



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

Complaint no.:	272 of 2025
Date of filing:	17.03.2025
First date of hearing:	26.05.2025
Date of decision:	05.03.2026

**Prateek C/o Sh. Jaideep Rathi,**

**R/o 2708 P, Sector 18,**

**Panipat, Haryana-132103**

.....COMPLAINANT

Versus

**Aegis Value Homes Ltd,**

**registered office at Smart Homes Karnal(By Aegis),**

**Sector-32A, Bhudakhera**

.....RESPONDENT

**CORAM:**

**Parneet S Sachdev**

**Chairman**

**Nadim Akhtar**

**Member**

**Dr. Geeta Rathee Singh**

**Member**

**Chander Shekhar**

**Member**

**Present: -** Adv. Prashant, Counsel for the complainant through VC

Mr. Neeraj Goel, Counsel for the respondent

**ORDER (PARNEET S SACHDEV-CHAIRMAN)**

1. Present complaint has been filed on 17.03.2025 by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short 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.

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

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of handing over of the possession, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	Smart Homes Karnal
2.	Name of the promoter	M/s Aegis Value Homes Ltd
3.	RERA registered/not registered	Registered
4.	Unit no.	1107, Tower-A7, 11 <sup>th</sup> Floor

5.	Unit area	538.77 sq.ft and balcony 100.14 sq.ft.
6.	Date of Apartment Buyer Agreement	13.12.2021
7.	Due date of offer of possession	13.12.2024 (3 years from date of execution of bba)
8.	Possession clause in BBA	8.1
9.	Total sale consideration	17,00,000/-
10.	Amount paid by complainant	₹7,12,950/-
11.	Offers of possession	1. 14.12.2023 2. 30.11.2024
12.	Cancellation	01.07.2025

**B. FACTS AS PER THE COMPLAINT:**

3. That the Respondent in the year 2014 planned to develop a group housing scheme for residential flats in the name and style of "Address by Aegis" situated in Sector 32, Karnal, Haryana. That the respondent in order to lure people to purchase residential flats in "Address by Aegis" put forward various advertisements in the market place with numerous promises such as possession within 1 year and no additional taxes, costs etc. Complainant was convinced by the fancy promotion done and decided to purchase a flat in such residential project. After successfully booking a flat in the project, Complainant diligently paid many instalments and amount totalling Rs. 7,12,950/- was paid before

complainant observed that the construction of the project did not even start. Such payment is acknowledged by the respondent vide receipt dated 10.11.2021. A copy of receipt is annexed as ANNEXURE C1.

4. That the Complainant approached the respondent with his concern over the completion of project upon which respondent gave an assurance that project will kick start soon and that complainant does not have to pay further instalments until he sees the project picking up pace.
5. That the Complainant patiently waited for six years for the completion of the project and for possession but the construction of this project never even started. In 2021, upon getting furious over extreme delay of the project, complainant gave ultimate notice of legal proceedings to the respondent upon which the respondent came up with an alternative offer and informed the complainant that due to non compliance of necessary laws, complainant is unable to start the construction of this project "Address by Aegis, Sector 32, Karnal" but they are working on a new, cheaper and even better project known as "Aegis Smart Homes", which is situated in Sector 32A, Karnal. saying "Get a Smart home and Save upto Rs. 5 Lacs (No EDC/IDC, No PLC, No Fire Fighting Charges, No Electricity Connection Charges, No



Maintenance Charges, No Service Tax, No Tax Parking Charges, No Other Charges)".

6. Moreover the respondent had also advertised that flats in their projects would be fitted with Smart Automation system which could be operated using Voice & Gesture Commands such as lights control, fans control, geyser control, A.C control, WiFi, main gate security system, mood lightning control system, energy monitoring system, temperature control, security camera, music control system, television control system, solar street lights and smart access system as provided in the brochure issued by the respondent. A copy of brochure has been annexed as ANNEXURE C5.
7. The Complainant then visited the office of the respondent where the employees of the respondent apprised the complainant that the aforesaid new flats are being developed under "Pardhan Mantri Awas Yojna". The said employees also proclaimed that Government of Haryana has given them a tender to build these flats and it is a government Project for which allotment has already been done but to compensate the inconvenience of complainant, they will be given a flat at a good price of Rs. 17 lacs only. To further convince the complainant to agree with alternative offer it was promised that this amount of Rs. 17 lacs is absolute and no other cess, GST, Tax, charges



will be levied. It was also categorically promised that the construction is in full swing and possession will be given within 6 months. Complainant was also assured that no further payment need to be made until the possession letter is issued and the amount already paid by complainant for previous project shall be adjusted in this new allotment.

8. Thereafter, the complainant applied for a residential flat in the Project Smart Homes Karnal by Aegis vide application no. 9060. Thereafter the complainant was allotted Unit No. 1107, 11th Floor, Tower A7 in the Project measuring 538.77 Sq. Feet.
9. That on 13.12.2021, the Respondent called complainant to get a Builder buyer agreement executed and got it signed and notarized. The total amount mentioned in such agreement was Rs. 17,00,000/- with no GST. Copy of Builder buyer agreement has been annexed as ANNEXURE C2.
10. The complainant again patiently waited for the respondent to complete the project and deliver possession, however, one day Complainant saw in the local news that the Homebuyer of the respondent's project were agitating against the respondent for not giving the possession of their homes. On further enquiry, Complainant came to know that hundreds of Criminal & Civil litigations of serious nature were going on against



the promoters of the Project pertaining to Fraud, Cheating, Dishonesty, Misrepresentation, Criminal Breach of Trust etc.

11. On Knowing the antecedents of the Promoters of the Respondents, the Complainant approached the respondent concerned about the Sluggish & Delayed speed of Construction of the Project & seeing the Antecedents of the Promoters of the Builders that they have not delivered even a single project without delay and without controversies. But it was again assured that project will be completed within 6 more months and it is near its final completion.
12. That on 12.05.2022, Respondent issued a payment demand notice of amount Rs. 7,74,550/- to the complainant. Aggrieved by the delayed completion and unlawful notice by the respondent, complainant approached the respondent upon which it was agreed that complainant need not pay any further instalment until the offer of possession is made. It was also promised to the complainant that no other charges, cess, delay interest shall be levied.
13. On 30.11.2024, The respondent finally issued the Offer of possession letter after a delay of 10 year in total and around 4 years from date of buyer builder agreement for new project. However, vide such letter an illegal demand of Rs. 16,76,794/- was made. It includes inflated basic sale price as shown Rs. 17,48,854/- as against 17,00,000/- in Builder



buyer agreement. Then it also adds illegal amount of Rs. 1,39,908 as Tax which was against the promises made by the respondent throughout the whole time starting from giving alternative offer to complainant. Moreover, the Builder raised further Illegal Demand of Rs. 93,768/- on account of External Electricity Connectivity to Project Charge (23.79 Sq. Feet), Advance meter consumption charge, Security Deposit Charge, Meter Charge, Labour Cess. Moreover the builder has Illegally charged Exorbitant rate of interest on delayed payment to the Tune of 20 Percent and further added illegal amount of Rs. 4,03,308/-as interest. A copy of such possession offer letter has been annexed as ANNEXURE C3.

14. It is pertinent to note that another offer of possession letter was issued on 14.12.2023 vide which Tax was shown as zero. However, the project was not completed at that time and respondent informed that such possession letter was inadvertently issued and that project will be completed soon along with all legal compliance for possession. Copy of previous offer possession letter is annexed as ANNEXURE C4.
15. It is also to note that the respondent had issued another payment reminder letter vide which it was also informed that as per addendum letter dated 04.05.2024, an amount of Rs 46,443/- were added as Maintenance and security deposit interior which were illegal and



against the offer and promises given by the respondent as well as contradictory to the brochure issued by the respondent.

16. Then on 04.01.2025, A notice mentioning last and final notice for cancellation was issued by the respondent vide which Rs. 16,89,443/- was shown as due amount and 15 days period was given to pay. Complainant had approached the respondent and requested to take what is rightfully owed by him and to remove all the illegal amounts from such notice. However, despite the good faith of complainant, no positive response was given by the respondent. A copy of letter dated 04.01.2025 is annexed as ANNEXURE C6.
17. That to the surprise of the Complainant, The respondent got a illegal public notice published in newspaper dated 07.02.2025 declaring that flats of listed homebuyers shall be cancelled and resold if the remaining payment is not made within 15 days. It shows the remaining payment of complainant to be Rs. 14,78,080/- which is illegal. Moreover, this publication is a direct harassment of the complainant and is an attempt to arm-twist the complainant to pay the illegal amount claimed. The copy of concerned newspaper notice is annexed as ANNEXURE C7.
18. The respondent had promised the Flat at Rs. 17,00,000/- but has already taken Rs. 7,12,950 from the Complainant till now and the



complainant is willing to make any rightful payment. However, the complainant is not willing to pay all illegal heads of amounts added by respondent such as delay interest, EDC etc. charges, maintenance charges, unreasonable GST, Tax on basic sale price, illegally added basic sale price etc. because all these amounts are illegally claimed and are against the promises and agreement between the parties. Moreover, the builder has Illegally charged Exorbitant rate of interest on delayed payment to the tune of 20 Percent, rather respondent is liable to pay interest to the complainant for the delay caused and for not upholding its part of the contract. Further the respondent had said that No other charges such as Internal Development Charges/ External Development Charges, PLC, Fire fighting Charges, Electrical Connection Charges, Maintenance Charges, Service Tax, Car Parking Charges.

19. Still further, the GST is also being demanded at a higher rate than the statute rate of interest which cannot be permitted. That as per settled law the developer could not have demanded more than 1% with regard to the GST however in the present case the respondent developer is asking for 8.97% as GST which is wrong and illegal.
20. It is pertinent to mention here that the builder is now offering Possession of flat without proper approvals such as Occupation



certificate & Completion Certificate & necessary approvals from HUDA, Fire Station Department, Traffic, Pollution Control. Moreover, the builder is also asking additional money by alleging that the size of the Flat has increased. It is pertinent to mention here that no information and consent was obtained by the respondent from the complainant with regard to the change in size of the flat and therefore the said demand is wrong and illegal and it is not binding upon the present complainant.

21. That even till date, the Respondent has failed to get the necessary Statutory approvals like Completion certificate & Occupation Certificate from the Authorities as per the provisions of RERA. The relevant provision of the RERA for the kind perusal is reproduced herein under:

(q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;

(z) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name



called, issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

22. It is pertinent to mentioned here that the Construction quality of the Flats is also of inferior quality and bereft of amenities promised by the builder. Moreover the respondent has not provided Smart Automation system which could be operated using Voice & Gesture Commands as was advertised by the respondent. Moreover in the sample flat, the respondent fooled the homebuyer by using top class materials like Jaquar toilet sheet & Taps with Premium tiles, the quality of paint is also premium but in the project flat substandard & cheap toilet seats & Taps & Tiles are used.
23. That when the homebuyers of the project went on the project sites to get their genuine demands addressed, the respondent had called muscle men & Bouncers to threaten the innocent homebuyers. The Promoters & the Employees of the respondent also threatened the homebuyers with dire consequences if they raised their voice before media.



24. That despite lapse of about 10 years in total and about 4 years after getting Builder buyer agreement for the new flat executed, the respondent has failed to provide even the basic amenities as promised and as required by the Law on the said flat. It would not be out of point to state here that even after paying the entire amount, the Respondent has failed to provide the complete amenities to the Respondent which has inter alia caused huge loss to the Complainant. Further, the Respondent made the Complainant signed on various documents and blank pages and was told by the Respondent that the same was in lieu of the offer of possession offered to the Complainant. Most importantly, none of the documents which were made signed by the Respondent to the Complainant were provided to the Complainant inspite of various requests.
25. That now the answering respondent has issued an offer of possession letter dated 30.11.2024 without giving any details with regard to the occupation certificate and completion certificate and the answering respondent has wrongly and illegally raised the demand amounting to Rs.16,76,794/- by imposing exorbitant penal interest and other charges which the present complainant is not liable to pay as the answering respondent has failed to comply with the statutory

obligations and the answering respondent has further failed to fulfil its promises.

26. That it was specifically mentioned in the advertisements by the respondent that no extra charges whatsoever shall ever be levied. Such advertisements were express promise and representation by the respondent upon which complainant made had acted. Thus, by way of concept of promissory estoppel, the respondent now cannot make unconscionable changes.
27. That the present complainant has asked to pay excess amount to the respondent in terms of delayed payment and the same is also wrong and illegal. That the respondent is threatening the complainant to cancel the allotment even after taking the entire money from the present complainant which is against the provisions of the RERA Act.
28. That the complainant humbly submits that the answering respondent has even failed to provide the occupation certificate and the completion certificate to the present complainant with regard to the flat of the present complainant. That the complainant is offering possession without taking occupation certificate and completion certificate which is itself wrong and illegal.

29. That the fact that the project could not be completed in the stipulated time was well within the knowledge of the Respondent. It would be most pertinent to state here that the Respondent has failed to deliver possession within the stipulated time as well as have utterly failed to provide the possession whilst providing all he basic amenities as advertised by the respondent. In the said circumstances, the action of the respondent is absolutely fraudulent and unwarranted which has rendered the respondent liable for the statutory compensation.

**C. RELIEF SOUGHT:**

30. In view of the facts mentioned above, the Complainant prays for the following relief:

- 1- That an interim injunction may be granted against the respondent from cancelling the flat of the complainant and its reselling in view of newspaper notice dated 07.02.2025, until this complaint is finally adjudicated.
- 2- That the respondent may kindly be directed to deliver actual physical possession of the flat without any delay.
- 3- That the respondent may kindly be directed to make the payment of delayed interest for not giving actual physical possession of the flat after taking statutory approvals and after completing the project as per the assurance given in the advertisement issued by the respondent.



- 4- That the respondent may kindly be directed to not to raise demand with regard to service tax, maintenance charges for 5 years, car parking charges, PLC, EDC/IDC, fire-fighting charges, electrical connection charges, Power Backup Charges as stated in the brochure issued by the answering respondent.
- 5- That the respondent may kindly be directed to provide smart phone automated smart home having amenities such as lights control, fans control, geyser control, A.C control, WiFi, main gate security system, mood lightning control system, energy monitoring system, temperature control, security camera, music control system, television control system, solar street lights and smart access system as provided in the brochure issued by the respondent.
- 6- That the excess payment demanded vide offer of possession letter, payment reminder letter and newspaper notice may kindly be set aside.
- 7- The Respondent may kindly be directed to give compensation to the Complainant to a tune of Rs. 20,00,000/- to the Complainant along with interest for the delay, causing mental agony, frustration and causing harassment.



- 8- The Respondent may kindly be directed not to raise any excess amount with regard to the Goods and Service Tax i.e. not beyond 1% as GST.
- 9- Any other relief or direction which this Hon'ble authority deems fit in facts and circumstances of the present case.

**D. APPLICATION FILED BY COMPLAINANT ON 30.01.2026:**

31. That the present complaint was filed on 17.03.2025 and first hearing was held on 26.05.2025. During the first hearing, it was intimated to this Hon'ble authority that respondent got published a public notice in Newspaper Dainik Savera dated 07.02.2025 vide which it provided that the flats of listed homebuyer will be cancelled after 15 days if the mentioned amount is paid and that the applicant's name is also mentioned in the above said list of homebuyers and an amount of Rs. 14,78,080/- is shown pending.
32. That an application was moved along with the complaint to restrict the respondent from cancelling the flat of complainant and creating any third party right during the pendency of proceedings to prevent multiplicity of proceedings.
33. That on first hearing i.e 17.03.2025, respondents counsel accepted the notice and considering the request and application of complainant, this Hon'ble authority had observed in its order dated 28.05.2025 that



respondent may not change the status of the flat of complainant in view of the principle of lis pendens and that it would be unlawful to do so.

34. However, despite such order by this Hon'ble authority, the respondents cancelled the flat of the complainant on 01.07.2025 without any prior notice and deposited only Rs. 1,23,389/- in complainants account whereas complainant has paid Rs. 7,12,950/- to respondent in 2014.
35. That such act by respondent is an act of contempt of this Hon'ble authority.
36. That during the second hearing it was informed to this Hon'ble authority that flat has been cancelled despite an order against it and the authority had asked to place on record the document to prove that such act has been committed.

It is therefore, humbly prayed that the documents annexed with this application be placed on record for the consideration by this Authority.

**E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS**

37. During oral arguments ld. counsel for complainants reiterated the submissions as mentioned in the complaint.

**F. ISSUE FOR ADJUDICATION**

38. Whether the complainant is entitled to the reliefs sought or not?

**G. OBSERVATIONS AND DECISION OF AUTHORITY**

39. The Authority has carefully considered the rival contentions advanced by the parties and has perused the material available on record. In light of the factual matrix as delineated hereinabove, it is observed that notice was issued to respondent on 19.03.2025 for appearance before Authority on 26.05.2025. Said notice was received back undelivered. However, on 26.05.2025, Mr. Neeraj Goel appeared for respondent and accepted notice on behalf of respondent and sought time to file reply. His request was accepted and was given opportunity to file reply within 4 weeks from today. Thereafter matter was listed for hearing on 09.10.2025, Mr. Neeraj Goel again sought time to file reply. Again his request was accepted and last opportunity was given to file reply by 30.10.2025. Thereafter file was taken up on 05.02.2026, wherein respondents counsel stated that due to personal difficulty reply was not filed and sought one last opportunity to file reply. Considering the personal difficulty of learned counsel for respondent, one last opportunity was given to respondent to file reply by 12.02.2026 and complainant was also directed to file proper receipts of the paid amount.



40. Authority observes that learned counsel for the respondent initially appeared before Authority on 26.05.2025. Thereafter matter was taken up for hearing twice i.e. on 09.10.2025 and 05.02.2026. Meaning thereby after availing three opportunities i.e. *approximately 284 days respectively from hearing dated 26.05.2025, when respondent appeared for the first time while accepting notice for respondent no.1*, respondent has miserably failed to file the reply till date.
41. The Real Estate (Regulation and Development) Act, 2016, is a beneficial legislation aimed at providing speedy and efficacious redressal to grievances of allottees and other stakeholders. In furtherance of this objective, the proceedings before the Authority have been made summary in nature. Such expeditious adjudication is achievable only if the parties involved, both the complainant and the respondents, submit their pleadings in a time-bound manner.
- In light of the respondent's repeated non-compliance despite availing numerous opportunities and keeping in consideration the summary procedure, the Authority deems it appropriate to strike off the respondent defence and proceed to decide the present complaint as per record available on the file.
42. It is an admitted position on record that the Builder Buyer Agreement was executed between the respondent and the complainant on



13.12.2021 for unit bearing No. 1107, situated in Tower-A7 on the 11<sup>th</sup> Floor, measuring 538.77 sq. ft. (carpet area) along with a balcony area of 100.14 sq. ft., in the respondent's project namely "Smart Homes Karnal". Against the agreed basic sale consideration of ₹17,00,000/-, the complainant has paid a total sum of ₹7,12,950/-.

In support of the said payment, the complainant has annexed the receipt at page no.30 of the complaint. The complainant has also mentioned this payment at Annexure D of his complaint. In the final statement of account annexed with the Offers of Possession dated 14.12.2023 and 30.11.2024 (placed at page no. 63-71 of the complaint book) the respondent also reflects this receipt. The respondent has not controverted this payment received.

43. Furthermore, as per clause 8.1 of the builder buyer agreement, timeline for handing over of possession has not been specified by the respondent/promoter. Said clause of the agreement is reproduced below for ready references:

*"8.1 Schedule for possession of the said Apartment - The Developer agrees and understands that timely delivery of possession of the said Apartment to the Allottee(s) and the common areas to the association of allottees or the competent authority, as the case may be, as provided under Rule 2(1)(t) of Rules, 2017, is the essence of the Agreement.*

*The Developer assures to hand over possession of the said Apartment as per agreed terms and conditions unless there is delay due to "force majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Developer shall be entitled to the extension of time for delivery of possession of the said Apartment.*

*The Allottee agrees and confirms that, in the event it becomes impossible for the Developer to implement the project due to Force Majeure and above mentioned conditions, then this allotment shall stand terminated and the Developer shall refund to the Allottee, the entire amount received by the Developer from the allottee within six Months without any interest or compensation. The Developer shall intimate the allottee about such termination at least thirty days prior to such termination. After refund of the money paid by the Allottee, the Allottee agrees that he/ she shall not have any rights, claims etc. against the Developer and that the Developer shall be released and discharged from all its obligations and liabilities under this Agreement."*

44. **This clause invites the Authority to consider a question of considerable interpretative significance.** Before examining its substantive effect upon the rights of the parties, it is apposite to recall the well-established principle of statutory construction commonly referred to as the *Mischief Rule*. Derived from the formulation in *Heydon's Case (1584)*, this principle has long



guided courts in common law jurisdictions in discerning the true import of legislative enactments. The rule requires the adjudicator to identify the defect or mischief which the statute was intended to suppress and to construe the provision in a manner that advances the remedy contemplated by the legislature. *It is, in essence, an aspect of purposive interpretation, directing the Court to look beyond the literal wording where such wording, if read mechanically, would frustrate the legislative objective or produce results that are unreasonable or unjust.*

45. Properly applied, the mischief rule ensures that statutory provisions are interpreted so as to give effect to the legislative intent and to prevent the re-emergence of the very mischief the law was enacted to eliminate. The clause—“ *The Developer assures to hand over possession of the said Apartment as per agreed terms and conditions unless there is delay due to "force majeure", Court orders, Government policy/ guidelines, decisions affecting the regular development of the real estate project.*”—raises a recurring question under the Real Estate (Regulation and Development) Act, 2016: *Whether such language permits the promoter to indefinitely postpone its obligation, or whether courts and authorities may construe the given language strictly?*

The answer requires an application of the **mischief rule** of statutory interpretation, as set out in *Heydon's Case* (1584), which directs the adjudicator to identify

- (i) the state of the law before the enactment,
- (ii) the mischief that the statute intended to remedy
- (iii) the legislative solution, and
- (iv) the interpretation that would suppress the mischief and advance the remedy.

46. Before RERA, Indian real-estate contracts routinely contained ambiguous possession clauses couched in phrases like “best endeavour,” “subject to approvals,” or “tentatively by,” which enabled promoters to defer delivery for years without consequence. The mischief the legislature sought to address was precisely this asymmetry: homebuyers were advancing substantial sums yet had little control or remedy against such delays. RERA’s architecture—Sections 11 and 18 and the mandatory model agreement—places **time-bound delivery** at the heart of the regulatory framework. Section 11(4)(a) requires the promoter to “responsibly discharge” all obligations as per the terms of the agreement for sale; and Section 18 obligates the promoter to provide interest etc to the allottee for delay.

47. When the possession clause uses the words **“agreed terms and conditions”**, the *literal reading suggests a mere obligation of effort rather than a mandatory timeline*. However, applying the mischief rule, such an interpretation would defeat the very purpose of RERA, which is to eliminate the opacity and uncertainty that characterised the pre-RERA regime. If the clause were construed to mean that the promoter has no strict obligation to deliver **within a specific period of time** but only to *try*, the mischief i.e indefinite postponement would re-enter through the back door. Courts have therefore consistently held that promoters cannot dilute statutory rights through contractual drafting. The Hon’ble Supreme Court in *Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan* (2019) 5 SCC 725 emphasised that one-sided clauses crafted by builders cannot bind the allottee when they defeat consumer protection; similar reasoning appears in *IREO Grace Realtech Pvt. Ltd. v. Abhishek Khanna* (2021) 3 SCC 241, where the Hon’ble Court held that contractual terms must be read in light of the legislative objective of protecting homebuyers.
48. Under this reasoning, the phrase **“agreed terms and conditions”** provides a determinable anchor point, and the addition of **“agreed terms and conditions”** cannot legally convert a mandatory



timeline into an aspirational one. RERA, being a benevolent statute, must be construed purposively; any ambiguity must be resolved in favour of the allottee.

49. In the present case, builder buyer agreement was executed between the parties on 13.12.2021. However, the agreement does not stipulate any specific time frame for handing over possession. Authority observes that in absence of clause with respect to handing over of possession in the builder buyer agreement, it cannot rightly ascertain as to when the possession of said unit was due to be given to the complainant. It is a well settled that where no specific time for performance is stipulated, a reasonable period must be inferred. **The Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr** has observed that period of 3 years is reasonable time for development of a project and handing over of possession. Applying the statutory position above and the ratio laid down by Hon'ble apex court, this Authority holds that a period of three years from the date of execution of builder buyer agreement is reasonable. Accordingly, *deemed due date of possession for handing over of possession is determined as 13.12.2024.*



50. It is further pertinent to mention that multiple complaints have been instituted before this Authority against the same respondent in respect of its project namely "Smart Homes Karnal". In those matters, the respondent has filed written replies categorically stating that the project stands completed and that an Occupation Certificate has been obtained vide Memo No. ZP-1112/JD(SP)/2024/30123-29 dated 20.09.2024. A copy of the said Occupation Certificate has also been independently downloaded from the official website of the Directorate of Town and Country Planning, Haryana. Upon perusal of the said Occupation Certificate, it is evident that the same has been granted in respect of Towers A1, A2, A3, A4, A5, A6, A7 and B1 situated in the Affordable Group Housing Colony admeasuring 5.6534 acres, developed under License No. 02 of 2016 dated 05.03.2016, in the revenue estate of Village Budhakhera, Sector 32-A, District Karnal.
51. It is an undisputed fact on record that the Occupation Certificate in respect of the project was obtained on 20.09.2024. The complainant has admitted that the respondent had issued two offers of possession dated 14.12.2023 and 30.11.2024. However, he averred that both the offers were not valid since both were accompanied with illegal



demands and without occupation certificate. Now, before deciding the demands on merits it is important to decide whether the offers of possession are valid or not?

52. The first offer of possession issued by respondent was on 14.12.2023, which admittedly preceded the grant of the Occupation Certificate by the competent authority. It is well settled that an offer of possession made prior to obtaining a valid Occupation Certificate cannot be regarded as a lawful or valid offer in the eyes of law. **Accordingly, the Offer of Possession dated 14.12.2023, having been issued in the absence of the requisite Occupation Certificate, is held to be premature and bad in law.** On the contrary, the second offer of possession dated 30.11.2024 was after receipt of occupation certificate dated on 20.09.2024. Same is annexed at page no. 63 of the complaint book. This seems to be a valid offer of possession as far as the OC is concerned. However, further facts need to be seen to discover the true nature of this offer.
53. Further, complainant vide application dated 30.01.2026, has placed on record cancellation letter dated 01.07.2025 issued by respondent. Wherein, it is stated that an amount of Rs. 1,23,389/- stands deposited in complainant account as refund after cancelling the unit in question.



With regard to the above stated cancellation letter dated 01.07.2025, Authority observes that present complaint was filed on 17.06.2025 in registry. Case was listed for first hearing on 26.05.2025, whereby following orders were passed:

*“Ld. counsel for complainant stated that respondent is in 4. 5. process to cancel the allotment of the complainant's plots. He requested the Authority to pass interim order restraining respondent not to cancel allotment. In this regards, Authority observes that on complaints filed before the Authority, doctrine of 'Lis Pendens' applies which prohibits the transfer of property during a lawsuit involving that property. It ensures that the outcome of the litigation, concerning the property's ownership or rights, is not affected by transfers made while the case is ongoing. Meaning thereby, the respondent (e.g., the developer) cannot unilaterally change the status of the said plot/flat in question without the approval of the Authority or till the finalization of the matter.”*

In view of above order and taking into consideration the fact that cancellation is done during pendency of the present complaint. Hence same is barred by principle of “lis pendens”. Accordingly, *Authority deems appropriate to set aside the cancellation letter dated 01.07.2025 issued by the respondent. Further,* the illegal amount deducted by respondent out of total paid amount by the complainant also stands quashed.



54. Furthermore, record reveals that respondent has raised various demands along with valid offer of possession dated 30.11.2024 under different heads such as inflated basic sale price as shown Rs. 17,48,854/- as against 17,00,000/- in Builder buyer agreement; illegal amount of Rs. 1,39,908/- as Tax; illegal Demand of Rs. 93,768/- on account of External Electricity Connectivity to Project Charge (23.79 Sq. Feet); Advance meter consumption charge; Security Deposit Charge; Meter Charge; Labour Cess. Moreover, the builder has Illegally charged Exorbitant rate of interest on delayed payment to the Tune of 20 Percent and further added illegal amount of Rs. 4,03,308/- as interest. Further, as per addendum letter dated 04.05.2024, an amount of Rs 46,443/- were added as Maintenance and security deposit interior.

Above stated demands are being adjudicated upon merits as below:

- i. **Inflated basic sale price:-** As per complainant, total sale price for the unit was fixed for ₹ 17,00,000/-, whereas in final statement of accounts annexed with offer of possession dated 30.11.2024, basic sale price mentioned as ₹ 17,48,854/-. As per clause 1 of builder buyer agreement total sale price of the unit in question has been agreed upon between parties at



₹17,00,000/-. Hence, respondent demand of ₹ 17,48,854/- is quashed. ***Respondent is directed to charge the unit in question for total sale consideration of ₹ 17,00,000/- as mentioned in the builder buyer agreement.***

- ii. As per final statement of accounts annexed with offer of possession dated 30.11.2024, respondent had levied 5 charges upon complainant i.e., External Electricity Connectivity to Project Charges; Advance meter consumption charges; Security Deposit Interior; Meter Charge; Labour Cess. For all these services, respondent had cited amount of ₹ 93,768/- . Further respondent has levied delay interest of ₹ 4,03,308/- upon the complainant. On perusal of builder buyer agreement, it is observed that no clause of said agreement imposes the above stated 5 charges upon complainant. Further, the unit cost is inclusive of any GST. Same is reproduced below for ready references:

*“The Allottee(s) shall make the payment as per the payment plan set out in Sechedule A(“Payment Plan”). There shall be no GST applicable on the said unit. There will be no other charges shall be demanded by the allottee” .*

***In view of above, Authority deems appropriate to quash all the above 5 charges demanded by the respondent.***



55. The facts enumerated in the preceding paragraphs establish that even though the second offer of possession in question was made after obtaining an OC, it was conditional upon the payment of illegal demands of money. An “offer of possession” does not become legally valid merely because it encloses a valid Occupancy Certificate (OC), if the offer is coupled with demands that are not contractually/statutorily due. In **Utpal Trehan v. DLF Home Developers Ltd., Civil Appeal No. 4690 of 2022** (Supreme Court, judgment dated 11 July 2022), the builder relied on its “offer for possession” letter to argue that delay-compensation should stop from that date. The Supreme Court rejected that argument because the possession was offered only upon payment per a statement of account that contained illegal demands.

The Court records that the “offer” required remittance “as per statement of accounts” and an undertaking, and that the consumer for a had found the underlying demand/statement illegal; therefore, the offer itself was not a valid offer for possession.

Most importantly, the Hon’ble Supreme Court expressly concludes (while dealing with the builder’s “offer stops liability” argument) that “in this case, we have already held that there was no valid offer for possession”.

A similar approach appears in Capt. **Rajinder Singh Sidhu & Anr. v. M/s Bestech India Pvt. Ltd. & Anr. (23 Oct 2024)**, where the adjudicating forum notes a “conditional offer of possession” and allegations of maintenance and other demands contrary to the Buyer’s Agreement.

This supports the broader proposition: a possession offer that departs from the BBA by adding unauthorized monetary conditions is legally vulnerable as a genuine offer of possession.

Hence, the Authority holds that the even the second offer of possession was not legally valid.

56. In view of the above, Authority is of the considered view that complainant is well within his rights to claim delay interest from the respondent for the amount paid by him and thus deems fit to allow interest for delay in handing over of possession from the deemed date of possession i.e. 13.12.2024 upto the date on which fresh offer of possession will be given to the complainant in accordance with the directions issued in this order. 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;*

Such interest shall be calculated at the rate prescribed in 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)*

*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".*

57. 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 date, i.e. 05.03.2026 is 8.80 %. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.80 %.

58. Since, relief of possession along with delay interest has already been allowed in this order to the complainant. Taking into consideration, the fact that respondent had already refunded an amount of ₹1,23,389/- on 01.07.2025 out of total paid amount of ₹ 7,12,950/- along with cancellation letter. For maintaining the parity between parties, it is appropriate to adjust the already paid amount of ₹1,23,389/- from the total paid amount of ₹7,12,950/. For the purpose of calculating the interest accrued on account of delay in handing over of possession, Authority deems appropriate to calculate interest on total paid amount of ₹7,12,950/- till the date on which refund of ₹1,23,389/- was received by the complainant i.e. on 01.07.2025 @ 10.80%. Said interest is ₹42,402/-. As already stated above that partial amount of ₹1,23,389/- had already been refunded to the complainant, now the delay interest is calculated on the remaining balance amount of ₹5,89,561/- (₹ 7,12,950 - ₹ 1,23,389/-). The delay interest on the remaining balance amount is calculated from the period 01.07.2025 (date of refund of balance amount) till the date of order i.e. 05.03.2026 which comes out to ₹43,088/-. Accordingly, complainant is now,

entitled to delay interest of ₹ 85,490/- (₹42,402/- + ₹43,088/-). Above stated calculation is given below in tabular manner:

Sr. No.	Principal Amount	Date of payment(10.11.2021) or deemed date of possession (13.12.2024)whichever ever is later	Amount refunded on /Interest Accrued till 01.07.2025
1.	7,12,950/-	13.12.2024	₹42,402/-
2.	<b>5,89,561/-</b> (7,12,950-1,23,389) <b>Remaining balance</b>	From 02.07.2025	₹43,088/- Till date of order i.e. 05.03.2026
Total	₹ 85,490/- (₹42,402/- + ₹43,088/-)		
Monthly interest	₹5,408/-		

Lastly, respondent is ordered to make a fresh offer of possession for the same unit to the complainant along with fresh statement of account within 7 days of this order.

59. With regard to relief sought at para no.30(7), the complainant is seeking compensation of ₹20,00,000/- for mental harassment, torture, agony, pain suffering and humiliations. 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. Therefore, the complainant is free to approach the Adjudicating Officer for seeking the relief of litigation expenses/ compensation.

Lastly, with regard to the demand raised on account of GST, Authority is of the view that deemed date of possession in this case is 30.11.2024 and charges/taxes applicable on said date are payable by complainant if the Builder buyer agreement says so.

#### **I. DIRECTIONS OF THE AUTHORITY**

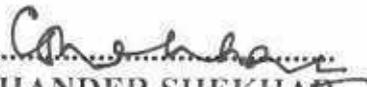
60. Hence, the Authority passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

- (i) Respondent is directed to issue fresh offer possession of unit in question within 7 days of passing of this order along with fresh statement of account issued in compliance of directions passed in this order.



- (ii) Complainant will remain liable to pay balance consideration amount to the respondent within 90 days of the fresh offer of possession strictly as per terms of builder buyer agreement.

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

  
.....  
CHANDER SHEKHAR  
[MEMBER]

  
.....  
DR. GEETA RATHEE SINGH  
[MEMBER]

  
.....  
NADIM AKHTAR  
[MEMBER]

  
.....  
PARNEET S SACHDEV  
[CHAIRMAN]