvals from the competent authority.
23. The respondent no. 2 vide proceedings dated 23.12.2025 stated that provisions of Real Estate (Regulation and Development) Act, 2016 are not applicable to respondent no. 2 as there is no privity of contract between the complainant and respondent no.2 also no consideration of any kind whatsoever had been paid by the complainant to respondent no. 2.
24. The Authority observes that respondents are trying to shirk and avoid their mutual responsibilities. The compensation component is provided in buyer's agreement dated 14.06.2014. It has also been contended before this authority by the respondent no.1 that arbitration proceedings are ongoing before the sole arbitrator and no liability could be fastened on respondent no. 1 for delay in delivery of physical possession of the office

- space to the complainant as according to respondent no. 1 the fault lies at the door of respondent no. 2.
25. Also, the clauses of collaboration agreement dated 16.08.2011 and are also of significance. It was specifically mentioned in clause 31 of the aforesaid agreement that respondent no. 1 would be entitled to sell the area forming part of its allocation. under these circumstances any sale of area forming part of the aforesaid project by respondent no.1 shall be deemed to have been made with the consent and knowledge of respondent no.2. Accordingly, respondent no.2 cannot plead ignorance about the same. Even otherwise the provisions of RERA Act,2016 are applicable to the project in question and respondent no. 2 is certainly the promoter of the commercial project.
 26. The functions and duties of promoter are clearly set out in Section 11 of Act,2016. Therefore, it can be concluded that notwithstanding execution of builder buyer's agreement dated 14.06.2014 between complainant and respondent no.1, respondent no. 2 cannot absolve itself of its liability to deliver physical possession and transfer title of the office space agreed to be purchased by the complainant in the project.
 27. The plea of mutual disputes between respondents does not seem convincing at all to this authority. The objective of bringing into operation Real Estate (Regulation and Development) Act, is to safeguard the rights of the purchasers and to increase efficiency and transparency in the real estate sector. The very objective of making operational the aforesaid statute cannot be permitted to be frustrated by landowner and the collaborator developer by contending that there are mutual disputes and differences between them.
 28. The reasoning advanced by respondent no.2 that there is no privity of contract between complainant and respondent no.2 is completely baseless

and legally not tenable and is even otherwise completely flawed. This aspect has already been dealt with above. Nothing whatsoever has been submitted before this authority in writing/orally by respondent no. 2 as to how respondent no. 2 is not a promoter of the project.

29. The authority cannot permit this illegality to be perpetrated. The authority is of the firm opinion that the respondents should be directed to immediately take all possible steps for completing the construction of the stalled project. Respondent no. 1 is duty-bound and contract-bound to complete the construction and to obtain occupation certificate and also to contribute pro rata cost of construction for additional floor area ratio. Accordingly, respondent no. 1 is directed to do so immediately. Respondent no. 2 is also dutybound and contract bound to contribute its share of funds immediately for undertaking construction. Therefore, respondents no. 1 and 2 are both obligated to fulfil their duties and contractual liabilities as held above so that the same gives respite to the complainant and other similarly placed purchasers of the project.
30. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is continuing with the project and seeking delay possession charges. However, proviso to section 18 of the Act 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 the possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules 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.

31. 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.
32. 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., 23.12.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
33. 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;"*

34. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 24 of the buyer's agreement executed between the parties on 14.06.2014, and the due date of as per

buyer's agreement as 31.12.2016. Occupation certificate has yet not granted by the concerned authority and the possession of the subject flat is not offered to the complainant on till date. The authority is of the considered view that there is delay on the part of the respondents to offer physical possession of the subject flat and it is failure on part of the promoters to fulfil its obligations and responsibilities as per the buyer's agreement dated 14.06.2014 to hand over the physical possession within the stipulated period.

35. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.
36. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to them and for which he has paid a considerable amount of money towards the sale consideration.
37. The promoter is responsible for all the obligations, responsibilities and functions under the provisions of the Act, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable

to the allottees, as they wish to continue with the project, without prejudice to any other remedy available, to pay the delay possession charges on amount received by him in respect of the unit with interest at such rate as may be prescribed.

38. 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 respondents is established. As such, the complainant is entitled delayed possession charges at the prescribed rate of interest i.e., @ 10.85% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) from the due date of possession till the date of offer of possession plus 2 months after obtaining OC or actual handover of possession, whichever is earlier to the complainant.

E.III Direct the respondent to to immediately renew the registration of the project within a fixed timeline.

E.IV In the event the respondents fail to renew the registration of the project within the fixed timeline an order directing the Director, Town & Country Planning Department, Haryana to immediately make an assessment of the assets of the project and take appropriate decision for getting the project completed by taking it over themselves or through any other appropriate agency.

39. The aforesaid reliefs are being taken up and adjudicated conjointly, inasmuch as the same are interlinked and arise out of a common set of facts and cause of action.
40. The complainant has sought a direction to the respondents to immediately renew the registration of the project within a fixed timeline and, in the event of failure, to direct the Director, Town & Country Planning Department, Haryana, to assess the assets of the project and take appropriate steps for completion thereof by taking it over or through any other agency. In this regard, it is pertinent to note that renewal/extension of registration of a real estate project is governed by section 6 of the Real Estate (Regulation and Development) Act, 2016, which mandates that the

promoter shall apply for extension prior to expiry of registration, subject to fulfilment of statutory conditions and payment of the prescribed fee.

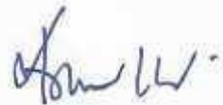
41. It is further observed that the Authority has already issued show cause notices dated 03.06.2022 and 15.07.2024 to the respondent for alleged violations of section 4 of the Act, 2016, and hearings in respect thereof have been conducted. Since compliance and regulatory action against the promoter are already under consideration in separate proceedings, no specific direction can be issued in the present complaint in this regard.

F. Directions of the authority

42. 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 respondents are directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate of interest i.e. 10.85% p.a. for from the due date of possession i.e., 31.12.2016 till the date of offer of possession plus two months or actual handing over of possession whichever is earlier as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
 - II. The arrears of such interest accrued from 31.12.2016 till the date of order by the authority shall be paid by the respondents/promoters to the complainants within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoters to the allottees before 10th of the subsequent month as per rule 16(2) of the rules
 - III. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The rate of interest chargeable from the allottee by the promoters, in case

- of default shall be charged at the prescribed rate i.e., 10.80% by the respondents/promoters which is the same rate of interest which the promoters shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- IV. The respondents are directed to hand over possession of the subject unit to the complainants/allottees, upon payment of outstanding dues, if any, after obtaining the occupancy certificate.
- V. The respondents are directed to execute the conveyance deed registered in favour of the complainants within 90 days as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
- VI. The respondents are directed to not to levy, demand, or recover any amount from the complainant which is not expressly stipulated in the builder buyer agreement.
- VII. The respondents are directed to not to levy or recover maintenance charges for any period prior to the date of offer of possession.
43. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
44. The complaints stand disposed of. True certified copies of this order be placed on the case file of each matter.
45. Files be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 23.12.2025