



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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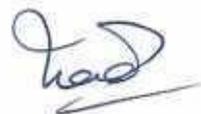
Date of Decision	09.03.2026
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Name of the Promoter		HOUSING BOARD HARYANA		
Project Name		Built Up Multi Storeyed Flats For Industrial Workers at Bawal and Barhi, Sonipat		
Sr. no.	Complaint no.	Title of the case	Appearance on behalf of complainant	Appearance on behalf of respondent
1.	1734/2024	Rakesh Kumar Jain S/o Sh. Paras Ram Jain Plot No. 34, HSIIDC, Samalkha, Distt, Panipat v. Housing Board Haryana, C-15, Awas Bhawan, Sector-6, Panchkula, Harayana	Adv. Sunil R. Vats, counsel for the complainant, through VC.	Adv. Arvind Seth, counsel for the respondent through VC.
2.	1746/2024	Sanjay Kumar Jain S/o Sh. Paras Ram Jain Plot No. 367, HSIIDC, Tehsil Ganaur, Distt. Sonipat v. Housing Board Haryana, C-15, Awas Bhawan, Sector-6, Panchkula, Harayana	Adv. Sunil R. Vats, counsel for the complainant, through VC.	Adv. Arvind Seth, counsel for the respondent through VC.

3.	1750/2024	Indu Jain, D/o Sh. Krishan Chand Jain #47, Ground Floor, Vasudha Enclave, Pitampura, Delhi-110034 v. Housing Board Haryana, C-15, Awas Bhawan, Sector-6, Panchkula, Hararyana	Adv. Sunil R. Vats, counsel for the complainant, through VC.	Adv. Arvind Seth, counsel for the respondent through VC.
4.	1752/2024	Satish Jain S/o Sh. Om Prakash Jain #47, Ground Floor, Vasudha Enclave, Pitampura, Delhi-110034 v. Housing Board Haryana, C-15, Awas Bhawan, Sector-6, Panchkula, Hararyana	Adv. Sunil R. Vats, counsel for the complainant, through VC.	Adv. Arvind Seth, counsel for the respondent through VC.
5.	1826/2024	Sunil Kumar Srivastava S/o Sh. Hari Shankar Srivastava R/o 200, Ward No. 28, 8- Marla, Panipat, Haryana-132103 v. Housing Board Haryana, C-15, Awas Bhawan, Sector-6, Panchkula, Hararyana	Adv. T.P.S Chauhan, counsel for the complainant, through VC.	Adv. Arvind Seth, counsel for the respondent through VC.

ORDER(NADIM AKHTAR-MEMBER)

1. This order shall dispose off all the above captioned complaints filed by the complainants before this Authority 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 &

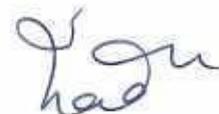


Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

2. The core issues emanating from the above captioned complaints are similar in nature. The complainant in the above referred Complaint No. 1734 of 2024 and other captioned complaints are allottees of the project namely; “ Built Up Multi Storeyed Flats for Industrial workers and Industrial Units/ Entrepreneurs at Barhi, Sonipat” being developed by the same respondent/ promoter, i.e., Housing Board Haryana, Estate Branch, Sonipat. The fulcrum of the issue involved in all the above captioned cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the unit in question and all complainant(s) are now seeking refund of their paid amount along with the interest.

A. **UNIT AND PROJECT RELATED DETAILS-**

3. The details of the above said complaints, unit no., date of allotment letter, date of builder buyer agreement, total sale consideration and amount paid by the complainant, offer of possession and relief sought are given in the table below:



Sr. no.	Complaint no./Title/Date of filing	Reply Status	Unit No.	Date of execution of flat buyer agreement	Total sale consideration (TSC) and amount paid by the complainant (Paid amount)	Offer of possession given on	Reliefs sought
1.	1734/2024 Rakesh Kumar Jain V. Housing Board Haryana 22.11.2024	Filed on 05.03.2025	(4 Flats) Final Reg. No. 43, Type-I, Tenement No. 110GF, 103GF, 103A, 104C	Not Executed	BSP: ₹61,61,436/- (as per allotment letter for four flats) ₹15,40,309/- per flat. Paid Amount- ₹7,96,000/- (four flats)	20.02.2018	Refund of paid amount along with interest.
2.	1746/2024 Sanjay Kumar Jain V. Housing Board Haryana 22.11.2024	Filed on 05.03.2025	Final Reg. No. 48, Type-I, Tenement No. 122-B	Not Executed	BSP: ₹15,40,309/- (as per allotment letter) Paid amount: ₹1,99,000/-	20.02.2018	Refund of paid amount along with interest.
3.	1750/2024 Indu Jain V. Housing Board Haryana 22.11.2024	Filed on 05.03.2025	Final Reg. No. 05, Type-I, Tenement No. 95-B	Not Executed	BSP: ₹15,40,309/- (as per allotment letter) Paid amount: ₹1,99,000/-	19.02.2018	Refund of paid amount along with interest.
4.	1752/2024 Satish Jain V.	Filed on 05.03.2025	Final Reg. No. 49, Type-I, Tenement No. 74-A	Not Executed	BSP: ₹15,40,309/- (as per allotment letter) Paid amount:	19.02.2018	Refund of paid amount along with interest.

	Housing Board Haryana				₹1,99,000/-		
	22.11.2024						
5.	1826/2024 Sunil Kumar Srivastava V. Housing Board Haryana	Filed on 07.01.2026	Final Reg. No. 75, Type-I, Tenement No. 136-A	Not Executed	BSP: ₹15,40,309/- (as per allotment letter) Paid amount: ₹1,99,000/-	19.02.2018	1. Refund of paid amount along with interest. 2. ₹50,000/- as legal expenses. 3. ₹50,000/- for mental agony 4. Any other relief as Authority deems fit.
	28.11.2024						

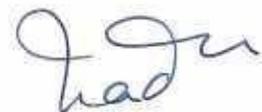
B. COMPLAINT NO. 1734 of 2024 IS TAKEN AS LEAD CASE AND BRIEF FACTS OF THIS COMPLAINT ARE AS UNDER:

4. Complainant made following submissions in his complaint dated 22.11.2024.
- i. Housing Board Haryana issued an advertisement inviting applications for registration during the period from 19.02.2010 to 19.03.2010 for purchase of Built-up Multi-Storeyed Flats meant for Industrial Workers and Industrial Units/Entrepreneurs of Haryana State, in the real estate project situated at Barhi, Tehsil Ganaur, District Sonipat, on hire-purchase basis. The tentative price of each flat was fixed at ₹7,90,000/-, out of which 10%, i.e., ₹79,000/-, was payable as registration amount and ₹1,20,000/- was



- payable after draw of lots. The possession of the flat was proposed to be handed over on or before 30.06.2012, as indicated on page no. 5 of the brochure. Further, 40% of the price of the flat, after adjusting the amount already paid at the time of allotment, was to be paid, and the balance 60% was proposed to be paid in monthly instalments, as indicated on page no. 4 of the prospectus-cum-information brochure. Copy of brochure is annexed at page no. 15 to 34 of the complaint book.
- ii. Pursuant to the said advertisement, the complainant applied for allotment/purchase of four flats and deposited an amount of ₹3,16,000/- i.e., ₹79,000/- per flat with the respondent as advance deposit for booking of the said flats. Copy of the proof of payment is annexed at page no. 35 with the complaint book.
- iii. Thereafter, a letter was received from the respondent informing the complainant about the allotment of Type-I flats under the Industrial Workers' Housing Scheme, Barhi, bearing Provisional Registration No. 43 and Final Registration No. 43, and calling upon the complainant to deposit an amount of ₹1,20,000/- towards the amount payable after draw of lots on or before 31.08.2010. Copy of the letter is annexed at page no. 36 with the complaint book.
- iv. In compliance thereof, the complainant deposited an amount of ₹4,80,000/-, i.e., ₹1,20,000/- per flat, with Housing Board Haryana. Copies of proof of payment are annexed at page no. 37 to 40 with the complaint book.

- v. Subsequently, the complainant received allotment letter No. 3117 dated 20.02.2018 issued by the respondent and signed by the Estate Manager, Sonipat, acknowledging receipt of the registration deposit of ₹3,16,000/- and an amount of ₹4,80,000/- deposited after draw of lots. By the said allotment letter, the price of the flat was enhanced arbitrarily from ₹7,90,000/- to ₹15,40,309/- per flat, i.e., ₹61,61,436/- for all four flats, out of which a sum of ₹22,87,650/- was demanded for taking possession of the Type-I flats bearing Tenement Nos. 110GF, 103GF, 103A and 104C within 30 days from the date of issuance of the said letter. The enhanced balance price was directed to be paid in monthly instalments of ₹48,316/- over a period of ten years, thereby making the price of the flat almost double of the amount agreed at the time of registration. The allotment letter is annexed at page no. 41 with the complaint book.
- vi. Aggrieved thereby, the Complainant addressed a letter dated 15.03.2016 to the Chief Revenue Officer, Housing Board Haryana, seeking refund of the entire amount paid for the said flats along with interest thereon, and submitted the original allotment letter, original application for allotment, copy of PAN card, copy of Aadhaar card and cancelled cheque. However, no amount, either in whole or in part, has been refunded by the Respondent till date. Copy of the letter is annexed at page no. 43-44 with the complaint book.



- vii. The complainant, thereafter issued another reminder seeking refund of the price of the said flats, besides making several oral requests; however, no heed was paid by the respondent to the genuine requests of the complainant.
- viii. Thereafter, letter bearing No. HBH/EM/SONEPAT/2020/2016 dated 23.06.2020 was issued by the respondent to the complainant, offering possession of the said flats at a revised/reduced price of ₹13,12,800/- per flat, as against the earlier enhanced price of ₹15,40,309/-, claiming that the same was done by taking a sympathetic view of the request of the allottees. Copy of the letter is annexed at page no. 47-48 with the complaint book.
- ix. The complainant replied to the said letter dated 23.06.2020, reiterating that they sought refund of the amount paid and were not interested in taking possession of the flats. Copy of the correspondence dated 05.08.2020 exchanged is annexed at page no. 49 with the complaint book.

C. RELIEFS SOUGHT-

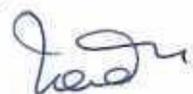
5. Complainant has sought following relief :
- i. It is, therefore, prayed to the Hon'ble Authority that an order may kindly be passed instructing the respondent that an amount of ₹7,96,000/- deposited by the complainant should be refunded to the complainant along with the interest @18% per annum in the interest of justice.



D. REPLY ON BEHALF OF RESPONDENT

6. Respondent had made following submissions in their reply dated 05.03.2025 which are as follows:

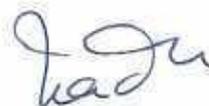
- That the Housing Board Haryana has been constituted under the Haryana Housing Board Act, 1971. The aim and object of the Haryana Housing Board Act is to ease the housing problem by constructing more houses. The Haryana Housing Board Act received the assent of the President of India on 14.05.1971 and 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 establishment 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 from the aforesaid provisions of Haryana Housing Board Act, 1971, it is clear that Housing Scheme by appellant is launched/framed strictly as per the provisions of Haryana Housing Board Act, 1971. The State Government has been empowered to grant sanction of the housing scheme. Therefore, the Haryana Housing Board cannot be acquired by the private developer, as the allotment of flats as per the scheme in the present case was to be made as per the housing scheme made under the provisions of the Housing Board Act, 1971.
- 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 an 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 the 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.

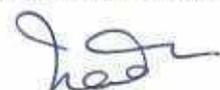
- That as per the salient features of the said scheme, the respondent invited the applications for the allotment of built up multi storey flats to industrial workers and the entrepreneurs of Haryana at Barhi under the Hire Purchase Scheme. The present case is of Barhi, District Sonapat.
- That the registration for submitting the applications started from 19.02.2010 and the closing date was 19.03.2010. In the present case, complainant submitted an 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 a sum of ₹4,80,000/- for four flats (₹1,20,000/- per flat) i.e., 15% of the tentative total cost of the flat).
- That the complainant deposited the said amount of ₹1,20,000/- on 06.09.2010.
- 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 20.02.2018, the complainant was informed regarding actual price of the four flats which comes to ₹61,61,236/-. After adjusting the already paid amount of ₹7,96,000/-, complainant was asked to deposit the balance amount within a period of

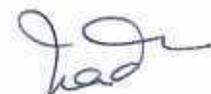
30 days from the date of issue of the said letter, which is required as per Clause-2 of the said allotment letter.

- 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 20.02.2018, complainant was required to deposit the balance amount in 120 instalments @ ₹48,316/- 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. Therefore, the balance amount of ₹6,38,000/- will be refundable to the complainant.
- That in the present case, complainant failed to take possession of the flat and did not deposit the amount as prescribed in the allotment letter dated



20.02.2018 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 16.03.2018 requesting surrender of the flat and refund of an amount of ₹7,96,000/-. Copy of the letter dated 16.03.2018 is annexed as Annexure R-1 with the reply.

- 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 complainant 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 2014. 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 20.02.2018 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 16.03.2018 which was received in the Office of Estate Branch, HBH, Sonapat on the same day.

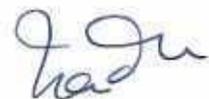


- That due to the surrender of the flat by the complainant, respondent would suffer a huge loss as they have already made the payment to the contractor regarding the construction of the units over the land.
- That the complaint is liable to be dismissed on the ground of principle of estoppel. It is a 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.

E. REPLY ON BEHALF OF RESPONDENT IN COMPLAINT NO. 1826

OF 2024-

- That there is no requirement of registration of the project of the respondent. The "On Going Projects" is defined under Section-2(o) of the



HRERA Rules, 2017 and according to the said definition, an On going projects means for which license was has been issued for the development under the Haryana Development and Regulation of Urban Areas Act, 1975 on or before 01.05.2017 and where development works are yet to be completed on the said date.

- It is also clear from the certificate dated 14.05.2014 that the construction work was completed on 15.04.2014, therefore, the provisions of RERA Act are not applicable in the present case. Importantly Section-3 of the RERA Act, 2016 came into force on 01.05.2017 vide notification published in the official gazette of India on 19.04.2017. Keeping in view the above, there is no need of registration of the said project under HRERA as there is no requirement of completion certificate.

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

7. Vide order dated 15.09.2025, respondent was directed to clarify if any amount has already been refunded by the respondent to the complainant alongwith all the details of such refunds and the dates. 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 is processing refunds for all schemes through the PMS Portal and the applicants are required to upload the necessary documents for processing of refund.



G. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT-

8. Ld. Counsels for complainant and respondent reiterated the written submissions already filed. Ld. counsel for the respondent further submitted that the complainant is liable to get refund as per statutory provisions of the Haryana Housing Board Act, 1971.

H. ISSUE FOR ADJUDICATION-

9. 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?

I. OBSERVATIONS OF THE AUTHORITY-

10. After taking into consideration the facts and circumstances of the case and arguments put forth by both the parties and judgments 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? 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

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“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**

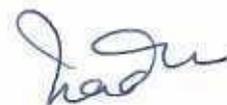
(b) plots owned by such authority or body or placed at their disposal by the Government,

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.

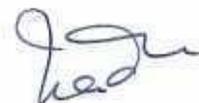
An Act to establish the real estate regulatory authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the 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.

(ii) Second 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



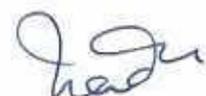
seller (i.e., promoter) of real estate, i.e., plot, apartment or building, as the case may be and matters incidental thereto. The scope of this Act is limited to contracts between buyers and promoters and transfer to property. Both these items fall within the concurrent list III: Entry-6 and Entry-7 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"*



(iii) **Next objection is regarding applicability of provisions of RERA Act, 2016 where land has been acquired by the State and developed by a state agency-** Respondent contended that the provisions of RERA Act, 2016 are not applicable to cases where the land has been acquired by way of acquisition under the Land Acquisition Act and thereafter developed under the provisions of respective Acts of state agencies. Before adjudicating upon said issue, Authority considers it important to refer to the Preamble of RERA Act, 2016 and has reproduced below for reference:

"Preamble: 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."

- It is settled principle of interpretation that the preamble is an introduction of a statute and states main aims & objects of enacting a statute. The preamble provides that it shall be the function of the Authority to ensure sale of plot, apartment or building in an efficient and transparent manner and to protect the interest of consumers in the



real estate sector by establishing a mechanism for speedy dispute redressal.

- 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. Hon'ble Bombay High Court in the case *Neelkamal Realtors Suburban Pvt.Ltd.andOrs. v. Union of India and Ors. 06.12.2017* – BOMHC observed as under:

"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 ready with entry-46.
- This Act regulates the transactions relating to the sale of units in above mentioned real estate project, 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. Section-88 of the RERA, Act, 2016 clearly provides

that the provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force. Furthermore, Section 89 provides that the provisions of this Act shall have the effect, notwithstanding anything inconsistent therewith, contained in any other law for the time being in force. Thus, there remains no ambiguity with respect to the fact that the Authority while adjudicating the complaints filed under Section 31 of the Act are only deciding the rights and obligations of the parties, i.e., the builder/Promoter/developer and the allottee inter-se as per the agreement for sale entered into between them for sale of a real estate project.

(iv.) **Next objection raised by the respondent in Complaint no. 1826 of 2024 is that since the project in question is not an ongoing project, therefore, provisions of RERA Act, 2016 are not applicable to the project.** In this regard, reference is made to the first proviso to section 3(1) of the RERA Act, 2016 which provides that the projects which were 'ongoing' on the date of commencement of the Act and for which the completion certificate has not been issued, the promoter shall make an application to the authority for registration of the said project within a period of three months from the date of commencement of the Act. The position further becomes clear from



Section 3(2)(b) of the Act which states that the registration of the real estate project shall not be required where the promoter had received the 'completion certificate' for the said project prior to the commencement of the Act. Thus, if we read Section 3 of the Act, it is evident that only that project shall be excluded from the purview of the 'on going project' which had received the completion certificate prior to the commencement of the Act and such project will not require registration. All 'ongoing projects', i.e., those that commenced prior to the Act coming into force, and in respect of which no completion certificate is yet issued, are covered under the Act. It is apparent that the legislative intent was to make the Act applicable to not only to the projects which were to commence after the Act became operational but also to ongoing projects. Only those projects which had got the completion certificate before the commencement of the Act will not require registration and will certainly fall beyond the purview of the 'ongoing project'.

- Further, this issue has also been dealt with by the Hon'ble Apex Court and settled in the case titled as "**Newtech Promoters and developers Pvt. Ltd**" **Civil Appeal No. 6745-6749 of 2021** which is reproduced hereunder:

" 37. Looking to the scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all

“ongoing projects” that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority.”

- Wherein Hon’ble Apex held that the projects in which completion certificate has not been granted by the competent Authority, such projects are within the ambit of the definition of on-going projects and the provisions of the RERA Act, 2016 shall be applicable to such real estate projects. Furthermore, complainant in the present complaint is seeking possession along with interest, i.e, a statutory relief under Section 18 of RERA Act, 2016. Authority observes that Section 18 of the Act relates to obligation of promoter regarding return of amount and compensation. Section 18 is reproduced herein below:

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

case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act: Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

- This provision nowhere states that the remedies provided hereunder will be available only to the allottees of a registered project or registrable project. Therefore, even if the project is not registered with the Authority, same does not extinguish the remedy available to an allottee of a real estate project.

(v) Next issue is whether the complainant is entitled for refund of the deposited amount 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/- (₹7,96,000/- for four flats), 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 fit case for allowing refund in favour of complainant.
- Further, respondent has filed an additional affidavit dated 09.01.2026 stating that refunds are being processed online through PMS Portal

and the complainant has been asked to submit requisite documents for processing of refunds. However, the respondent has not placed on record any proof to show that any amount has actually been refunded to the complainant till date. Therefore, it is evident that no amount has been refunded to the complainant so far. In view of the same, the complainant is entitled to refund of the entire deposited amount along with interest, as no prior refund has been effected by the respondent.

(vi.) 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;

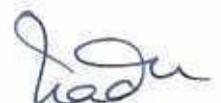
(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee 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.
 - 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 09.03.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% , i.e., 10.80.
- (vii) From above facts, 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 actual realization of the amount. It is pertinent to mention that -
- a. In Complaint No. 1734 of 2024, as per documents/receipts placed on record, complainant had paid an amount of ₹3,16,000/- on 26.08.2010 and ₹4,80,000/- on 27.08.2010, total amount comes to



- ₹7,96,000/- . Therefore, Authority deems it fit to adjudicate on amount of ₹7,96,000/- as claimed by complainant.
- b. In Complaint No. 1746 of 2024, as per documents/receipts placed on record, complainant had paid an amount of ₹79,000/- on 28.08.2010 and ₹1,20,000/- on 27.08.2010, total amount comes to ₹1,99,000/-. Therefore, Authority deems it fit to adjudicate on amount of ₹1,99,000/- as claimed by complainant.
- c. In Complaint No. 1750 of 2024, as per documents/receipts placed on record, complainant had paid an amount of ₹79,000/- on 26.08.2010 and ₹1,20,000/- on 26.08.2010, total amount comes to ₹1,99,000/-. Therefore, Authority deems it fit to adjudicate on amount of ₹1,99,000/- as claimed by complainant.
- d. In Complaint No. 1752 of 2024, as per documents/receipts placed on record, complainant had paid an amount of ₹79,000/- on 26.08.2010 and ₹1,20,000/- on 26.08.2010, total amount comes to ₹1,99,000/-. Therefore, Authority deems it fit to adjudicate on amount of ₹1,99,000/- as claimed by complainant.
- e. In Complaint No. 1826 of 2024, as per documents/receipts placed on record, complainant had paid an amount of ₹79,000/- on 18.03.2010 and ₹1,20,000/- on 27.08.2010, total amount comes to ₹1,99,000/-. Therefore, Authority deems it fit to adjudicate on amount of ₹1,99,000/- as claimed by complainant.

(viii) Authority has got calculated the total amounts along with interest as per detail given in the tables below:

01. In complaint no. 1734 of 2024 -

Sr.no.	Principle amount	Date of payments	Date of order	Interest from date of payments till date of order
1.	₹3,16,000/-	26.08.2010	09.03.2026	₹5,30,620/-
2.	₹4,80,000/-	27.08.2010	09.03.2026	₹8,05,863/-
	Total= ₹7,96,000/-			Total= ₹13,36,483/-

02. In complaint no. 1746 of 2024 -

Sr.no.	Principle amount	Date of payments	Date of order	Interest from date of payments till date of order
1.	₹79,000/-	28.08.2010	09.03.2026	₹1,32,608/-
2.	₹1,20,000/-	27.08.2010	09.03.2026	₹2,01,466/-
	Total= ₹1,99,000/-			Total= ₹3,34,074/-

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03. In complaint no. 1750 of 2024 -

Sr.no.	Principle amount	Date of payments	Date of order	Interest from date of payments till date of order
1.	₹79,000/-	26.08.2010	09.03.2026	₹1,32,655/-
2.	₹1,20,000/-	26.08.2010	09.03.2026	₹2,01,501/-
	Total= ₹1,99,000/-			Total= ₹3,34,156/-

04. In complaint no. 1752 of 2024 -

Sr.no.	Principle amount	Date of payments	Date of order	Interest from date of payments till date of order
1.	₹79,000/-	26.08.2010	09.03.2026	₹1,32,655/-
2.	₹1,20,000/-	26.08.2010	09.03.2026	₹2,01,501/-
	Total= ₹1,99,000/-			Total= ₹3,34,156/-

05. In complaint no. 1826 of 2024 -

Sr.no.	Principle amount	Date of payments	Date of order	Interest from date of payments till date of order
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1.	₹79,000/-	18.03.2010	09.03.2026	₹1,36,418/-
2.	₹1,20,000/-	27.08.2010	09.03.2026	₹2,01,466/-
	Total= ₹1,99,000/-			Total= ₹3,37,884/-

(ix) Therefore, total amounts along with interest as per detail is given in the table below:

Sr. no.	Complaint no.	Amount paid	Interest	Total amount to be refunded to complainant
1.	1734 of 2024	₹7,96,000/-	₹13,36,483/-	₹21,32,483/-
2.	1746 of 2024	₹1,99,000/-	₹3,34,074/-	₹5,33,074/-
3.	1750 of 2024	₹1,99,000/-	₹3,34,156/-	₹5,33,156/-
4.	1752 of 2024	₹1,99,000/-	₹3,34,156/-	₹5,33,156/-
5.	1826 of 2024	₹1,99,000/-	₹3,37,884/-	₹5,36,884/-

(x) Further, the complainant in Complaint no. 1826 of 2024 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.

J. 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 refund the amount to the complainants as specified in the table provided in para (ix) on page no. 40 of this order. It is further clarified that respondent will remain liable to pay the interest to the complainants till the actual date of 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.



.....
NADIM AKHTAR
[MEMBER]