

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

Date of filing complaint: 17.11.2025
Date of decision 05.02.2026

1. Uttam Sharma
2. Urvashi Sharma

Both R/o: 185, 2nd Floor, Ravipark Society, Behind
Motinagar-II, Tarsali, Vadodara, Gujrat- 390009

Complainants

Versus

**M/s Assotech Moonshine Urban Developers Private
Limited**

Regd. Office: 148 F, Pocket IV, Mayur Vihar, Phase-I,
Delhi- 110091

Respondent

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

MS. Priyanjali Singh (Advocate)

Complainants

Ms. Neha Yadav (Advocate)

Respondent

ORDER

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

A. Project and unit related details





2. 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 tabular form:

S. N.	Particulars	Details
1.	Name of the project	Assotech Blith, Sector-99, Gurgaon
2.	Project type	Group Housing Project
3.	DTCP license no	Registered vide registration no. 95 of 2011 dated 28.10.2011
4.	RERA registered/ not registered	83 of 2017 dated 23.08.2017 Valid up to 22.08.2023 Note: <i>Registration Lapsed</i>
5.	Booking Form dated	03.05.2012 (As on page 40 of complaint)
6.	Date of allotment letter cum buyer's agreement	24.12.2012 (As on page no. 36 of complaint)
7.	Unit no.	C-1804 on 18 th Floor, Tower- C (As on page no. 36 of complaint)
8.	Unit area admeasuring	1365 sq. ft. (Super area) (As on page no. 36 of complaint)
9.	Possession clause	As per Clause 19.1 <i>The possession of the apartment shall be delivered to the Allottee (s) by the Company within 42 (Forty-two) months from the date of allotment subject to the Force Majeure, circumstances, regular and timely payments by the intending Allottee (s), availability of building material, change of laws by Governmental/Local Authorities etc. The construction shall be deemed to be complete on obtaining the occupation certificate by the Company from the DTCP. No claim by way of damage, compensation shall lie against the Company in case of delay in handing over of the possession on account</i>

		<i>of delay in obtaining the occupation certificate or any other reasons beyond the control of the Company.</i> (Page 26 of complaint)
10.	Due date of possession	24.06.2016 (As mentioned in clause 7.1 of allotment letter cum buyer's agreement, calculated from 42 (Forty-two) months from the date of allotment i.e., 24.12.2012)
11.	Payment Plan	Construction Linked
12.	Sale consideration	Rs.76,35,265/- (Page no. 36 of complaint)
13.	Amount paid by the complainants	Rs.66,10,635/- (Rs.68,60,635/-Rs.2,50,000/- Cheque bounced) (As per SOA at page no. 39 of complaint)
14.	Cancellation letter	07.04.2022 (Page 60 of complaint)
15.	Occupation certificate	Not obtained (Applied for on 12.04.2021)
16.	Offer of possession (<i>Note: invalid as offered prior to obtaining OC</i>)	06.05.2025 (As on page 64 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions in their complaint:
- The respondent is promoter of residential colony named "Assotech Blith" at Sector 99, Village Dhankot, Tehsil Gurgaon, Gurgaon (hereinafter called "project").
 - The complainants are husband-wife, who jointly applied for allotment of a single apartment in the aforementioned project on 04.05.2012.



- c. On 24.12.2012, the promoter issued an allotment letter for unit No. C-1804 in Tower C of the Project, admeasuring 1365 sq.ft. The aforementioned letter is on a stamp paper and signed by both parties, hence it also formed the builder buyer agreement for the said unit. And no other/further builder buyer agreement was separately executed.
- d. As per clause 19 (i) and clause 57 of the aforementioned letter/agreement dated 24.12.2012, the completed unit had to be delivered to the complainants within 42 months from the date of allotment [i.e. the contractual deadline for completion of the unit was 24.6.2016. Clause 19 (ii) gives grace period of 6 months, hence this possession deadline could at best be extended to 24.12.2016].
- e. The complainants chose construction linked payment plan and have paid Rs. 68,60,635.00 till now. This amount is reflected at page 2 of the ledger issued by the promoter on 31.10.2025.
- f. The complainants initially took home loan from Indiabulls for purchasing the aforesaid flat. As of today, the aforesaid home loan is with Tata capital Housing Finance.
- g. The promoter failed to complete the unit by 24.6.2016. But it kept raising demands even thereafter.
- h. The promoter sent an illegal cancellation notice dated 07.04.2022. The complainants immediately approached the promoter and asked it to remove this illegal cancellation as the demands were being prematurely raised (i.e. without achieving the construction milestone); and in any event the amount of delay compensation payable by the promoter was much greater than the demands raised and the same has to be first adjusted.

- i. The promoter agreed to the contentions of the complainants and removed the cancellation. Subsequently, the complainants received email dated 22.1.2023 giving site update. Later on, another email dated 2.9.2023 was received from the promoter claiming 'Phase -1 OC received. But when the complainants phoned the promoter's office asking for copy of OC, nothing was provided to them.
- j. Subsequently, the promoter received an offer of possession dated. The said offer of possession was illegal as it was made without receiving OC. This is evident from the aforementioned letter dated 6.5.2025 wherein it is written: "Additionally, we are pleased to share that the application for obtaining Part Occupancy Certificate (OC) for your allotted unit has reached its final stage and the certificate is expected to be granted shortly". Furthermore, the said offer made a demand of Rs 15,09,356/- under various heads and did not offer/adjust any amount towards delay compensation w.e.f. 24.6.2016 till the date of offer dated 6.5.2025. It is submitted that no amount is payable by the complainants as the delay compensation payable by the promoter is much greater than Rs 15,09,356/-.
- k. The complainants visited the site and were shocked to see that the flats were uninhabitable and the entire offer seemed a sham and a malicious tactic to extract moneys from the allottees.
- l. That to the knowledge of the complainant, the promoter has failed to get OC till date. In fact, the HRERA Gurugram official website is reflecting it as a 'lapsed project'.
- m. Therefore, the complainant decided to approach this Ld. Authority to seek relief and filed this complaint.



C. Relief sought by the complainant:

4. The complainants are seeking the following relief:
 - a. Direct the respondent to pay interest for every month of delay at prevailing rate of interest; on Rs. 68,60,635/- from 24.6.2016 till date.
5. On the date of hearing, the authority explained to the respondent /promoter about the contravention as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

6. The respondent contested the complaint on the following grounds: -
 - a. In the year 2010, the Government came up with the master plan of 2030 of Gurugram and proposed an expressway on the Northern side of the city, known as Northern Peripheral Road (NPR), now commonly known as Dwarka Expressway. Soon after the Master Plan 2030 became public, the demand of residential and commercial projects in the vicinity of the expressway skyrocketed by multiple folds. In order to cater to such skyrocketed demand of the consumers for the residential units, the Respondent launched the residential project known as 'Assotech Blith' situated at Sector - 99, Gurugram (hereinafter referred to as "said project") which has been conceptualized and promoted by the respondent in accordance with the License bearing no. 95 of 2011 dated 28.10.2011 from the Director, Town and Country Planning Department, Haryana (in short "DTCP, Haryana"). The building plans of the said project have been approved by the DTCP, Haryana on 01.05.2012. The project was spread over an area of 12.062 acres and consisted of 560 dwelling units in 7 towers namely, A, B, C, D, E, F, G, 23 Villas and 10 shops.



Moreover, after coming into force of the Real Estate (Regulation and Development) Act, 2016 (hereinafter in short referred as "the Act"), the respondent had got the subject project registered vide registration no. 83 of 2017 dated 23.08.2017.

- b. After making independent enquiries and only after being fully satisfied about the project, the complainants had approached the respondent expressing an interest in the purchase of an apartment in the said residential group housing project being developed by the respondent. The complainants had approached the respondent after making independent enquiries and duly satisfying themselves regarding the viability and suitability of the aforesaid project, as per their needs and requirements as well as the capability of the respondent to undertake the project. The complainants were keen on to booking a unit in the project of the respondent and thus, after making detailed and elaborate enquiries with regard to all aspects of the project and completely satisfying herself with every aspect of the project, the complainants proceeded to book an apartment in the said project vide application form dated 04.05.2012. in consideration of the booking amount paid by the complainants and their commitments to comply with the terms of the booking/allotment and make timely payments of demands, the respondent company allotted unit bearing no. C-1804, 4th floor, Tower C having super area 1365 sq. ft. at the rate of Rs.4826/- per sq. ft. of Super Area in the residential group housing project. In pursuance thereof, the complainants and the respondent herein executed an allotment letter dated 24.12.2012 containing detailed terms and conditions of the allotment which are binding on both the parties along with the schedule of payment (payment plan) opted by the complainants under construction linked



- payment plan. The cost of the unit as per the allotment letter dated 24.12.2012 for an area admeasuring 1365 sq. ft. was Rs. 76,55,754/- plus other charges, as stated in the schedule of payment.
- c. As per clause 19(i) & 19(ii) of the allotment letter, the possession was to be offered within period of 42 months from the date of allotment with further six-month grace period subject to 'Force Majeure' and subject to timely payments by the allottees of the project. Force Majeure events include (but not limited to) court orders, government guidelines / policy, delay in government clearances, approvals, licenses, renewals, NOCs, etc.
- d. As per clause 19 of the allotment letter, the respondent company has proposed to handover possession of the subject apartment within 42 months plus grace period of 6 month from the date of allotment letter dated 24.12.2012 subject to certain conditions. Thus, the due date of handing over possession comes out to be 24.12.2016 and the same has also been admitted by the complainants in the complaint. From the aforesaid clauses of the allotment letter, it is apparent that the timely delivery of possession was subject to force majeure and also subject to timely payments by the allottee(s) of the project. However, it is matter of record that various allottees including the present complainants herein had defaulted in making timely payments which resulted in delay in handing over the possession.
- e. The complainants have been a habitual defaulter from the start of the booking (2012), having consistently failed to make payments in accordance with the agreed payment plan. Despite repeated opportunities, the complainant has not complied with the scheduled payment obligations.



- f. The complainants have alleged payment of ₹68,60,635/-. However, a cheque of ₹2,50,000/- bearing no. 168962, was dishonoured on 08.05.2012. In good faith, the respondent did not initiate proceedings under Section 138 of the Negotiable Instruments Act. Accordingly, the actual amount paid by the complainant stands reduced to ₹66,10,635/-, which has also been duly confirmed by the respondent and is reflected in the customer ledger dated 17.12.2025. The respondent kept on raising demands as per the payment plan opted by the complainants. The complainants for the reasons best known to them did not perform their contractual obligation and did not make timely payments.
- g. The complainants were defaulters from the very inception of the booking of the subject unit. Due to their continuous defaults, the allotment of the unit was cancelled on 31.10.2012, after issuance of a pre-cancellation notice dated 15.10.2012. Subsequently, the complainants approached the respondent and gave a verbal assurance that they would strictly adhere to the payment schedule and would not default in future instalments. Relying on this assurance, and as a gesture of goodwill, the respondent restored the allotment of the flat in favour of the complainants and recommenced the demand process, subject to the clear condition that all future instalments would be paid strictly on time.
- h. Despite the aforesaid assurances, the complainants once again defaulted in making timely payments from the year 2021 onwards. Owing to their persistent non-compliance with the agreed payment schedule, the respondent issued multiple payment reminders to the complainants in July 2021, November 2021, and December 2021, calling upon them to clear the outstanding dues. However, the





complainants failed to regularize their account despite repeated opportunities. Consequently, and strictly in accordance with the terms and conditions of the allotment and applicable law, the respondent was constrained to cancel the allotment of the subject flat in April 2022.

- i. The complainants then approached the respondent requesting the respondent not to cancel the allotment and made assurances of the remaining payment at earliest. However, the complainants again have defaulted in making the payment of the outstanding amount. As on 17.12.2025, the outstanding dues (till the completion of internal plaster and flooring) payable by the complainants is Rs. 15,09,356/- has remained unpaid till date.
- j. As of 17.12.2025, the total late payment fees accrued and payable by the complainants to the respondent stands at Rs. 10,39,895/-. This amount has been calculated at the rate of 10% simple interest per annum and shall continue to accrue interest on a daily basis until the full realization of the outstanding amount.
- k. The complainants failed to make the timely payment of the said demands despite the complainant's commitment to strictly adhere to the payment plan. The complainants failed to fulfil the contractual obligation of making timely payment which was the essence of the allotment pursuant to the application form even after the issuance of the various reminders. That despite the non-fulfilment of the obligation of making timely payment, the respondent company fulfilled its promise and had constructed the said unit of the complainants, by investing its own funds. it is pertinent to mention that the respondent has completed the construction and applied for

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the OC on 15.01.2024. Further, the respondent also offered a possession for fit-out letter dated 06.05.2025. That possession letter was not a offer of possession but instead only a letter for fit-out and for clearing out the long outstanding dues of the complainants.

- l. The respondent has incurred various losses/damages on account of the breach of the terms of the allotment and application by the complainants, which the complainants are liable to pay as per the terms of the allotment letter.
- m. The said project was going at a very great pace and was right at schedule, if not at a pace faster than the schedule, however, on 08.02.2016 in Co. PET. 357/2015 and CA 1550/2015 (for appointment of PL) titled as Manmohan Singh Bhalla Vs Assotech Limited, the Hon'ble Delhi High Court appointed the Official Liquidator (OL) attached to this court as provisional liquidator and further injuncted the respondent company and its Directors, agents and servants from transferring, selling or creating any third party interest in its assets. Furthermore, the OL was directed to seal the premises in which the assets, book of accounts, documents and other records of the respondent company are stored after preparing an inventory on that behalf. The present respondent namely M/s Assotech Moonshine Urban Developers Pvt. Ltd. is a subsidiary of M/s Assotech Limited which went into Liquidation and wherein PL was appointed by the above-mentioned order of Hon'ble Delhi High Court. After the above-mentioned order of the Hon'ble Delhi High Court, the respondent's offices were sealed and they couldn't continue with the construction of the subject project namely "Assotech Blith" since the affairs of the parent company who was also the construction company of the subject project went into the hands

of the PL. In simple words, the respondent couldn't keep the pace of construction in the subject project as due to initiation of liquidation proceedings, the affairs of the company went into the hands of the pl and the respondent lost control over the affairs of the company along with its assets and hence, were in no position to complete the subject project in a time bound manner.

- n. After a passage of 3 years, it was on the basis of the status report filed by OL wherein it was stated that *"..Keeping in mind the fact that the Company (in liqn.) is a real estate company, revival is a better option as compared to the option of Liquidation"* and the action plan submitted by the Ex-management that the Hon'ble Delhi High Court vide its order dated 21.01.2019 approved the revival plan and subsequently appointed a retired judge of High Court as the Court Commissioner to supervise the completion of the pending projects. In view of the aforementioned, it was at this time i.e., after 3 long years that the affairs of the company along with its assets came into the hands of the Ex-Management and it is after that only, the construction of the subject project had been started by the respondent since in the intervening period of 3 years no construction work was carried out by the PL at the site of the subject project. Thus, the time period from 08.02.2016 till 11.02.2019 shall be excluded while calculating the due date of handing over of possession since this period falls under the definition of Force Majeure and is squarely covered under clause 7.1 of the allotment letter/ buyer's agreement.
- o. The summary of total stoppage of construction work in NCR is as following:

Year	Authority	Date of Ban on construction activities	Date of lifting of ban on construction activities	No. of Ban days
2016	NGT	08.11.2016	23.11.2016	16
2017	NGT	09.11.2017	17.11.2017	09
2018	EPCA	01.11.2018	10.11.2018	10
2019	EPCA / Hon'ble Supreme Court of India	01.11.2019	09.12.2019	39
Total days Ban on construction Activities				74

- p. In addition to the aforesaid orders, the development of the said project took another massive hit on account of the COVID-19 pandemic which resulted in a nation wide lockdown starting from 25th March, 2020. During this time the large number of workers moved to their native villages / home towns in Bihar, eastern parts of Uttar Pradesh, Jharkhand, West Bengal. In view of the situation, the Government of India Suo Moto extended the construction period of all projects by 9 months. The respondent and the contractor company started the construction work of the said project in terms of the guidelines issued by the Government of India from time to time.
- q. That several allottees have defaulted in timely remittance of payment of instalments which was an essential, crucial and an indispensable requirement for conceptualisation and development of the project in question. Furthermore, when the proposed allottees default in their payments as per schedule agreed upon, the failure has a cascading effect on the operations and the cost for proper execution of the project increases exponentially whereas enormous business losses befall upon the respondent. The respondent, despite default of several allottees, has diligently and earnestly pursued the



development of the project in question and has constructed the project in question as expeditiously as possible.

- r. The construction of the tower in which the unit in question is situated is complete and the respondent had applied for occupation certificate in respect of the same on 15.01.2024. However, the same has not been granted by the competent authority till date. The grant of occupation certificate is the prerogative of the concerned statutory authority, and the respondent does not exercise any control or influence over the same. Therefore, time period utilized by the concerned statutory authority in granting the occupation certificate to the respondent is necessarily required to be excluded from computation of time period utilized for implementation of the project.
- s. The complainants are habitual defaulters in making the timely payment and therefore have not performed their contractual obligation. Therefore, in view of the facts enumerated above, the complainants are not entitled to any of the reliefs as sought in the corresponding para and the present complaint is liable to be outrightly dismissed.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the complainants-allottees.

E. Jurisdiction of the authority:

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

E.I Territorial jurisdiction



9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district, therefore this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

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

Section 11(4)(a)

Section 11

.....

(4) The promoter shall-

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

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Finding on objections raised by the respondent

F.I Objections regarding Force Majeure

12. The respondent-promoter has contended that the progress of construction of the project was adversely affected on account of force majeure circumstances, inter alia, various directions/orders issued by



the authorities for Environment Pollution (Prevention and Control), restrictions imposed by the Commission for Air Quality Management in NCT, as well as the nationwide lockdown and consequential disruptions arising out of the outbreak of the COVID-19 pandemic, which further resulted in acute shortage of labour.

13. It is observed that the allotment cum buyer's agreement in the present matter was executed on 24.12.2012. As per Clause 19(i) of the allotment cum buyer's agreement the respondent-developer had proposed to hand over possession of the allotted unit within a period of 42 months from the date of allotment. In the present case, the date of allotment is 24.12.2012. Accordingly, the due date for handing over possession of the subject unit is computed as 24.06.2016.
14. The Authority has considered the submissions advanced by the respondent and perused the material available on record. The objection raised is found to be devoid of merit. The restrictions imposed by governmental authorities and courts in the NCR region were for limited durations and cannot, by themselves, justify the inordinate delay in completion of the project. Such regulatory contingencies are inherent in the real estate sector and ought to have been duly factored in by the promoter at the inception of the project. The respondent cannot be permitted to attribute prolonged delay to short-term prohibitory orders so as to evade its contractual and statutory obligations. It is a settled principle of law that no party can be allowed to take advantage of its own wrong. Accordingly, the promoter-respondent is not entitled to any indulgence on the basis of the aforesaid grounds.
15. Insofar as delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as *M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I)*



(Comm.) no. 88/ 2020 and I.A. 3696-3697/2020 dated 29.05.2020 which has observed that-

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

16. In the present case, the respondent was under an obligation to complete construction and hand over possession of the subject unit on or before 24.06.2016. The nationwide lockdown was imposed only on 23.03.2020, which is substantially subsequent to the stipulated date of possession. The respondent was already in default prior to the onset of the pandemic. Therefore, the outbreak of COVID-19 cannot be invoked as a justification for non-performance of contractual obligations where the deadline had expired much earlier. Consequently, the period of lockdown is not liable to be excluded for the purpose of computing delay in handing over possession.

G. Findings of the Authority on relief sought by the complainant:

G.I Direct the respondent to pay interest for every month of delay at prevailing rate of interest on Rs. 68,60,635/- from 24.6.2016 till date.

16. The complainant booked a unit C-1804 on 18th Floor, Tower-C in the project of the respondent namely, "Assotech Blith" admeasuring super area of 1365 sq. ft. for an agreed sale consideration of Rs. 76,35,265/- against which complainant paid an amount of Rs. 68,60,635/- and the respondent has failed to hand over the physical possession till date. That the complainant intend to continue with the project and is seeking delayed possession charges against the paid-up amount as provided under the section 18(1) of the Act. Sec. 18(1) proviso reads as under:

Section 18: - Return of amount and compensation

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

(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 of 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.”

(Emphasis supplied)

17. As per clause 19.1 of the draft agreement provides for handing over of possession and is reproduced below:

The possession of the apartment shall be delivered to the Allottee (s) by the Company within 42 (Forty-two) months from the date of allotment subject to the Force Majeure, circumstances, regular and timely payments by the intending Allottee (s), availability of building material, change of laws by Governmental/Local Authorities etc. The construction shall be deemed to be complete on obtaining the occupation certificate by the Company from the DTCP. No claim by way of damage, compensation shall lie against the Company in case of delay in handing over of the possession on account of delay in obtaining the occupation certificate or any other reasons beyond the control of the Company.

(Emphasis supplied)

18. On consideration of the abovementioned clause, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the draft agreement. By virtue of clause 19.1 of the draft agreement, the possession of the subject unit was to be delivered within a period of 42 months from the date of issuance of allotment letter. The due date is calculated 42 months from date of allotment of unit which comes out to 24.06.2016.



19. The occupation certificate of the buildings/towers where allotted unit of the complainant is situated has not been received till date by the promoter. The complainant, for delay by the promoter and failure of promoter to complete or unable to give possession of the unit in accordance with the terms of the draft buyer's agreement, wished to seek delay possession charges.
17. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:
- Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]**
- (1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:
Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.
18. The legislature in its wisdom in the subordinate legislation under 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.
19. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 05.02.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR +2% i.e., 10.80%.
20. The definition of term 'interest' as defined under section 2(z) of the Act provides that the rate of interest chargeable from the allottees by



the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default.

The relevant section is reproduced below:

"(za) "interest" means the rates of interest payable by the promoter or the allottees, as the case may be.

Explanation. —For the purpose of this clause—

(i) the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default;

(ii) the interest payable by the promoter to the allottees 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 allottees to the promoter shall be from the date the allottees defaults in payment to the promoter till the date it is paid;"

21. On consideration of the circumstances and record and submissions made by the parties, the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 19.1 of the buyer's agreement, the possession of the said unit was to be delivered on 24.06.2016 (due date of possession). The OC has not been obtained by the respondent till date. The authority is of view that there is a delay on the part of the respondent to offer physical possession of the allotted unit to the complainants as per the terms and conditions of the draft buyer's agreement.
22. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainants keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking

possession is in habitable condition. It is further clarified that the delay possession charges shall be payable on the total amount paid by the complainant from due date of possession till the date of offer of possession plus 2 months, after obtaining the occupation certificate or actual handing over of possession, whichever is earlier.

26. Accordingly, the non-compliance of the mandate contained in in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such, the complainant is entitled to delay possession charges at prescribed rate of the interest @10.80 % p.a. w.e.f. 24.06.2016 till the date of offer of possession plus 2 months after obtaining the occupation certificate or actual handing over of possession, whichever is earlier as per provisions of Section 18(1) of the Act read with rule 15 of the rules.

H. Directions of the Authority

24. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- The respondent is directed to pay interest to the complainants against the paid-up amount of Rs.66,10,635/- at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e., 24.06.2016 till the date of offer of possession plus two months after obtaining the occupation certificate or actual handing over possession whichever is earlier, as per section 18(1) of the Act 2016 read with Rule 15 of the Rules.
 - The respondent is directed to offer the valid offer of possession of the allotted unit within 2 months after obtaining occupation certificate from the competent authority. The complainants w.r.t.



obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupancy certificate.

- c. The complainants are further directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - d. The respondent/promoter is directed not to charge anything which is not a part of the revised payment plan as agreed between the parties.
 - e. The respondent/promoter is directed to execute the conveyance deed in favor of the complainant/allottee within 3 months as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.
 - f. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.
25. Complaint stands disposed of.
26. File be consigned to registry.


(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 05.02.2026