

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

**Complaint no.:** 2258 of 2025  
**Date of complaint:** 08.05.2025  
**Date of Decision:** 09.01.2026

Neeraj Kumar

**R/o:** Bhim Nagar, Ward No.1, Sohna, Gurugram

**Complainant**

Versus

M/s Neo Developers Pvt. Ltd.

**Regd. Office at:** - 32B, Pusa Road, Karol Bagh, New  
Delhi-110005

**Respondent**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Shri Dinesh Munday (Advocate)

Shri Venket Rao

Complainant  
Respondent

**ORDER**

1. This complaint has been filed by the complainant/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 thereunder or to the allottee as per the agreement for sale executed *inter se*.

**A. Project and unit related details.**

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), 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	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	RERA Registered or not	Registered Vide no. 109 of 2017 dated 24.08.2017 valid upto 22.02.2024
5.	DTCP License no.	102 of 2008 dated 15.05.2008 valid upto 14.05.2025
6.	Unit no.	Priority no. 11, 3 <sup>rd</sup> floor (page no. 38 of complaint)
7.	Unit area admeasuring	303 sq. ft. (page no. 38 of complaint)
8.	MOU	18.09.2019 (page no. 24 of complaint)
9.	Buyer's agreement	18.09.2019 (page no. 35 of complaint)
10.	Possession clause	5.2 The company shall complete the construction of the said building/complex within which the said space is located within 36 month from the date of execution of this Agreement or from the start of construction, whichever is later and apply for grant of completion/occupation certificate.
11.	Assured return Clause	4. <i>The Company shall pay a penalty of Rs.30,272/- per month on the said unit. On the total amount received with effect from 01.07.2020 Subject to TDS, cess or any</i>

		<i>other levy which is due and payable by the Allottee and which shall be adjusted in Total Sale Consideration, the balance total sale consideration which shall be payable by the Allottee to the Company in accordance with the Payment Schedule annexed as Annexure-I. The Penalty shall be paid to the Allottee from the end of effective date II until the <b>offer of possession</b> letter date, on prorata basis.</i> <i>(page no. 26 of complaint)</i>
12.	Due date	18.03.2023 Calculated from the date of agreement including grace period of 6 month due to covid-19)
13.	Basic sale consideration	Rs. 19,69,269/- (as per payment plan at page 53 of complaint)
14.	Amount paid by the complainant	Rs. 11,61,318/-
15.	Occupation certificate	14.08.2024
16.	Offer of possession	27.02.2025 (page no. 67 of complaint)

### B. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -
- I. That the complainant buys a unit in the said project, then respondent shall deliver the possession of unit within 36 months from the date of MOU dated 18.09.2019. The respondent also assured the complainant that it has already secured all the necessary sanctions and approvals from the appropriate and concerned government authorities for the development and completion of said project on time with the promised quality and specification.
  - II. That relying upon those assurances and promises to be true the complainant booked a unit tentative super area of 303 sq. ft. at the basic sale price of Rs. 5128/- per sq. ft. for a total sale consideration of Rs,

- 15,53,784/- excluding applicable charges to be developed by the respondent. The complainant had purchased the said unit on the assured return scheme for which an MOU was executed between the parties on 18.09.2019 according to which the respondent/builder was bound to pay an assured return of initial 36 months. It was also agreed between the parties that after completion of initial 36 months, the builder/respondent is liable to pay lease rent as per article 3 of the MOU dated 18.09.2019.
- III. That at the time of signing of MOU, the complainant paid an amount of Rs. 11,61,318/- through various cheques as agreed by the respondent as mentioned in article 4 of the MOU dated 18.09.2019. In this regard, the respondent/builder also execute a buyer agreement dated 18.09.2019 in favour of the complainant in respect of aforesaid unit.
- IV. That after repeated request of the complainant, the respondent/builder has executed the builder buyer agreement in regard of above said unit/space and delayed the matter on one pretext or the other.
- V. That on dated 31.05.2023 second BBA executed between the parties and the respondent builder had allotted the size of unit/space bearing unit no. 11 from 3rd floor to unit no. 11 on second floor vide agreement registration no. 2833 dated 31.05.2023 which is duly registered in the records of Sub-registrar Kadipur, Gurugram.
- VI. That the complainant had booked the above said unit/ space on 04.04.2019 and the possession of the said unit was to be delivered to the complainant within 36 months from the date of execution of MOU i.e. upto 17.09.2022 but till date possession of the said unit/space has not been handed over to the complainant.

- VII. That the complainant visited the site during the course of construction and noticed and found that the construction work is delayed beyond the possession date and since then they have been trying to communicate to the respondent by visiting its office and through various modes including but not limited to telephonic conversations, emails conversation and personal approach etc.
- VIII. That the complainant made the payment of Rs. 11,61,318/- against the genuine demands raised by the respondent as per MOU dated 18.09.2019 and as on the date of filing of the present complaint, the complainant has paid an amount of Rs. 11,61,318/- including EDC, IDC. The said payment is clearly mentioned in the MOU dated 18.09.2019.
- IX. That till today the complainant had not received any satisfactory reply from the respondent regarding the completion of the project as well as lease rent amount and to compensate the complainant by paying delayed possession charges on account of delayed possession as well as to pay assured return. The complainant have been suffering a lot of mental, physical and financial agony and harassment.
- X. That while executing the MOU in favour of the complainant, respondent assured and promised the complainant that the possession of the unit/shop shall be given to the complainant within 36 months. In terms of Article 3 of the MOU, the respondent was under legal obligation to deliver the unit/shop to the complainant by September, 2022.
- XI. The respondent was also under legal obligation to pay the assured return, lease rent and penalty charges as mentioned in the Article 4 & 8 of the MOU and it was assured by the respondent that it would pay the penalty charges and lease rent to the complainant at the time of possession.

- XII. That the respondent has sent an email dated 27.02.2025 directing the complainant to deposit an amount of Rs. 17,34,101/- subjected to "Demand Notice payment and offer for possession" which is totally wrong, illegal and the same is not binding on the complainant because as per buyer agreement as well as MOU dated 18.09.2019 total sale consideration of the said unit/space was Rs. 15,53,784/- and till the date of execution of MOU dated 18.09.2019, the complainant had deposited an amount of Rs. 11,61,318/- and as per MOU an amount of Rs. 3,92,466/- was due towards the complainant and as per article no. 4 of MOU, the penalty charges which will be paid by the respondent shall be adjusted in remaining sale consideration amount, hence the complainant is not liable to pay the amount mentioned in aforesaid demand notice dated 27.02.2025 to the respondent.
- XIII. That after receiving the said demand letter, complainant raised objections but the officials of respondent instead of reducing the said amount regarding the aforesaid unit/space sent a another letter "Final Reminder" dated 14.04.2025 and directing the complainant to deposit an amount of Rs. 17,50,631/- in which they imposed holding charges at the rate of Rs. 10/- per sq. ft. per month on the complainant.
- XIV. That thereafter the complainant visited the office of respondent and requesting the officials of respondent to checked the account statement of complainant as the complainant had made almost payment with regard to his unit/space, but the officials of respondent were adamant and forced the complainant to deposit the amount mentioned in demand letter dated 14.04.2025. Thereafter the complainant requested the official's

respondent to re-calculate the actual amount which the complainant is liable to deposit but they did not give any satisfactory reply.

- XV. That on 22.04.2025, the complainant sent an email to the respondent and requested them again to provide correct amount demand letter as discussed with the officials of respondent. Then the officials of respondent sent a demand letter through email dated 22.04.2025 in which the respondent demanding an amount of Rs.10,46,411/-.
- XVI. That thereafter on 22.04.2025, the complainant again sent an email to the respondent and raises objections regarding the demand letter sent by the respondent vide email dated 22.04.2025 as the complainant had already paid the EDC& IDC charges to the respondent.
- XVII. That by committing delay in delivering the possession of the aforesaid unit/shop, the respondent has violated the terms and conditions of the MOU promises made at the time of booking of said space/unit and the complainant have faced mental and financial agony and pain, hence, the respondent is liable to pay delay possession charge to the complainant, as defined and provided by the proviso of Section 18 of the RERA Act, 2016.

**C. Relief sought by the complainant: -**

4. The complainant has sought following relief(s):
- (i) Direct the respondent to handover the vacant possession of the booked unit as per MOU dated 18.09.2019.
  - (ii) Direct the respondent to pay the lease rent as mentioned in the MOU after expiry of initial 36 months from the date of MOU dated 18.09.2019.
  - (iii) Direct the respondent to pay the delayed possession charges till offer of possession of the said unit along with prevailing interest as per the provisions of the Rera Act.

- (iv) To declare the demand letter issued by the respondent through email dated 22.04.2025 is null and void and the same is not binding on the complainant.
  - (v) Direct the respondent to execute conveyance deed of the booked unit in favor of the complainant.
  - (vi) To compensate the complainant as per provisions of RERA Act.
  - (vii) Direct the respondent to pay Rs. 50,000/- as litigation expenses.
5. On the date of hearing, the authority explained to the respondent/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 respondent**

6. The respondent has contested the complaint on the following grounds:
- I. That the complainant with an intention of earning a lease rental and assured return invested in the instant project and submitted a booking application form, requesting the respondent to allot a unit/space, admeasuring 303 sq. ft. super area in the project "NEO Square".
  - II. Considering the request of the complainant, the respondent allotted a unit bearing priority no. 11, on 3<sup>rd</sup> floor, admeasuring 303 sq. ft. super area.
  - III. Thereafter, the respondent made multiple requests to the complainant to visit the office of the respondent for executing the builder buyer's agreement and other agreements/documents with respect to lease rental, assured return etc. However, the complainant failed to come forward to do the needful.
  - IV. That after much persuasion by the respondent, the complainant came forward and executed the builder buyer's agreement on 18.09.2019.
  - V. Since, the complainant has invested in the project to earn assured returns and lease rental by getting the unit leased out through respondent, therefore

a memorandum of understanding dated 18.09.2019 was executed between the parties, recording the lease grant rights in favour of respondent, terms and conditions of payment of assured return and lease rental, fit-out charges etc.

- VI. That since the building was completed way before the grant of the occupation certificate, therefore, prospective lessees were approaching the respondent for taking the units in the project. That the respondent was anticipating that the occupation certificate would be granted by the competent authority shortly, and leased out the subject unit and *vide* letter dated 01.10.2020 requested the complainant to forward to complete the formalities with respect to leasing of the unit.
- VII. That the occupation certificate of the project was granted by the competent authority on 14.08.2024.
- VIII. Thereafter, the respondent sent an offer of possession letter wherein the respondent requested the complainant to clear the outstanding amounts payable against the unit. Despite receiving the offer of possession the complainant failed to come forward to complete the formalities of possession and payment of outstanding dues. Therefore, the respondent was constrained to issue reminder dated 27.02.2025, 25.03.2025 and 14.04.2025 requesting the complainant to do the needful.
- IX. That the respondent *vide* letters dated 26.03.2025 requested the complainant to make payment of the fit-out charges as per the agreed terms and conditions of the MOU.
- X. That the complainant, despite receiving the aforementioned demands/reminders, failed to come forward to fulfil his obligations under the MOU and BBA.

- XI. That the complainant has booked the subject unit solely for leasing purposes and not for self-use, hence handing over of the physical possession was never the intent between the parties. That the intent was abundantly clarified and agreed to by the complainant at the stage of booking itself and further at the time of execution of the BBA. In fact, the complainant has executed an MOU which records the terms and conditions pertaining to leasing rights and lease rental, etc. Also, because the complainant themselves have entrusted the respondent with the leasing rights of the units.
- XII. That there is no additional demand nor any price escalation, and the unit sold to the complainant is of the same price. That the demand of the development charges as have been sought in the demand letter from the complainant, which is Rs. 600 per sq. ft., the details of which are mentioned in Para 15 herein below, equitably distributed amongst the unit. That under clause 11 of the BBA, the complainant has agreed to pay all applicable charges, including development charges, as may be levied at the time of execution of the BBA or at any future date.
- XIII. That as per the agreed terms and conditions of the MOU the complainant is liable to pay the fitout charges as per the leasing requirement. At the very outset, it is humbly submitted that there is absolutely no escalation in the sale consideration of the Unit, Fitout demands are as per the MOU and as per the Leasing requirements. There is no change or increase, or escalation in the sale consideration of the unit. That the sale consideration of the unit remains frozen at the rate which was agreed at the time of allotment of the unit and as agreed to under the BBA. That the demand for fitout charges is not part of the sale consideration of the unit, rather, an essential requirement for leasing of the unit in terms of the MOU.

- XIV. That the complainant has invested in the project with the sole intent of earning an assured return and lease rental by leasing the unit through the respondent. Since, the understanding between the parties was very clear that the unit was to be leased out to a prospective lessee and the parties being aware of the fact that whenever any shop/office/space/unit is leased out to a lessee, there may arise a situation where the lessee wants some infrastructural changes or any other change which involves the expenses on part of the complainant, inside the shop/office/space/unit, that the cost of such changes/modification inside the shop/office/space/unit has to be borne by the owner. Therefore, the complainant, under clause 7(d) of the MOU, has categorically agreed that in case the lessee desires any infrastructural changes in the unit, then the complainant shall be bound to pay for the expenses to be incurred for making the unit ready as per the requirement of the lessee. That in case the complainant fails to pay the same, then the respondent shall pay the expenses on behalf of the complainant and deduct the same from the lease rental payable to the complainant, along with a monthly interest of 2 per cent.
- XV. That the complainant himself has agreed to pay the fit-out charges to be incurred on account of leasing the unit to any lessee. That the respondent, in consonance with the agreed terms of the MOU, has sent demand/reminder letter, wherein the respondent has intimated the complainant about the details of the lease and requested the complainant to pay the fit-out charges to the company, which is facilitating the leasing process in the project. That the said payment is not for the utilisation of the respondent, rather will be utilised to make ready the space in terms of the requirements of the lessee for their business operation.

- XVI. That the obligation of the payment of fitout charges is nothing but an understanding between the parties that whenever the units get leased out, any infrastructural modifications/requirements such as installation of separate gas pipelines, sewage connection or any other changes for which an expense is required to cover such modification/requirement, such expenses shall be paid by the complainant as per clause 7 (d) of the MOU. The expenses on account of such fit-outs are agreed to be paid by the complainant, as the same are recoverable from the owner of the unit, if not, then from the lease rental itself. Thus, as per clause 7 (d) of the MOU, the respondent has the right to recover the expenses incurred for getting the unit ready for leasing.
- XVII. That it is evident that while the complainant wishes to pick and choose clauses for enforcement under the MOU, i.e., while he relies on claiming the assured returns basis the clauses of the MOU, he completely wishes to deny the obligations of payments of fit-out charges etc, which are also part of the MOU. Therefore, the complainant cannot be permitted to partly rely on the mou which are beneficial to him and denies the other.
- XVIII. That the units were sold as a bare shell, and they were to be made fit out ready at the time of possession. It is clear that the sale consideration for the units did not include any fit-out expenses therefore, the fit-out expenses were meant to be recovered as on the date of leasing rather than as on the date of booking. Much time has lapsed from the date of booking to the date of leasing, and the cost and also the preferences of the lessees have also undergone changes, and accordingly, the fit-out ready leases are as per the current market preferences and prices.

- XIX. That the respondent has always been transparent about the fit-out charges. That as and when the buyers have approached the respondent, clarifications and details with respect to fit-out charges were provided to such buyers.
- XX. That payment of the fit-out charges is very crucial for leasing out the subject unit, as it is required for making the subject unit ready for occupation of the lessee to run its business. Without getting the subject unit ready as per the requirements of the lessee, it is not possible for any lessee to take the subject unit on lease. Furthermore, the subject unit is leased out along with other units as part of a larger space, therefore, the unwillingness of the complainant towards not making payment of the fit-out charges will jeopardise the interests of all the other buyers of the project, whose leasing of the units will be hampered due to the defaults of the complainant. Therefore, as per the agreed terms and conditions of the MOU, and considering the rights of other buyers in the project and the overall fate of the project, the complainant is bound to pay the fit-out charges.
- XXI. That the respondent after completing the construction and meeting the requirements of the grant of the occupation certificate, has applied for the same before the competent authority on 24.02.2020 and reapplied on 29.06.2021. The building was completed and all the requirement for the grant of the occupation certificates were fulfilled and the respondent anticipated the grant of the occupation certificate in the year 2020 itself, and since the prospective lessee were showing interest in taking the units in the project on lease, therefore, the respondent anticipating that the occupation certificate will be granted by the competent authority, entered into a 1st lease with the lessee.

- XXII. However, due to certain reasons beyond the control of the respondent, the occupation certificate was not issued in the year 2020 or 2021. Subsequently, the COVID-19 pandemic emerged, significantly affecting the real estate sector. That after the situation returned to normal, the respondent once again applied for the issuance of the occupation certificate before the competent authority on 23.01.2023 and the same was issued on 14.08.2024.
- XXIII. That after the first lease of the units, intimations were sent to the complainant to come forward for completion of the formalities with respect to 1st lease with the Lessees. However, the complainant failed to come forward and to do the needful.
- XXIV. Since it was agreed in the MOU that the buyer shall be paid the assured return till the 1st lease, subject to MOU However, due to change in law and the introduction of the BUDS Act, the issue with respect to Assured Return was not clear and accordingly, a Writ petition before the Hon'ble High Court of Punjab and Haryana was filed and the same is pending adjudicating.
- XXV. Without prejudice to submissions made herein above, it is noted herein that in the MOU, there was never any precondition of obtaining the occupation certificate for the execution of the lease. The respondent had executed the first lease deed upon completion of the building and applied for the occupation certificate. That 1st lease was executed as the building was completed and the fit-out works as per the requirement of the lessees, were to be started, however, the same could not be started as the buyers, after receiving the intimation with respect to completion of the formalities with respect to 1st lease of the units, failed to do the needful.
- XXVI. That it is an established practice in the Real Estate Sector, wherein the promoter executes a lease deed with a lessee for a future project even before

the completion of the said project. In fact, there is no bar by any statutory provision on entering into such an understanding. There have been numerous such instances where renowned developers have adopted such a practice.

- XXVII. That the complainant under clause 9 (a) of the MOU has authorized the respondent to finalize the terms and conditions of the lease with any prospective lessee and agreed not to raise any objections with respect to terms and conditions of the Lease, the amount of lease, usage or to who the unit is leased out.
- XXVIII. That under clause 9 (b) of the MOU, it is categorically agreed between the complainant and the respondent that upon the finalization of terms and conditions with respect to leasing of the unit between the respondent and the prospective lessee, the complainant, if required, shall execute a separate lease deed with the prospective lessee. That in case, the complainant fails to come forward to execute the lease deed within 7 working days from the date of receipt of the communication in regard to the same, then the respondent shall be entitled and authorized to execute the lease deed on behalf of the complainant. That under the said clause the complainant authorized the respondent to execute the lease deed or agreement with the third party with prior intimation to the complainant.
- XXIX. That the complainant is seeking payment of assured return on the basis of MOU, and on the other hand the complainant denies their responsibility of payment of outstanding dues under the MOU. It is pertinent to mention herein that the complainant cannot partly rely on the MOU and claim their right and shrug off their responsibilities under the MOU. That if the complainant are claiming his right under the MOU, then he should also be

ready to fulfil his responsibility under the MOU. It is most humbly submitted that if the Ld. Authority considers the right of the complainant in seeking the payment of assured return, then the right of the respondent with respect to leasing of the unit, and payment of fit-out charges under the MOU should also be allowed.

- XXX. That the complainant, vide the present complaint, is seeking payment of assured return. However, it is most humbly submitted that the issue of assured return does not fall within the ambit of the RERA Act, 2016. That
- XXXI. That without prejudice to the foregoing, it is submitted that subsequent to the coming into force of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act) on 21.02.2019, any scheme involving Assured Return/Penalty akin to an unregulated deposit scheme has been rendered impermissible in law. Therefore, even otherwise, the continuation of such assured return/penalty arrangements post-enactment would be contrary to statutory provisions and against public policy, and the respondent is legally barred from honouring such commitments beyond the said date.
- XXXII. That a Writ Petition was filed before the Hon'ble High Court of Punjab & Haryana in the matter of "Vatika Ltd. Vs Union of India & Anr."- CWP-26740-2022, on similar grounds of directions passed for payment of Assured Return being completely contrary to the BUDS Act. That the Hon'ble High Court after hearing the initial arguments vide order dated 22.11.2022 was pleased to pass direction with respect to not taking coercive steps in criminal cases registered against the petitioner therein, seeking recovery of deposits till the next date of hearing.
- XXXIII. Further, a Civil Writ Petition bearing no. 16896/2023 titled as "NEO Developers Pvt Ltd vs Union of India and Another" has been filed by the

Respondent on similar grounds as in the supra case before the Hon'ble Punjab and Haryana High Court, and the same has been connected by the Hon'ble High Court with the Civil Writ Petition - 26740-2022 and is pending adjudication and now coming up for hearing on 25.08.2025. Without prejudice to the rights of the respondent and submissions made herein, it is noted herein that the payment of assured return shall be subject to the outcome of the decision of the Hon'ble High Court of Punjab and Haryana.

- XXXIV. That in the present complaint, the complainant has failed to annexe any demand letters wherein maintenance charges are demanded by the respondent. That though the respondent has not raised any demand of maintenance charges. However, it is pertinent to mention herein that as per clauses 10, 11 and 12 the complainant is contractually obligated to pay all lawful charges pertaining to the maintenance, upkeep, repairs, security, insurance, stamp, registration, development charges and allied services in relation to the said unit and the project as a whole. The said clauses expressly provide that the complainant shall be liable to make timely payment of maintenance charges and other related dues.
- XXXV. That time was essence in respect to the complainant's obligation to make the respective payment. and, as per the agreement so signed and acknowledged the complainant was bound to make the outstanding payment as and when demanded by the respondent.
- XXXVI. That construction/ completion of the project got hampered due to force majeure situations beyond the control of the respondent. That some of the force majeure situations faced by the respondent which affected or led to stoppage of the work for a brief amount of time is being reiterated herein for the sake of clarity:

- **NGT ORDERS/ CONSTRUCTION BANS:** That the development and implementation of the said Project have been hindered on account of several orders/directions passed by various authorities/forums/courts.
- **Demonetization of Rs. 500 and Rs. 1000 currency notes:** The Real Estate Industry is dependent on un-skilled/semi-skilled unregulated seasonal casual labour for all its development activities. The respondent awards its contracts to contractors who further hire daily labour depending on their need. On 8th November 2016, the Government of India demonetized the currency notes of Rs. 500 and Rs. 1000 with immediate effect resulting into an unprecedented chaos which cannot be wished away by putting blame on respondent. Suddenly there was crunch of funds for the material and labour. The labour preferred to return to their native villages. The whole scenario slowly moved towards normalcy but development was delayed by at least 4-5 months.
- **GST Implications:** It is pertinent to apprise to the Ld. Authority that the developmental work of the said project was slightly decelerated due to the reasons beyond the control of the respondent due to the impact of Good and Services Act, 2017 [hereinafter referred to as 'GST'] which came into force after the effect of demonetization in last quarter of 2016 which stretches its adverse effect in various industrial, construction, business area even in 2019. The respondent also had to undergo huge obstacle due to effect of demonetization and implementation of the GST.
- **Jat Reservation Agitation:** The Jat Reservation agitation was a series of protests in February 2016 by Jat people of North India, especially those in the state of Haryana, which paralyzed the State including the city of Gurgaon wherein the project of respondent is situated for 8-10

days. The protesters sought inclusion of their caste in the Other Backward Class (OBC) category, which would make them eligible for affirmative action benefits. Besides Haryana, the protests also spread to neighbouring states, such as Uttar Pradesh, Rajasthan, and also the National Capital Region. The instant stoppage of work due to the fear of riots and remobilisation of work workforce took considerable time of 3-4 months.

- **Cascading Impact of Default of the Buyer's on Project Progress:** **That** due to persistent and simultaneous defaults by several buyers including the respondent faced severe financial constraints, which significantly hampered the timely progress of construction of the project. The financial model of the project was structured on the timely inflow of funds from buyers, which was disrupted due to non-payment of dues. This led to a shortage of working capital, affecting procurement, labour payments.

XXXVII. That from the facts indicated above, it is comprehensively established that a period of 582 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of Orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above. Thus, the respondent has been prevented by circumstances beyond its power and control from undertaking the implementation of the project during the time period indicated above and therefore the same is not to be taken into reckoning while computing the completion period as has been provided in the agreement. In a similar case where such orders were brought before the Hon'ble Authority in the Complaint No. 3890 of 2021 titled "Shuchi Sur and Anr vs. M/S Venetian LDF

Projects LLP" decided on 17.05.2022, the Hon'ble Authority was pleased to allow the grace period and hence, the benefit of the above affected 582 days need to be rightly given to the respondent builder.

XXXVIII. That the construction/ completion work of the project was hampered due to force majeure situations beyond the control of the respondent. That the respondent despite facing the force majeure situations beyond its control, has completed the construction/development of the project, obtained the occupation certificate and offered possession of the subject unit in terms with MOU.

XXXIX. That the entire case of the complainant is nothing but a web of lies and the false and frivolous allegations made against the respondent are nothing but an afterthought and a concocted story. The complainant has vehemently failed to showcase how a prima facie case has been built in his favour. Therefore, in view of the aforementioned submissions, the present complaint is neither maintainable nor the complainant is entitled to any relief sought in the present complaint. Thus, the present complaint is liable to be dismissed with heavy cost.

7. All other averments made in the complaint were denied in toto.
8. 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**

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

#### **E.I Territorial jurisdiction**

10. 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**

11. 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.*

12. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking assured return.

### **F. Findings on the objections raised by the respondent:**

**F.I Objection regarding maintainability of complaint on account of complainant being the investors.**

13. The respondent took a stand that the complainant is the investors and not the consumers and therefore, they are not entitled to protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. However, it is pertinent to note that any aggrieved person can file a complaint against the promoter if he contravenes or violates any provisions of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the MoU, it is revealed that the complainant are the buyers, and have paid a considerable amount to the respondent-promoter towards purchase of unit in its project. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

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

14. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the MoU executed between the parties, it is crystal clear that the complainant are the allottees as the subject unit was allotted to them by the promoter vide said MoU dated 18.09.2019. The concept of investor is not defined or referred to in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of an "investor". Thus, the contention of the promoter that the allottees being the investors are not entitled to protection of this Act also stands rejected.

#### **G. Findings on the relief sought by the complainant.**

- i. Direct the respondent to handover the vacant possession of the booked unit as per MOU dated 18.09.2019.
- ii. Direct the respondent to pay the lease rent as mentioned in the MOU after expiry of initial 36 months from the date of MOU dated 18.09.2019.
- iii. Direct the respondent to pay the delayed possession charges till offer of possession of the said unit along with prevailing interest as per the provisions of the Rera Act.

### **Assured Return**

15. In the instant complaint, the complainant duly booked a unit located on the 3<sup>rd</sup> Floor admeasuring 303 sq. ft. in the respondent's project namely, Neo Square situated at Sector-109, Gurugram. The Memorandum of Understanding (MOU) was executed between the parties dated 18.09.2019 and on the same date the builder buyer agreement was also got executed between the parties.
16. The complainant in the present complaint is seeking relief w.r.t payment of penalty charges as per the terms of the MoU dated 18.09.2019. The complainant has submitted that as per clause 4 of the said MoU, it was agreed that the respondent would pay monthly penalty charges of Rs.30,272/- with effect from 01.07.2020 until the offer of possession of the said unit. The complainant is seeking unpaid penalty charges on monthly basis as per the MoU dated 18.09.2019 at the rates mentioned therein. It is pleaded by the complainant that the respondent has not complied with the terms and conditions of the said MoU.
17. The respondent refused to pay the same by taking a plea that the same is not payable in view of enactment of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the Act of 2019), citing earlier

decision of the authority (Brhimjeet & Anr. Vs. M/s Landmark Apartments Pvt. Ltd., complaint no 141 of 2018) whereby relief of assured return was declined by the authority. The authority has rejected the aforesaid objections raised by the respondent in **CR/8001/2022 titled as Gaurav Kaushik and anr. Vs. Vatika Ltd.** wherein the authority has held that when payment of assured returns is part and parcel of builder buyer's agreement (maybe there is a clause in that document or by way of addendum, memorandum of understanding or terms and conditions of the allotment of a unit), then the builder is liable to pay that amount as agreed upon and the Act of 2019 does not create a bar for payment of assured returns even after coming into operation as the payments made in this regard are protected as per section 2(4)(l)(iii) of the Act of 2019. Thus, the plea advanced by the respondent is not sustainable in view of the aforesaid reasoning and case cited above.

18. Further respondent raised an objection that MOU dated 18.09.2019 cannot be treated as agreement for sale. The authority is of the view that the MoU dated 18.09.2019 can be considered as an agreement for sale interpreting the definition of the agreement for "agreement for sale" under section 2(c) of the Act and broadly by taking into consideration the objects of the Act. Therefore, the promoter and allottee would be bound by the obligations contained in the memorandum of understandings and the promoter shall be responsible for all obligations, responsibilities, and functions to the allottee as per the agreement for sale executed inter-se them under section 11(4)(a) of the Act. An agreement defines the rights and liabilities of both the parties i.e., promoter and the allottee and marks the start of new contractual relationship between them. This contractual relationship gives

rise to future agreements and transactions between them. The "agreement for sale" after coming into force of this Act (i.e., Act of 2016) shall be in the prescribed form as per rules but this Act of 2016 does not rewrite the "agreement" entered between promoter and allottee prior to coming into force of the Act as held by the Hon'ble Bombay High Court in case *Neelkamal Realtors Suburban Private Limited and Anr. v/s Union of India & Ors.*, (Writ Petition No. 2737 of 2017) decided on 06.12.2017.

19. The money was taken by the builder as deposit in advance against allotment of immovable property and its possession was to be offered within a certain period. However, in view of taking sale consideration by way of advance, the builder promised certain amount by way of assured returns for a certain period. So, on his failure to fulfil that commitment, the allottee has a right to approach the authority for redressal of his grievances by way of filing a complaint.
20. The Authority has been regulating the advances received under the project and its various other aspects. So, the amount paid by the complainant to the builder is a regulated deposit accepted by the latter from the former against the immovable property to be transferred to the allottee later on. If the project in which the advance has been received by the developer from an allottee is an ongoing project as per section 3(1) of the Act of 2016 then, the same would fall within the jurisdiction of the authority for giving the desired relief to the complainant besides initiating penal proceedings. The promoter is liable to pay that amount as agreed upon. Moreover, an agreement/MoU defines the builder-buyer relationship. So, it can be said that the agreement for assured returns between the promoter and allottee

arises out of the same relationship and is marked by the said memorandum of understanding.

21. In the present complaint, the assured return was payable as per clause 4 of the MoU dated 18.09.2019, which is reproduced below for the ready reference:

*4. The Company shall pay a penalty of Rs.30,272/- per month on the said unit. On the total amount received with effect from 01.07.2020 Subject to TDS, cess or any other levy which is due and payable by the Allottee and which shall be adjusted in Total Sale Consideration, the balance total sale consideration which shall be payable by the Allottee to the Company in accordance with the Payment Schedule annexed as Annexure- 1. The Penalty shall be paid to the Allottee from the end of effective date II until the offer of possession letter date, on prorata basis.*

22. Thus, the penalty charges/assured return was payable @Rs.30,272/- per month w.e.f. 01.07.2020, till the offer of possession of the said unit.

23. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 18.09.2019, it was obligation on part of the respondent to pay the penalty charges/assured return. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 18.09.2019. Further, it is to be noted that on 14.08.2024 the occupation certificate for the unit was received and thereafter the possession of the unit was offered on 27.02.2025. Hence, the respondent/promoter is liable to pay assured return/penalty charges to the complainant at the agreed rate i.e., @Rs.30,272/- per month from the date i.e., 01.07.2020 till the offer of possession of the said unit i.e., 27.02.2025.

#### **Delay Possession Charges:**

24. In the present complaint, the complainant intends to continue with the project and are 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."*

25. In the present matter, MOU was executed between the parties on 18.09.2019 and the buyer's agreement was also executed on 18.09.2019. As per the clause 5 of the buyer's agreement dated 18.09.2019 the possession of the subject unit was to be handed over within a period of 36 months from the date of execution of agreement or from the start of construction whichever is later. The relevant clause is reproduced hereunder for ready reference:

*3. The company shall complete the construction of the said building/complex within which the said space is located within 36 month from the date of execution of this Agreement or from the start of construction, whichever is later and apply for grant of completion/occupation certificate.*

26. The date of start of construction is not available on records so, the due date is calculated from the date of execution of agreement. The buyer's agreement was executed on 18.09.2019. Hence, the due date of possession comes out to be 18.09.2022. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 18.03.2023.

27. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking 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.

28. 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.
29. 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., 09.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
30. The definition of term 'interest' as defined under section 2(za) 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 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;"*

31. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainant in case of delay possession charges.
32. On consideration of documents available on record and submissions made by the complainant and the respondent, the authority is satisfied that the respondent is in contravention of the provisions of the Act. The possession of the subject unit was to be delivered by 18.03.2023. The occupation certificate for the said project was received on 14.08.2024 and subsequently unit was offered for possession on 27.02.2025. The authority is of the considered view that there is delay on the part of the respondent/promoter to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and to hand over the possession within the stipulated period. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.
33. The authority observes that now, the proposition before the Authority whether an allottee who is getting/entitled for assured return even after expiry of due date of possession, is entitled to both the assured return as well as delayed possession charges?
34. To answer the above proposition, it is worthwhile to consider that the assured return/penalty charges is payable to the allottee on account of a provision in the MoU at the rate at which assured return has been committed by the promoter i.e., Rs.30,272/- per month. If we compare this assured return with delayed possession charges payable under proviso to

section 18 (1) of the Real Estate (Regulation and Development) Act, 2016, the assured return is much better. By way of assured return, the promoter has assured the allottee that he will be entitled for this specific amount from 01.07.2020 till the offer of possession of the said unit i.e., 27.02.2025. Accordingly, the interest of the allottee is protected even after the due date of possession is over. The purpose of delay possession charges after due date of possession is served on payment of assured return after due date of possession as the same is to safeguard the interest of the allottee as his money is continued to be used by the promoter even after the promised due date and in return, he is to be paid either the assured return or delay possession charges whichever is higher.

35. Accordingly, the authority decides that in cases where assured return is reasonable and comparable with the delay possession charges under Section 18 and assured return is payable even after due date of possession, the allottee shall be entitled to assured return or delayed possession charges, whichever is higher without prejudice to any other remedy including compensation.
36. In the present complaint, as per clause 4 of the MoU dated 18.09.2019, the amount on account of assured return was payable from 01.07.2020 till the offer of possession of the said unit i.e., 27.02.2025. Hence, the respondent/promoter is liable to pay assured return to the complainant at the agreed rate i.e., @Rs.30,272/- per month from the date i.e., 01.07.2020 till the offer of possession of the said unit i.e., 27.02.2025 after deducting the amount, if any already paid on account of assured return to the complainant.

**iv. To declare the demand letter issued by the respondent through email dated 22.04.2025 is null and void and the same is not binding on the complainant.**

37. The complainant stated that the respondent vide letter dated 22.04.2025 raised various illegal demands. The authority after perusal of the said demand notice has observed that the respondent has raised demands on account of fitout charges, labour cess, development charges and FTTH charges.

38. The respondent submitted that as per the Clause 8 of the MoU executed between the parties the complainant has agreed to pay fit out charges. The said clause is reiterated below for ready reference:

(d)

*That the Allottee(s) further agrees and understands that in case the tenant desires any infrastructural changes in form of separate sewage arrangement or the gas pipeline or any other change which involves expense on the part of allottee(s), then in that event the same shall be paid by the Allottee, strictly within the period of 15 days from the day of written notification by the company on the registered e-mail address of the allottee(s). In case the allottee(s) fails to come forward to tender the payment as demanded by the Company then in that event the company shall bear the same from its own pocket and deduct the same from the rental payable to the allottee(s) with monthly interest of 2%. The allottee(s) shall not register any protest towards the deductions from the rental. The rent shall be paid to the allottee(s) in the above mentioned arrangement defined at clause 7(b) after the expense incurred by the company along with the monthly interest of 2% is recovered by the company from the rent received.*

39. Upon understanding of the said clause, it is clear that Clause 8(d) of the MoU do mention about the allottee being responsible for certain additional charges, such as when a tenant requires like a separate sewage arrangement, gas pipeline, or other infrastructural changes. However, the clause has been worded in very broad terms and does not define any extent for determining such charges. This creates a grey area. Also, the complainant should have taken note of this clause while executing the

MoU, as it reflects an understanding between the parties that such additional charges may arise. The clause also refers to expenses for infrastructural changes which may fall within the scope of fit out charges. However, the respondent cannot use the clause terms to impose demands in an excessive manner.

40. Therefore, if the respondent seeks to levy fit out charges it must first intimate the allottee about the request of the tenant or lessee for such work and the necessity of carrying it out. Without such prior intimation, the allottee cannot be made liable for additional financial burden after the work has already been executed. Further, the respondent is required to provide full justification of the charges by submitting a proper breakup of costs, supporting invoices and other relevant documents, and preferably a certification from a competent architect or engineer confirming both the necessity of the works and the reasonableness of the expenditure. Only when such proof, along with evidence of intimation to the allottee about the lessee's request and the necessity of the work, is furnished, can the fit-out charges be considered as falling within the scope of Clause 8(d) of the MoU. In the absence of such substantiation, the demand raised in its present form cannot be imposed on the complainant.

- **Labour cess**

41. Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.09.1996. It is levied and collected on the cost of construction incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt

with by the authority in complaint bearing no.962 of 2019 titled as "**Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited**" wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the demand of labour cess raised upon the complainant is completely arbitrary and the complainant cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

• **Development charges**

42. The undertaking to pay the development charges was comprehensively set out in the buyer agreement in clause 11. The said clause of the agreement is reproduced hereunder: -

**"11.**

***That the Allottee agrees to pay all taxes, charges, Levies, cesses, applicable as on dated under any name or category heading and or levied in future on the land and or the said complex and/or the said space at all times, these would be including but not limited to GST. Development charges, Stamp Duties, Registration Charges, Electrical Energy Charges, EDC Cess, IDC Cess, BOW Cess, Registration Fee, Administrative Charges, Property Tax, Fire Fighting Tax and the like. These shall be paid on demand and in case of delay, these shall be payable with interest by the Allottee"***

43. In light of the aforementioned facts, the Authority is of the view that the said demand for development charges is valid since these charges are payable to various departments for obtaining service connections from the concerned departments including security deposit for sanction and release of such connections in the name of the allottee and are payable by the allottee. Hence, the respondent is justified in charging the said

amount. In case instead of paying individually for the unit if the builder has paid composite payment in respect of the development charges, then the promoter will be entitled to recover the actual charges paid to the concerned department from the allottee on pro-rata basis i.e. depending upon the area of the unit allotted to the complainant viz- à-viz the total area of the particular project. The complainant will also be entitled to get proof of all such payment to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid head.

- **FTTH Charges**

44. The respondent apprised the Authority that the respondent is liable to raise the said demands under clause 11 as had been agreed between the parties. The Authority takes a note that Clause 11 as already elaborated above does not mention about the FTTH charges being payable by the complainant. Hence, the respondent shall only raise demand as per the agreed terms of the agreement and MoU executed between the parties.

- **Holding charges**

45. The term holding charges or also synonymously referred to as non-occupancy charges become payable or applicable to be paid if the possession has been offered by the builder to the owner/allottee and physical possession of the unit not taken over by allottee, but the flat/unit is lying vacant even when it is in a ready-to-move condition. Therefore, it can be inferred that holding charges is something which an allottee has to pay for his own unit for which he has already paid the consideration just because he has not physically occupied or moved in the said unit.

46. In the case of *Varun Gupta vs Emaar MGF Land Limited, Complaint Case no. 4031 of 2019 decided on 12.08.2021*, the Hon'ble Authority had already decided that the respondent is not entitled to claim holding charges from the complainant at any point of time even after being part of the builder buyer agreement as per law settled by the *Hon'ble Supreme Court in Civil Appeal nos. 3864-3899/2020 decided on 14.12.2020*. The relevant part of same is reiterated as under-

*"134. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed."*

47. Therefore, in view of the above the respondent is directed not to levy any holding charges upon the complainant.

v. **Direct the respondent to execute conveyance deed of the booked unit in favor of the complainant.**

48. As per Section 11(4)(f) and Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.

49. Since the respondent promoter has obtained occupation certificate on 14.08.2024. The respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.

vi. **To compensate the complainant as per provisions of RERA Act.**

**vii. Direct the respondent to pay Rs. 50,000/- as litigation expenses.**

50. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of compensation.

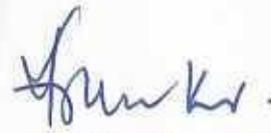
**H. Directions of the authority**

51. 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 respondent/promoter is directed to pay assured return/penalty charges to the complainant at the agreed rate i.e., @ Rs.30,272/- per month from the date i.e., 01.07.2020 till the offer of possession of the said unit i.e., 27.02.2025 as per the memorandum of understanding dated 18.09.2019, after deducting the amount, if any already paid on account of assured return to the complainant.
- ii. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any,

- from the complainant and failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
- iii. The respondent/promoter is directed to get the conveyance deed of the allotted apartment executed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.
- iv. The respondent/promoter shall not charge anything from the complainant which is not the part of the BBA/MoU.
- v. The complainant is directed to pay outstanding dues, if any, after adjustment of payable assured return.
52. Complaint stands disposed of.
53. File be consigned to registry.

**Dated: 09.01.2026**



**(Arun Kumar)**  
Chairman  
Haryana Real Estate  
Regulatory Authority,  
Gurugram