



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	220 of 2025
Date of filing:	11.02.2025
First date of hearing:	08.04.2025
Date of decision:	09.03.2026

Surender

S/o Jai Pal,
R/o #173, Sector- 21P,
MGA, Hisar

....COMPLAINANT

Versus

1. Housing Board Haryana

C-15, Awas Bhawan,
Sector-6. Panchkula, Harayana

2. Estate Manager,

Housing Board Haryana,
Housing Board Colony,
Sector 14, Sonapat

.....RESPONDENT(S)

Present: Adv. Ashish Chaudhary, counsel for the complainant.
Adv. Arvind Seth, counsel for the respondent through VC.

ORDER (NADIM AKHTAR-MEMBER)

Present complaint is filed by the complainant under Section 31 of the 'Real Estate (Regulation & Development) Act, 2016' (hereinafter referred as RERA, Act of 2016) read with Rule 28 of the 'Haryana Real Estate (Regulation & Development) Rules, 2017' for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

1. UNIT AND PROJECT RELATED DETAILS-

The particulars of the project, the details of 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 table:

S.No.	Particulars	Details
1.	Name of the project	Built up multi storeyed flats for industrial workers at Barhi, Sonipat
2.	Name of the promoter	Housing Board Haryana
3.	RERA registered/not registered	Unregistered
4.	Unit no.	Final Reg. No. 143, Type-I, Tenement No. 131-C



S.No.	Particulars	Details
5.	Date of builder buyer agreement	Not executed
6.	Due date of offer of possession	Not available
7.	Possession clause in BBA	Not available
8.	Total sale consideration	₹15,40,309/-(as per allotment letter)
9.	Amount paid by the complainant	₹1,99,000/-
10.	Offer of possession given on	19.02.2018

2. FACTS OF THE PRESENT COMPLAINT

- i. That respondent no. 1 issued an advertisement and brochure in the year 2010 inviting applications for allotment of flats in the Industrial Area, Barhi(Sonepat).
- ii. That the complainant applied for a Type-I flat vide application dated 15.03.2010 and deposited earnest money of ₹79,000/- as mentioned in the brochure issued by respondent No. 1 along with the application form. Copies of the brochure and acknowledgement of the application amount are annexed as Annexure C-1 and Annexure C-2 respectively.
- iii. That the complainant was declared successful in the draw of lots and was allotted registration No. 143 vide letter dated 27.07.2010. Pursuant to the



demand raised by the respondents, the complainant deposited ₹1,20,000/- vide DD No. 14908. Copy of the allotment letter dated 27.07.2010 is annexed as Annexure C-3 and copy of the demand letter along with statement showing payment of ₹1,25,000/- is annexed as Annexure C-4.

- iv. As per the brochure issued by the respondent, the flats were to be made available for allotment by 30.06.2012. The complainant approached the office of the respondents several times to ascertain the status of the flat, however, no verbal or written communication was received explaining the delay in issuance of allotment or completion of the flats.
- v. After an approximate delay of eight years from the date of application, the complainant received a letter No. 2948 dated 19.02.2018, whereby the cost of the flat was escalated to ₹15,40,309/-, which is almost double the price mentioned in the brochure, i.e., ₹7.90 lakhs. The said allotment letter further required the complainant to take possession within 30 days from the date of issuance. Copy of the allotment letter dated 19.02.2018 is annexed as Annexure C-5.
- vi. The complainant served a letter dated 16.03.2018 upon the respondents raising objections regarding the unjustified escalation of price and seeking refund of the amount paid. The respondents did not respond to the said letter. Copy of the letter dated 16.03.2018 is annexed as Annexure C-6.



- vii. The complainant thereafter filed a complaint before the Permanent Lok Adalat for redressal of his grievance. During the proceedings, the respondents offered to refund ₹1,59,500/- after deducting ₹39,500/- from the total amount of ₹1,99,000/- paid by the complainant. The said deduction was arbitrary and illegal, particularly when the delay in the project was attributable to the respondents themselves, who had raised the demand of almost double the original amount. Owing to financial constraints, the complainant accepted the said amount with liberty to approach this Hon'ble Authority for claiming interest, in view of orders passed in similar matters. The Ld. Permanent Lok Adalat, vide order dated 21.11.2024, granted liberty to the complainant to approach this Hon'ble Authority. Copies of the complaint filed before Permanent Lok Adalat, Hisar and the order dated 17.12.2018 are annexed as Annexure C-7 and Annexure C-8.
- viii. The respondents have previously disclosed before this Hon'ble Authority in Complaint No. 737 of 2019 titled Kuldeep Sharma vs. Housing Board Haryana that the cost of flats was enhanced due to delay in construction by the contractor. This Hon'ble Authority, after considering the contentions of the Housing Board, rejected the said reasoning and allowed the complaint in favour of the complainant therein, directing refund of the amount paid in terms of Rule 15 of the HRERA Rules, 2017. Similar relief was granted in Complaint No. 540

of 2020 and connected matters, wherein refund of the total amount along with interest was ordered. Copies of judgments dated 01.05.2019 and 14.08.2020 are annexed as Annexure C-9 and Annexure C-10 respectively.

- ix. The complainant is not a wealthy person and does not have surplus funds to meet the illegitimate and arbitrary demands of the respondents. At the time of booking, the respondents shared the plan of construction to be completed within three years. Relying upon this assurance, the complainant applied for the flat. However, a sudden and substantial demand was raised without justification, placing the complainant under financial hardship.
- x. The demand of an amount almost double the original cost of the flat is unjustified. The respondents failed to explain the basis or calculation of such escalation. As per the brochure, construction was to be completed by 30.06.2012, whereas it was completed only in 2018. Therefore, the complainant cannot be held liable for escalation arising out of delay attributable to the respondents.
- xi. Although the terms and conditions state that the cost of the flat is tentative and subject to revision, no applicant applies with the expectation of receiving the flat after eight years and paying the escalated price prevailing at that time, especially when the delay is not attributable to the complainant.



- xii. If the construction could not be completed within the prescribed time mentioned in the brochure/application form, the complainant cannot be held liable for such delay. The escalation in construction cost resulting from delay caused by the respondents cannot be imposed upon the complainant.
- xiii. The complainant applied for the flat under the bona fide belief, considering his financial capacity, that allotment would be made by 30.06.2012 at the quoted price. The subsequent demand of nearly double the cost in 2018 is arbitrary and unreasonable. Being a welfare organization, the respondents cannot shift the burden of their delay onto the complainant. Despite repeated visits to the respondents' office, no reasoned explanation for the delay in construction was ever provided.
- xiv. The complainant received only ₹1,59,000/- after deduction of ₹39,500/- from the total amount of ₹1,99,000/- paid. The deduction effectively penalizes the complainant for delay caused by the respondents.
- xv. The respondents caused grave injustice by charging an escalated amount for delay in completing the flats, for which they alone are responsible. The complainant cannot be held liable for acts and omissions of the officials of the respondents.
- xvi. The cause of action first arose when the respondents failed to construct the flats as per the plan and failed to inform the complainant about construction stages as per the brochure. It further arose when the

respondents issued allotment letter dated 19.02.2018 demanding an escalated price after eight years of delay. The cause of action continues as the respondents retained ₹39,500/- and failed to pay interest on the total amount deposited by the complainant.

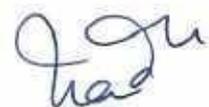
xvii. In view of the above defaults, the complainant is entitled to invoke Section 18 of the RERA Act, 2016.

xviii. The respondents failed to develop the project as promised at the time of initial booking/allotment. The complainant invested his hard-earned money relying on the assurances of the respondents, however, the project was not developed in a timely manner, and the funds were not utilized for the intended purpose.

xix. As the respondents have failed to hand over physical possession of the residential flat specified in the brochure, the complainant is entitled to refund of the entire amount paid along with 18% compound interest from the dates of respective payments.

xx. Due to the conduct of the respondents, the complainant has suffered mental agony and hardship.

xxi. The complainant has not filed any similar case in any other court except before the Permanent Lok Adalat, Hisar, which granted liberty to approach this Hon'ble Authority vide order dated 21.11.2024. Therefore, this Hon'ble Authority has jurisdiction to entertain the present complaint.



xxii. This Hon'ble Authority has territorial jurisdiction as the project site pertains to Respondent No. 1 and the brochure/application form specifically provides that disputes concerning allotment under the scheme shall be subject to Panchkula jurisdiction only. The complainant seeks refund along with compensation, the final amount of which shall be computed at the time of settlement.

3. **RELIEF SOUGHT -**

Complainant sought following relief:

- A. In view of facts and reasons mentioned in the complaint, direct the respondents to pay interest @18% compound interest from dates of respective instalments/realization, on the total paid amount by complainant, i.e., ₹1,99,000/- to the respondent;
- B. To refund the balance principal amount of ₹39,500/- which has been deducted by respondents from the total paid amount by complainant of ₹1,99,000/- along with interest @ 18%compound interest from dates of respective installments/realization by the respondent;
- C. To pay compensation of ₹5,00,000/- on account of mental agony, harassment and undue hardship caused to the complainant on account of deficiency in services and unfair trade practices;



D. The complainant may be allowed with cost and litigation expenses of ₹50,000/-;

E. Any other relief as this Hon'ble Authority may deem fit and appropriate in the facts and circumstances of the present case.

4. REPLY SUBMITTED ON BEHALF OF RESPONDENT-

Respondent filed its reply on 07.04.2025, wherein it is pleaded that:-

- That the complainant has filed the present complaint under Section 31 read with Section 71 of the RERA Act, 2016. The complainant has not specified which provision of the Act has allegedly been violated by the respondent.
- That the complaint under Section 31 is maintainable only upon establishment of violation of the provisions of the RERA Act, 2016. In the absence of specific pleadings regarding such violation, the present complaint is not maintainable.
- That Rule 29 of the HRERA Rules, 2017 prescribes the procedure for filing an application before the Adjudicating Officer for adjudication of compensation where violation by the promoter has been established by the Authority in an inquiry under Section 35.
- As per Rule 28(m) read with prescribed Form CAO, a complaint before an Adjudicating Officer for compensation is admissible only after conclusion of inquiry by the Authority holding that the promoter has

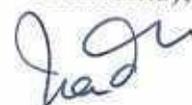


contravened provisions of the Act, Rules and Regulations, and the complaint must disclose such established violation.

- In the present case, the complainant has neither demonstrated nor placed on record any finding of violation recorded by the Authority under Section 35, nor complied with the procedural requirements prescribed under Rule 28 and Rule 29. Therefore, the complaint is not maintainable for non-compliance with the mandatory procedural framework.
- That the Housing Board Haryana has been constituted under the Haryana Housing Board Act, 1971. The aim and object of the Haryana Housing Board Act is to ease the housing problem by constructing more houses. The Haryana Housing Board Act received the assent of the President of India on 14.05.1971 and was published in Haryana Government Gazette on 18.05.1971. The Housing Scheme is defined in Section 2(h) of Haryana Housing Board Act, 1971.
- That Chapter III of the Haryana Housing Board Act, 1971 prescribes the Housing Scheme. Section 20 casts a duty on the Board to undertake housing schemes. Therefore, it is clear that the Appellant Board has to execute the housing scheme as may be entrusted to it by the State Government.
- That the annual housing programme, budget and establishment schedule is prepared under Section 23 of the Housing Board Act, 1971. That Section 24 empowers the state government to sanction programme/

budget and established schedule and section 25 provides publication of sanctioned programmes. That Section 28 provides for the sanctioned housing scheme to be executed. That Section 29 provides that the Housing Scheme has to be published in the Official Gazette.

- That while exercising powers under Section 74 of the Haryana Housing Board Act, 1971, the State of Haryana framed Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulation, 1972.
- That definition of an allottee is prescribed in Section 2(b) of Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulation, 1972.
- That it is clear from the application submitted by the complainant and the scheme that the flats were to be allotted on Hire Purchase Basis. The Hire Purchase is defined in Section 2(g) of the Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulations, 1972. From the perusal of the definition of hire purchase, it is clear that the participants under the scheme can become the Allottee/ owner only after payment of all dues. Until all the installments are paid, he remains the tenant. As the complainant did not accept the terms and conditions of the allotment letter, therefore, the complaint filed by the complainant who is not the allottee is not maintainable before RERA.
- That the allotment of tenements is provided in Regulation 3 of Housing Board Haryana (allotment, management and sale of tenements),



Regulation, 1972. It prescribes that allotment has to be made as soon as the building is ready for occupation.

- That Regulation 4 of the Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulation, 1972 prescribes procedure of issuing notice for inviting applications and power of board to allot tenement (Houses).
- That the allotment of tenements (houses) is provided in Regulation 8 of Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulation, 1972. Said Regulation 8 provides allotment of tenements as per the terms of allotment and as per the provisions of these Regulations.
- That the allotment letter, condition of allotments are provided under Regulation 10 of the Housing Board Haryana (Allotment, Management and Sale of tenements), Regulation. 1972. From the perusal of Regulation 10, it is clear that the possession has to be given after the allotment is finalised by the Estate Manager. Therefore, unless and until the allotment is not issued, an applicant cannot be termed as an allottee. Hence, the complainant is not the allottee as per the definition of Housing Board Haryana (Allotment, Management and Sale of Tenements), Regulation, 1972.
- That the brief facts of the present case are that in the present case land measuring 42538.50 Sq. mtr. was allotted to the respondent by the



Haryana State Industrial Infrastructure Development Corporation (HSIIDC) vide allotment letter dated 04.06.2010. Said allotment of the land was made in terms of the scheme which was framed by the Board.

- That as per the salient features of the said scheme, the respondent invited the applications for the allotment of built up multi storey flats to industrial workers and the entrepreneurs of Haryana at Barhi under the Hire Purchase Scheme. The present case is of Barhi, District Sonipat.
- That the registration for submitting the applications started from 19.02.2010 and the closing date was 19.03.2010. In the present case, complainant submitted the application for the allotment of the flat at Barhi and the tentative price of the flat was ₹7.90 lacs. Complainant deposited the amount of ₹79,000/- (10% of the total cost of the flat) as the registration money.
- That the draw of lots was held and the respondent vide letter dated 27.07.2010 informed that his application has been considered for the allotment of the flat subject to eligibility of the industrial worker and the complainant was asked to deposit the sum of ₹1,20,000/- (i.e., 15% of the tentative total cost of the flat).
- That the complainant deposited the said amount of ₹1,20,000/- on 21.10.2010.
- That as per the terms and conditions of the brochure which has been accepted by the complainant, cost of the said flat was rough cost, and it



was specifically mentioned in the brochure that the price is tentative and after completion of the construction of the flats, the price will be worked out with the pricing of the board on the basis of the actual expenditure and flats will be allotted/will be given the possession at the revised/actual price.

- That the complainant duly accepted the terms and conditions as mentioned in the brochure and while submitting the application form, he undertook to adhere to all the terms and conditions of the brochure. This fact is clear from the perusal of the application submitted by the complainant, whereby the complainant acknowledges the acceptance of the terms and conditions put on the application form.
- That as per the general conditions, respondent reserves the right to make modifications in the design, scope of work and specification of the price of the flat. It is further prescribed in the general conditions that any change in the price shall be binding on the applicant.
- That as per the terms and conditions of the brochure, the possession will be handed over to the allottee only after he/she has completed all the formalities, paid all dues and furnished/executed all the documents as required/prescribed.
- That vide allotment letter dated 19.02.2018, the complainant was informed regarding actual price of the four flats which comes to ₹15,40,309/-. After adjusting the already paid amount of ₹1,99,000/-,



complainant was asked to deposit the balance amount within a period of 30 days from the date of issue of the said letter, which is required as per Clause-2 of the said allotment letter.

- That as per the terms and conditions of the allotment letter, it is clear that the allottee will remain as tenant till all the outstanding amount is not deposited by the allottee. From perusal of Clause-2 of the allotment letter, it is clear that in case the allottee fails to deposit the amount then the allottee shall be the tenant of the said flat.
- That as per the allotment letter dated 19.02.2018, complainant was required to deposit the balance amount of ₹5,71,920/- in 120 instalments @ ₹12079/- within a period of ten years.
- That the statutory provisions as prescribed in the Housing Board Haryana (Allotment, Management and Sale of Tenements) Regulations, 1972, regulate the allotment and the process, if the allottee fails to comply with the terms and conditions of the allotment letter. Regulation-13 prescribes the procedure of consequences on failure of the allottee to take the possession. As per the provisions of Regulation No. 13, any applicant who surrender the allotment, his/her 50% deposited amount of the earnest money which was deposited as registration money will be forfeited.
- That in the present case, complainant failed to take the possession of the flat and did not deposit the amount as prescribed in the allotment letter dated 19.03.2018 within a period of 30 days from the date of issue of the

said allotment letter. Thereafter, complainant sent a letter to the respondent dated 19.03.2018 requesting surrender of the flat and refund of amount of ₹1,99,000/-. Copy of the letter dated 19.03.2018 is annexed as Annexure R-1.

- That as per the provisions of Regulation No. 13 of the Housing Board Haryana (Allotment, Management and Sale of Tenements) Regulations, 1972, the balance amount of ₹1,59,500/- was refunded to the complainant vide Cheque No. 064054 dated 08.11.2024 which was duly accepted by the complainant.
- That the parties are bound to comply with the terms and conditions of the agreement executed between them. Complainant was well aware of the fact that the present cost of the flat was tentative and the cost can be increased subject to actual expenditure on the construction on the basis of revised cost estimates.
- That as per the statutory provisions of Housing Board Haryana (Allotment, Management and Sale of Tenements) Regulations, 1972, no interest is payable on the amount of refund if any applicant surrendered or did not deposit the amount within a period of 30 days from the date of issue of the allotment letter.
- That the complainant has breached the conditions of the brochure. The complainant has refused to deposit the final cost of the flat which was worked out strictly on the basis of the actual price, therefore, the

complaint is not entitled for any interest as the complainant is guilty of not honouring the terms and conditions either of the brochure or allotment letter, as he has miserably failed to deposit the final amount of the flat allotted to him.

- That the jurisdiction of RERA is barred as the complainant is not the allottee but he is the tenant as per regulation 2(g) of the Housing Board Haryana (Allotment, Management and Sale of tenements) Regulations, 1972.
- That the respondent has no profit motive, rather have made the mode of allotment easy for the public at large whether it is in terms of payment of installments or application for obtaining the flat under the scheme. Further, it would be worthy to note here that the respondent has completed the construction of the flats under the project spending their own money and has only taken the token/earnest money from the applicants who applied for the purchase of the flats and has not taken any money over and above the earnest money till the time of the allotment/offer of possession.
- That the complainant has not made the present complaint in accordance with the provisions contained in RERA Act.
- That the present complaint is not maintainable due to the reason that complainant has never given the legal notice which is mandatory as per the provisions of Haryana Housing Board Act, 1971.



- That the complaint is not maintainable under RERA Act because above said project was advertised in the year 2010. The RERA Act 2016 comes into effect from 25.03.2016. The Haryana Real Estate (Regulations and Development) Rules 2017 comes into the effect from 28.07.2017. It is clearly mentioned in the rule that they shall come into force from the date of publication in the official gazette.
- That the jurisdiction of RERA is barred as the Haryana Housing Board Act, 1971 is constituted by the Act of State Legislature which has received the assent of President of India. Article 254 of the Constitution provides that the Legislations passed by the State Legislature which has received the assent of the President of India has to prevail until and unless the State Legislature is repealed by the Parliament.
- That the complainant has portrayed the respondent as a Developer of Real Estate whereas Housing Board Haryana (hereinafter 'the Board') is an establishment of Government of Haryana under the Haryana Housing Board Act, 1971 (Haryana Act No. 20 of 1971). Hence, the answering respondent is a statutory body and not a mere Real Estate Developer.
- That after completion of the flats, the draw of flats was held on 06.12.2017. Allotment letter was issued by the concerned Estate Manager on 19.02.2018 and possession was offered to the complainant. It is the complainant who has failed to deposit the allotment money and to take possession of the flat. The complainant surrendered the flat vide



application dated 19.03.2018 which was received in the Office of Estate Branch, HBH, Sonipat on the same day.

- That in the present case, since the complainant failed to take possession of the flat after issuance of allotment letter, therefore, the refund would be made as per Regulation 13 mentioned above and 50% of the deposited amount of the earnest money which was deposited as registration money was forfeited and amount of ₹1,59,500/- was refunded to the complainant without interest as per the policy.
- That due to the surrender of the flat by the complainant, respondent would suffer a huge loss as they have already made the payment to the contractor regarding the construction of the units over the land.
- That the complaint is liable to be dismissed on the ground of principle of estoppel. It is a matter of record that at the assurance of the complainant, respondent spent crores of rupees for raising construction of flats and at the time when the flats were ready to give the possession, the complainant backed out and requested the respondent for surrender of the flat booked by him. In this manner, answering respondent would suffer an irreparable loss and injury, as there was an assurance from the complainant to pay the actual cost of the construction of flat which was to be determined at the time of allotment of flat in view of the terms and conditions of the brochure. It was an agreed condition by the complainant that the flat will be allotted/possession handed over on the price which

will be fixed by the Board as per the pricing list on the basis of actual expenses. In view of submissions made above in the reply, present complaint filed by the complainant is liable to be dismissed in the interest of justice.

5. DETAILS OF ADDITIONAL DOCUMENTS FILED BY RESPONDENT ARE AS FOLLOWS:

1. Vide order dated 15.09.2025, respondent was directed to file details of amount refunded along with the date of refund. In compliance of the said order, an additional affidavit dated 09.01.2026 has been filed by the respondent. In this affidavit, respondent stated that Housing Board Haryana has refunded the amount of ₹1,59,500/- vide Cheque no. 064054 dated 08.11.2024 to the complainant through Registered Post with Acknowledgement No. RH690198844IN.

6. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT-

During the course of hearing, Ld. Counsels for complainant and respondent reiterated the written submissions already filed.

7. ISSUE FOR ADJUDICATION

Whether the complainant is entitled to refund of the amount deposited by him along with interest in terms of Section 18 of Act of 2016?



8. OBSERVATIONS OF THE AUTHORITY

After taking into consideration the facts and circumstances of the case and arguments put forth by both the parties and judgements referred by the complainant, Authority observes that following issues need to be decided by this Authority.

- (i) **Firstly, whether the present complaint is maintainable before the Authority or not?** The respondents have raised objections touching upon the maintainability of the complaint with reference to the provisions governing adjudication of compensation. At the outset, it is clarified that the present proceedings are under Section 31 of the Act before this Authority for adjudication of alleged contraventions of the provisions of the Act and the Rules framed thereunder. It is a settled position under the Act that the power to adjudge and quantify the compensation under Sections 12, 14, 18 and 19 vests exclusively with the Adjudicating Officer appointed under Section 71 of the Act. Authority does not determine or quantify compensation in exercise of its jurisdiction under Section 31. Accordingly, the objection regarding non-maintainability on the ground of non-compliance with the procedural framework is rejected.
- (ii) **Secondly, findings on the objection raised by the respondent with respect to respondent not being a promoter and complainant not**



being an allottee. Respondent has taken another objection that it is a statutory body and not mere a real estate developer/promoter and the complainant is not an allottee of the project of the respondent. In this regard the Authority observes, it needs to be examined whether respondent (Housing Board Haryana) falls under the definition of promoter provided in RERA Act, 2016 and whether there exists a relationship of allottee and promoter between the complainant and respondent. For this purpose, the definition of “promoter” under section 2(zk) needs to be perused. Definition is provided below:

(zk) “promoter” means,—

(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

*(iii) any **development authority** or any other public body in respect of allottees of—*

*(a) **buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or***

*(b) **plots owned by such authority or body or placed at their disposal by the Government,***

for the purpose of selling all or some of the apartments or plots;
or



(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

- Plain reading of the definition given under section 2(zk) makes it clear that any development authority in respect of allottees of building/apartment, as the case may be, constructed by such authority for sale is a promoter in respect of allottees of those buildings/apartments. Here, Housing Board Haryana is a Development Authority and has issued an allotment letter to complainant on 20.02.2018 and issued provisional registration number 43 and final registration number 64 at Barhi, Sonipat. Hence, Housing Board is covered under the definition of promoter under section 2(zk).
- The flat was allotted by the respondent to the complainant-allottee. As per Section 2(d) of the RERA Act, "allottee" is defined as follows:

(d) "allottee" in relation to a real estate project, means the person to whom a plot apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter; and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given. on rent:



- As per Section 2(zj) & (zn) of the RERA Act, "project" & "real estate project" are defined respectively as follows:

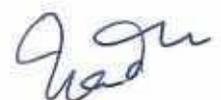
(zj) "project" means the real estate project as defined in clause (zn):

(zn) "real estate project means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

- A conjoint reading of the above sections shows that Housing Board Haryana is a promoter in respect of allottees of flats sold by it in its real estate project and therefore, there exists a relationship of an allottee and promoter between the parties. Since, the relationship of an allottee and promoter between complainant and respondent is established and the issues deals with real estate project developed by respondent, hence, provisions of RERA Act, 2016 apply to the matter and Authority has the exclusive jurisdiction to deal with the matter. Furthermore, the preamble of RERA Act, 2016 provides as under.

An Act to establish the real estate regulatory authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the appellate tribunal to hear appeals from the decisions, directions or orders of the real estate regulatory authority and the adjudicating officer and for matters connected therewith or incidental thereto;

- The RERA Act, 2016 basically regulates relationship between buyer (i.e., allottee) and seller (i.e., promoter) of real estate, i.e., plot, apartment or building, as the case may be and matters incidental thereto. Hon'ble Bombay High Court in the case **Neelkamal Realtors Suburban Pvt. Ltd. and Ors. v. Union of India and Ors.** 06.12.2017 - BOMHC, observed: *"In my opinion RERA does not fall under Entry 42 in List III- Concurrent List of the Seventh Schedule, namely, Acquisition and requisitioning of property. RERA fall under Entry 6, namely, Transfer of property other than agricultural land; registration of deeds and documents, Entry 7-contracts, including partnership, agency, contracts of carriage and other special forms of contracts, but not including contracts relating to agricultural land and Entry 46, namely, jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in List III-Concurrent list of the Seventh Schedule"*.
- The scope of this Act is limited to contracts between buyers and promoters and transfer to property. Both these items fall within the concurrent list III: Entry-6 and Entry-7 read with Entry-46. This Act regulates the transactions relating to the sale of above-mentioned real estate products, for an orderly growth of real estate market, by protecting the interests of different stake holders in a balanced manner



and facilitating the consumer/buyer to make informed choice. Therefore, the Authority has jurisdiction to decide the present matter.

(iii) **Third issue arises with respect to jurisdiction of Authority being hit by the Article 254 of the Constitution of India.** Authority observes that the Real Estate (Regulation and Development) Act, 2016 basically regulates relationship between buyer (i.e., allottee) and seller (i.e., promoter) of real estate, i.e., plot, apartment or building, as the case may be and matters incidental thereto. The scope of this Act is limited to contracts between buyers and promoters and transfer to property. Both these items fall within the concurrent list III: entry-6 and entry-7 read with entry-46. This Act regulates the transactions relating to the sale of above-mentioned real estate products, for an orderly growth of real estate market, by protecting the interests of different stake holders in a balanced manner and facilitating the consumer/buyer to make informed choice. In support of the same, Hon'ble Bombay High Court in the case **Neelkamal Realtors Suburban Pvt. Ltd. and Ors. v. Union of India and Ors.** 06.12.2017 - BOMHC, observed: *"In my opinion RERA does not fall under Entry 42 in List III- Concurrent List of the Seventh Schedule, namely, Acquisition and requisitioning of property. RERA fall under Entry 6, namely, Transfer of property other than agricultural land;*



registration of deeds and documents, Entry 7- contracts, including partnership, agency, contracts of carriage and other special forms of contracts, but not including contracts relating to agricultural land and Entry 46, namely, jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in List III-Concurrent list of the Seventh Schedule"

- (iv) **Next issue is whether the complainant is entitled for refund or not?** In this regard, it is an admitted fact that complainant had applied for allotment of flat under a scheme floated by respondent in 2010. Said scheme was aimed at providing houses to industrial workers. The price of the house in the advertisement given by the respondent was ₹7.90 lacs. A person applying under the scheme was required to pay 10% of the total price as booking amount. The complainant after adjudging her own financial position and capability to purchase house at the quoted price, had applied in response to respondent's advertisement. The respondent within a reasonable time of booking was expected to disclose the exact price of house to the complainant and also to complete all necessary steps for delivering possession of the purchased unit. After collecting money from the complainant, the respondent was not expected to prolong the completion of the project unreasonably or even to demand double the sale price of the house

because such conduct on his part was bound to frustrate the very benevolent purpose with which the scheme was formulated for industrial workers. The government provides flats under such schemes at subsidized rates and also facilitates arrangement of loans at subsidized rates to allottees of such schemes. The whole idea is to squeeze the sale price of flats to a level within the reach of industrial workers. How can the respondent then be allowed to render the allottees of such a scheme to face a situation where it becomes practically impossible for them to purchase the house at the rate double than for which they had agreed to purchase it.

- The respondent in present case has not completed the project within a reasonable time and has disclosed the exact price of the house to the complainant after 8 years of the launching of the project. The respondent has been utilizing an amount of ₹1,99,000/-, already paid by the complainant, for all these years without paying any interest. Such conduct of the respondent being unreasonable and unconscionable cannot be legally sustained.
- No doubt that there are bye laws of the respondent board which provides for deduction of 50% of the amount paid at the time of registration, in case an allottee wants to withdraw from the project/does not take possession within 30 days of offer of possession, but the

principle so enshrined in bye laws, in considered opinion of the Authority, will be applicable only in those cases where there is no default on the part of respondent board in discharging its obligation towards allottees. The respondent Board cannot be allowed to take shelter of such bye laws for deduction of 50% of said amount in case of an allottee for whom the respondent himself has created circumstances rendering him practically unable to bear the cost of the house. The present case falls in this category because the respondent due to his own negligent act has created such circumstances. So, the Authority finds it a fit case for refund of paid amount without any deduction.

- Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in Civil Appeal no. 6745-6749 of 2021 has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them.

Para 25 of this judgement is reproduced below:

"25. The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an

obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

The decision of the Hon'ble Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession. The complainant wishes to withdraw from the project of the respondent, therefore, Authority finds it to be a fit case for allowing refund in favour of complainant.

(v) Next issue arises regarding the quantum of amount liable to be refunded to the complainant by the respondents- Respondents contented that an amount of ₹1,59,500/- was refunded to the complainant vide Cheque No. 064054 dated 08.11.2024. On the other hand, as per complainant, the refunded amount was not encashed by the complainant as he was not satisfied with the amount refunded by the respondents. In this regard, Authority observes that it is a settled fact that an amount of ₹1,59,500/- was refunded to the complainant by the respondents due to the following reasons-

- Firstly, perusal of the file reveals that prior to the present proceedings, the matter was taken up before the *Permanent Lok adalat in Case no. 1129/2018 titled Surender V. Housing Board*. During the said

proceedings, respondent had placed on record documents showing confirming the payment of process and sanctioning the refund of amount through cheque which could not be denied. Permanent Lok Adalat observed that the refund had already been made and in case the petitioner had any grievance regarding interest or compensation, he was at liberty to approach the appropriate forum/HRERA for the said relief. The petition was accordingly dismissed as withdrawn being amicably settled.

- Secondly, during the course of hearing dated 12.01.2026, the complainant admitted that the aforesaid amount of ₹1,59,500/- was refunded by the respondent. However, the complainant did not encash the cheque as he was dissatisfied with the amount refunded. Thus, it is not a case where refund was not initiated by the respondent, rather, the non-encashment of the cheque was on account of complainant's own unwillingness.
- Thirdly, the respondent vide order dated 15.09.2025 was directed to place on record complete details of the refund. In compliance thereof, respondent filed an additional affidavit dated 09.01.2026 stating that the refund of ₹1,59,500/- was made vide Cheque No. 064054 dated 08.11.2024 and also annexed with it the postal receipt of the same. Therefore, the said documents substantiate that the refund was made.



In view of the above facts and documentary evidence, Authority takes 08.11.2024 as the date on which payment was made by the respondent. Once the respondent had refunded the admissible amount and the complainant chose not to encash the same due to dissatisfaction, the liability for non-realisation of the said amount cannot be fastened upon the respondent. The consequences arising from non-encashment of the cheque, in such circumstances cannot be attributed to the respondent.

- (vi) **Further, complainant in his complaint has sought refund of paid amount with interest @18%.** The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

- Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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".

- It is pertinent to mention here that the legislature in its wisdom in the subordinate legislation under the provisions 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.
- (vii) Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on 12.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2%, i.e., 10.80.
- (viii) From above discussion, it is amply proved on record that the respondent has not fulfilled its obligations cast upon him under RERA Act, 2016 and the complainant is entitled for refund along with interest. Thus, respondent will be liable to pay the complainant, interest from date of payments till the date of refund, i.e., 08.11.2024. Further, as respondent had already refunded an amount of ₹1,59,500/- to the complainant on 08.11.2024, thus, respondent is liable to refund the balance principal amount, i.e., 39,500/- and interest w.r.t said amount from date of refund

till the actual realization of the amount. Authority has got calculated the total amount along with interest as per detail given in the table below:

Sr.no.	Principal amount	Date of payments	Date of refund	Interest from date of payments till date of refund
1.	₹79,000/-	15.03.2010	08.11.2024	₹1,25,128/-
2.	₹1,20,000/-	12.10.2010	08.11.2024	₹1,82,576/-
	Total= ₹1,99,000/-			Total= ₹3,07,704/-

Sr.no	Balance principal amount (principal amount -refunded amount)	Date of refund	Date of order	Interest from date of refund till date of order
1.	₹39,500/-	08.11.2024	09.03.2026	₹5,692/-

Total amount to be refunded to the complainant

$$= ₹3,07,704/- + ₹39,500/- + ₹5,692/- = ₹3,52,896/-$$

- (ix) Further, the complainant is seeking compensation on account of mental harassment caused to the complainant and litigation expenses. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & ors.*" (supra), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation

& litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

9. DIRECTIONS OF THE AUTHORITY-

Hence, the Authority hereby passes this order in the present complaint and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to pay interest of ₹3,07,704/- on paid amount of ₹1,99,000/- as per calculations given on page no. 35 of this order. As respondent had already refunded an amount of ₹1,59,500/- to the complainant on 08.11.2024, thus, respondent is liable to refund the balance principal amount of ₹39,500/- alongwith interest from date of refund till the actual realization of the amount. However, for the purpose of calculation, interest of ₹5,592/- has been calculated by the Authority on balance amount of ₹39,500/- from 08.11.2024 till the date of this order. Therefore, the respondent is directed to refund the total amount of ₹3,52,896/- to the complainant. It is further clarified

that respondent will remain liable to pay interest to the complainant till the actual realization of the amount.

- (ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

Disposed of. File be consigned to the record room after uploading of the order on the website of the Authority.



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NADIM AKHTAR
[MEMBER]