

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,  
GURUGRAM****Date of Decision:****12.12.2025**

NAME OF THE BUILDER		Y.B. Builders Pvt. Ltd. & Niami Developers Pvt. Ltd.
S. No.	Case No.	Case title
1.	CR/2368/2025	Sunita Roy Chowdhury and Mr. Sanjoy Roy Chowdhury Vs. Y.B. Builders Pvt. Ltd. & Niami Developers Pvt. Ltd.
2.	CR/2382/2025	Vijay Kumar Kadam Vs. Y.B. Builders Pvt. Ltd. & Niami Developers Pvt. Ltd.
<b>CORAM:</b>		
Shri Arun Kumar		Chairman
<b>APPEARANCE:</b>		
Sh. Vijesh Vohra		Advocate for the complainants
Sh. Sushil Yadav		Advocate for the respondents

**ORDER**

1. The above complaints have been filed by the complainants/allottee 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 under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, “Nimai Place” at sector 114, Gurgaon, Haryana” being developed by the respondents/promoter i.e., YB Builders Private Limited & Nimai Developers Private Limited. The issue involved in both the cases pertains to failure on the part of the promoter to deliver timely possession of the units in question and the complainants are seeking possession and delay possession charges at prescribed rate of interest and other related reliefs.
3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Sr. No	Cr no. /Case Title, and Date of filing of complaint	Unit No.	Date of execution of agreement for sale/allotment letter	Due date of possession, offer of possession	Total Consideration /	Total Amount paid by the complainants (In Rs.)
1.	CR/2368/2025  <b>Date of filing: 16.05.2025</b>  <b>Reply received on 14.11.2025</b>	329,3 <sup>rd</sup> floor (page 48 of complaint)  314 sq. ft.	19.12.2018 (page 44 of complaint)	31.12.2019 [as per possession clause]  Occupation certificate: 10.02.2023 (as per DTCP website)  Offer of possession: 01.04.2023	Rs. 25,37,609/- (as per BBA on page 48 of complaint)	Rs.22,58,540/- (as per payment receipts on page 38-39 of complaint)
2.	CR/2382/2025  <b>Date of filing: 16.05.2025</b>	056, ground floor	07.01.2019	31.12.2019	Rs. 28,95,360/-	Rs.24,41,032/-

<b>Reply received on 14.11.2025</b>	(page 26 of complaint)  474 sq. ft.	(page 23 of complaint )	[as per possession clause]  Occupation certificate: 10.02.2023 (as per DTCP website)  Offer of possession: 01.04.2023	(as per BBA on page 26 of complaint)	(as per demand letter dated 04.12.2023 on page 41 of complaint)
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**Relief sought:**
**1. Possession along with interest.**
**2. Direct the respondents to execute the conveyance deed in favour of the complainants.**

4. The aforesaid complaints were filed against the promoter on account of violation of the agreement to sell against allotment of units in the upcoming project of the respondents/builder and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges and other reliefs.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondents in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder. Out of the above-mentioned cases, the particulars of case CR/2368/2025 titled as Sunita Roy Chowdhury and Mr. Sanjoy Roy Chowdhury Vs. Y.B. Builders Pvt. Ltd. & Miami Developers Pvt. Ltd. are being taken into consideration as lead case for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

**A. Unit and project related details**

6. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

**CR/2368/2025 titled as Sunita Roy Chowdhury and Mr. Sanjoy Roy Chowdhury Vs. Y.B. Builders Pvt. Ltd. & Niami Developers Pvt. Ltd.**

S.N.	Particulars	Details
1	Name and location of the project	"Nimai Place" at sector 114, Gurgaon, Haryana
2	Nature of the project	Commercial
3	Project area	3.012 acres
4	DTCP license no.	126 of 2012 dated 20.12.2012 valid upto 19.12.2028
5	RERA Registered/ not registered	Registered vide no. 07 of 2018 dated 13.07.2018 valid upto 31.03.2023
6	Unit no.	329,3 <sup>rd</sup> floor (page 48 of complaint)
7	Unit area admeasuring	314 sq. ft.
8	Date of builder buyer agreement	19.12.2018 (page 44 of complaint)
9	Possession Clause	<b>7.1</b> <i>The promoter assures to hand over the possession of the commercial unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place on <b>the last quarter of 2019</b></i>

10	Due date of possession	31.12.2019 [as per possession clause]
11	Basic sale consideration	Rs. 25,37,609/- (as per BBA on page 48 of complaint)
12	Amount paid by the complainant	Rs.22,58,540/- (as per payment receipts on page 38-39 of complaint)
13	Occupation certificate	10.02.2023 (as per DTCP website)
14	Offer of possession	01.04.2023 [Page 57 of reply]

### B. Facts of the complaint.

7. The complainants have made the following submissions in the complaint:

- I. That the Complainants, Mrs. Sunita Roy Chowdhury and Mr. Sanjoy Roy Chowdhury, are the rightful purchasers of a unit in the project "Nimai Place", developed by the respondents, Y.B. Builders Pvt. Ltd.. The Complainants duly entered into a Builder Buyer Agreement (BBA) dated 19.12.2018 with the respondents for the purchase of a unit in the said project.
- II. That the respondents, Y.B. Builders Pvt. Ltd., is a real estate developer registered under the laws of India and is the promoter and developer of the project "Nimai Place", situated at Gurugram, Haryana. That initially the Complainants had booked a flat in the residential project of the respondents namely "Nimai Greens" on 05.08.2013, and a total sum of Rs. 15,66,677/- was paid by the Complainants to the Respondent during the financial year 2013-2014.

- III. That subsequently, due to unavoidable family circumstances, the Complainants informed the Respondent that they would not be able to proceed with the originally booked residential unit. Instead of refunding the amount, the Respondent proposed to transfer/shift the booking amount towards the purchase of a commercial shop in its other project namely "Nimai Place. That pursuant to the said proposal, the Respondent issued a Credit Note in favour of the Complainants for the amount of Rs. 15,66,677/-, being the amount already paid towards the earlier booking.
- IV. That thereafter the Complainants made an additional payment of Rs. 6,91,863/-, thereby taking the total amount paid by the Complainants to Rs. 22,58,540/-. That the total sale consideration for the newly booked unit in "Nimai Place", as per the executed Builder Buyer Agreement, is Rs. 25,37,609/-, and therefore only an amount of Rs. 2,79,069/- remains payable by the Complainants.
- V. That the Complainants entered into the Builder Buyer Agreement dated 19.12.2018 with the Respondent for a specific unit bearing Unit No. 329 in the project "Nimai Place", after being assured through the Respondent's marketing representations and commitments regarding timely possession and the provision of promised amenities and facilities. That the Complainants did not request or agree to any car parking space as part of the said agreement. However, the Respondent has arbitrarily demanded approximately Rs. 4,00,000/- towards parking charges, which do not form part of the original agreement.
- VI. Further, the Respondent has also raised demands towards Fire Fighting Charges (FFC) and External Electrification Charges (EEC) which were neither disclosed in the Builder Buyer Agreement nor communicated during the sale process. These charges are unjustified, arbitrary and liable to be withdrawn.

- VII. That as per the terms of the Builder Buyer Agreement, possession of the said unit was to be handed over in the 3rd Quarter of 2019. However, more than five years have elapsed and the Respondent has failed to hand over possession of the unit. Furthermore, the construction of the project remains incomplete, and essential facilities such as escalators, lifts and other common amenities are either incomplete or non-functional, thereby rendering the property unfit for occupation and commercial use.
- VIII. That the Respondent had further represented that it would facilitate leasing of the commercial shop on behalf of the Complainants and had appointed a leasing and management agency namely Lighthouse Retail & Mall Management Company for the said purpose. Various communications were exchanged between the Complainants and the Respondent in this regard and the Complainants had already provided their written consent in the year 2019 for leasing of the unit. However, despite repeated follow-ups and reminders, the Respondent has failed to honour the said commitment and has not taken any effective steps to lease the commercial unit.
- IX. That the Respondent issued a Demand Letter dated 01.04.2023, wherein it has claimed late payment charges at an exorbitant interest rate of 16% per annum, despite the fact that the possession of the unit has been delayed by more than five years. The said demand is unjustified and illegal, particularly when the Complainants are themselves entitled to compensation for delay under the provisions of the Real Estate (Regulation and Development) Act, 2016.
- X. That the present complaint is being filed before the Haryana Real Estate Regulatory Authority as the project is situated in Gurugram, Haryana, and therefore the Hon'ble Authority has the territorial jurisdiction to entertain and adjudicate the present complaint.

XI. That the Complainants have duly paid the requisite statutory fees for filing the present complaint in accordance with the applicable rules and regulations framed under the Real Estate (Regulation and Development) Act, 2016.

**C. Relief sought by the complainants:**

8. The complainants have sought following relief(s).

- i. The respondents be directed to handover physical possession of the unit along with interest.
- ii. Direct the respondents to execute the conveyance deed in favour of the complainants.

9. On the date of hearing, the authority explained to the respondents/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

**D. Reply by the respondents.**

10. The respondents have contested the complaint on the following grounds.

- I. That the Respondent had conceived and planned a commercial project under the name and style "Nimai Place", comprising various facilities and amenities on land situated in Sector 114, Gurugram, Haryana, which is the subject matter of the present complaint.

II. It is submitted that the Respondent obtained License No. 33 of 2011 dated 16.04.2011 from the Department of Town and Country Planning Haryana under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and the rules framed thereunder for the development of the said commercial project in a planned and

phased manner after obtaining necessary sanctions, permissions and approvals from the competent authorities.

- III. That initially the Complainant had booked a unit in the Respondent's project namely "Nimai Greens." However, subsequently the Respondent proposed to transfer the funds of the initially booked unit into the present project "Nimai Place", as the Complainant had expressed financial constraints and inability to continue with the earlier booking.
- IV. Thereafter, the Complainant, after conducting his own due diligence, applied for booking of a commercial shop in the said project and duly accepted the indicative terms and conditions of allotment, including the cost of the shop, super area/size of the unit, and the timeline for possession. It is submitted that the Complainant has paid only an amount of Rs. 21,93,924/- towards the said unit.
- V. That the Complainant was allotted Unit No. 329 situated on the Third Floor, having an area of 314 sq. ft. A Builder Buyer Agreement dated 20.12.2018 was executed between the Complainant and the Respondent. As per the said Agreement, the total sale consideration of the unit is Rs. 30,67,072/-, out of which the Complainant has paid only Rs. 21,93,924/-.
- VI. It is pertinent to mention that the payment plan for the said unit was a Time Linked Payment Plan, and the Complainant has deliberately and intentionally failed to make payments in accordance with the agreed schedule.

- VII. That from October 2018 onwards, the Complainant failed to make payment of the instalments due towards the said unit. The Respondent issued several demand notices and requested the Complainant to clear the instalments; however, the Complainant failed to make timely payments.
- VIII. That the Complainant has consistently failed to make payments as per the agreed instalment schedule. At every stage, the Respondent had to repeatedly remind the Complainant to clear the outstanding dues. Despite several reminders, the Complainant failed to make timely payment for the unit. Consequently, the Respondent was constrained to issue multiple demand letters and payment reminders. That despite repeated efforts made by the Respondent to communicate with the Complainant and request payment of the outstanding instalments, the Complainant failed to respond and ignored the communications sent by the Respondent. The DTCP granted the Occupation Certificate vide letter dated 10.02.2023. It is submitted that a considerable amount of time was taken by the competent authority in issuing the said certificate, which was beyond the control of the Respondent.
- IX. That after obtaining the Occupation Certificate from the competent **authority**, the Respondent issued an Offer of Possession letter dated 01.04.2023 to the Complainant. However, the Complainant has failed to take possession of the unit and has also failed to clear the outstanding dues and instalments payable towards the unit.

- X. That at the time of booking the unit, the Complainant had undertaken to make timely payments as per the demands raised by the Respondent. However, the Complainant failed to honour the said commitment. Due to the delay in payments by the Complainant, the Respondent had to arrange funds and obtain financial assistance in order to complete the project.
- XI. That the progress of the project was significantly affected due to the outbreak of COVID-19, which constituted a Force Majeure event. Consequently, the Respondent faced difficulties in obtaining timely approvals, permissions and NOCs from the relevant authorities within the Department of Town and Country Planning Haryana. That the construction industry is highly labour-intensive and the shortage of labour and construction materials during the Covid-19 pandemic severely impacted the progress of the project.
- XII. The Tribunal granted approximately 20 months and 28 days for projects situated in the NCR region, considering the devastating impact of both waves of the pandemic. That the Respondent has already incurred substantial expenditure for the construction and development of the project, including the tower in which the Complainant's unit is situated, and the said unit is now ready for occupation.
- XIII. That in the present case, possession of the unit has already been offered by the Respondent. Therefore, the Complainant is liable to pay the outstanding dues along with interest on delayed payments.

- XIV. It is further submitted that the Complainant has also failed to take timely possession of the unit and is therefore liable to pay holding charges. That the Complainant has failed to fulfil his obligations as an allottee as envisaged under the Real Estate (Regulation and Development) Act, 2016.
- XV. That under Section 19(10) of the Act, every allottee is required to take possession of the apartment, plot or building within **two** months from the date of issuance of the Occupancy Certificate. However, the Complainant has failed to clear the outstanding dues and take physical possession of the unit or complete the formalities required for execution of conveyance and transfer of rights in the said unit.
11. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

**E. Jurisdiction of the authority**

12. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

13. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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**

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

#### **Section 11**

.....

(4) The promoter shall-

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

#### **Section 34-Functions of the Authority:**

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

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

### **F. Findings on the relief sought by the complainants.**

- F.I The respondents be directed to handover physical possession of the unit along with interest.
- F.II Direct the respondents to execute the conveyance deed in favour of the complainants.

16. In the present complaint, the complainants intend to continue with the project and is seeking delay possession charges as provided under the proviso to 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, —*

*.....*  
*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."*

17. Clause 7.1 of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

**7.1. Possession**

*The promoter assures to hand over the possession of the commercial unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place on **the last quarter of 2019.***

18. **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.*

19. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
20. 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., 12.12.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
21. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

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

*Explanation. —For the purpose of this clause—*

- (i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

22. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% by the respondents /promoter which is the same as is being granted to the complainants in case of delayed possession charges.

23. Upon consideration of the documents available on record and the submissions made by both the parties, this Authority is satisfied that the respondents are in contravention of Section 11(4)(a) of the Real Estate (Regulation and Development) Act, 2016 by failing to hand over possession of the subject unit within the stipulated period as agreed between the parties. By virtue of Clause 7.1 of the Apartment Buyer's Agreement dated 19.12.2018 executed between the parties, the possession of the subject apartment was to be delivered on or before 31.12.2019. However, the respondents failed to hand over possession by the said committed date, thereby violating the terms of the Agreement as well as the statutory obligation cast upon it under the Act. That the respondents obtained the Occupancy Certificate from the competent authority on 10.02.2023 and thereafter offered possession of the said unit to the Complainant vide Offer of Possession Letter dated 01.04.2023.

24. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondents are established. As such, the complainant is entitled to delay possession charges at rate of the prescribed interest @10.85% p.a. w.e.f. 31.12.2019 till the date of offer of possession plus two months i.e., 01.06.2023. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per rule 16(2) of the rules.

F.II Direct the respondents to execute the conveyance deed in favour of the complainants.

25. The respondents are directed to hand over possession of the subject unit to the Complainants/Allottee, upon payment of outstanding dues, if any. The respondents shall further ensure execution of the conveyance deed in respect of the allotted unit in favour of the Complainants, in terms of Section 17(1) of the Real Estate (Regulation and Development) Act, 2016, subject to payment of applicable stamp duty and registration charges.

**G. Directions of the Authority**

26. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondents are directed to pay interest to the complainants against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 31.12.2019 till the date of offer of possession plus two months i.e., 01.06.2023 as per Proviso to section 18(1) of the Act read with Rules 15 of the Rules, *ibid*.
- ii. The arrears of such interest accrued from 31.12.2019 till the date of order by the authority shall be paid by the respondents/promoter to the complainants within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10<sup>th</sup> of the subsequent month as per rule 16(2) of the rules.
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The rate of interest chargeable from the allottee by the promoter, in case of default shall be

charged at the prescribed rate i.e., 10.85% by the respondents/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

- iv. The respondents are directed to hand over possession of the subject unit within 30 days from this order to the Complainants/Allottee, upon payment of outstanding dues, if any. The respondents shall further ensure execution of the conveyance deed in respect of the allotted unit in favour of the Complainants within 60 days from the date of this order, in terms of Section 17(1) of the Real Estate (Regulation and Development) Act, 2016, subject to payment of applicable stamp duty and registration charges.
- v. The respondents/promoter shall not charge anything from the complainants which is not the part of the buyer's agreement.
27. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
28. The complaint and application, if any, stands disposed of.
29. File be consigned to registry.



**(Arun Kumar)**

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 12.12.2025