

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

Complaint no. : 2788 of 2024
Date of complaint : 18.06.2024
Date of order : 10.10.2025

Ranchit and Geeta Khosla ,
Both R/o:- Utq-214, DLF the Ultima
Near Bestech Grand Spa Sector-81,
Sikanerpur Badha

Complainant

Versus

Sai Aaina Farms Pvt Ltd.
Regd. Office at: 302-A, 3rd floor
Global foyer building, Golf Course Road
Sector- 43, Gurugram- 122001

Respondent

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Gaurav Bhardwaj (Advocate)

Complainant

EX-PARTE ORDER

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

A. Project and unit related details

2. 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:

S. No.	Particulars	Details
1.	Name of the project	Mahira Homes, Sector-68, Gurugram, Haryana ,122018
2.	Project area	3.73 acres area
3.	Nature of project	Affordable housing complex
4.	DTPC License no.	106 of 2017 dated 22.12.2017
5.	RERA registered/not registered	Registered vide no. 21 of 2018 vide memo. No. -2018/1403/299 dated 02.02.2018
6.	Building plan	1202/AD(RA)/2018/6769 dated 23.02.2018
7.	Environment clearance	05.06.2018
8.	Allotment Letter	02.05.2018 [Page 24 of complaint]
9.	Agreement to sale	10.07.2018 [Page 24 of complaint]
10.	Unit no.	C-508, 5 th floor tower- C [Page 29 of complaint]
11.	Unit area admeasuring	543.72 sq. ft. [Page 23 of complaint]
12.	Possession clause	<i>1(IV) of the Affordable Housing Policy, 2013</i> <i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of</i>

		<i>environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
13.	Due date of possession	05.06.2022[4 years form the date of environmental clearance]
14.	Total sale consideration	Rs.22,24,887/- [As per SOA on Page 50 of complaint]
15.	Amount paid by the complainant	Rs.20,83,049/- [As per SOA on Page 50 of complaint]
16.	Occupation certificate	NA
17.	Offer of possession	NA

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint:
- That the complainants, Mrs. Geeta Khosla & Mr. Ranchit Khosla are respectable and law abiding citizen currently residing at flat no. utq-214 DLF The Ultima Near Bestech Grand Spa Sector-81 Sikanderpur Badha (109) Gurugram, Haryana-122004.
 - That the complainants are an allottee within the meaning of Section 2(d) of The Real Estate (Regulation and Development) Act, 2016. The respondent company, M/s Sai Aaina Farms Private Limited is a limited company incorporated under the companies act, 1956 and is inter alia engaged in the business of providing real estate services.

- iii. That somewhere around 2018, the respondent advertised about the launch of its new project namely "Mahira Homes" (hereinafter called as 'the project' in question) located in Sector-68, Village Badshahpur, Gurugram, Haryana. The said respondent painted a rosy picture of the project in their advertisement making tall claims and representing that the project is its new affordable group housing project launched under the Haryana Affordable Housing Policy, 2013 notified by the Government of Haryana and that the project would be built on 10 acres of sprawling landscapes, strategically located at a walking distance from IFFCO Chowk and Rajiv Chowk on NH8 offering affordable space to live in. It was further represented that the project will be a paradise in itself where all the apartments would be designed making sure that the presence of nature be felt by its residents along with thoughtfully placed amenities.
- iv. That believing the representations of the respondent company and on the lookout for a cost-effective abode for themselves, the complainant chose to book a residential flat in the said project and accordingly, vide application bearing no. 3188, applied for booking of a residential flat by paying an amount of Rs. 1,12,000/- vide instrument no. 011616 dated 22.02.2018(5% of total cost of unit) towards said booking.
- v. That thereafter, a draw of lots was conducted by the respondent on 27.04.2018 and a successful allotment was drawn in favour of the complainants. Accordingly, vide allotment letter dated 02.05.2018, the respondent allotted the residential unit bearing no. C-508, located on 5 floor, in tower- 'C', admeasuring carpet area of 543.72 sq. ft. and

balcony area of 100.00 sq. ft. for a total sale consideration of Rs. 22,24,887/-.

- vi. That thereafter, an apartment buyer's agreement was executed between the complainant and the respondent on 24.07.2018 for the unit in question wherein under clause 8.1, the respondent undertook to complete construction and handover possession within 4 years from the date of approval of building plans or grant of environment clearance, whichever later, i.e. by 05.06.2022.
- vii. Accordingly, the complainant kept making payment in accordance with the demands raised by the respondent in the hope of getting possession of their dream home. Later, somewhere around mid-2021, the complainant visited the project site only to be taken aback by the construction status. to the utter shock of the complainant, the project was still in inception stage despite lapse of more than 3 years from the date of booking and the project launch and despite taking almost full payment. In fact, there were no labourers at the project site and the project was in a complete standstill position. This left the complainant devastated and feeling aggrieved, the complainant approached the respondent thereby highlighting their misconduct and seeking a concrete response over the construction status, but the respondent assured that the delay was on account of covid-19 and construction would resume soon and would be delivered as per schedule. The respondent assured that the construction would be carried forward in full swing and project will be complete soon. Having deposited a substantial amount with the respondent, the complainant had no option but to believe the representations made by the former.

- viii. That thereafter, when no intimation of possession was received by the complainant, he visited the project site but was stunned to see that snail paced construction work was going on at the project site within only 5-6 labourers present and the project was nowhere nearing completion. To this, the complainant took a serious note and approached the representatives of the respondent and explained that the respondent is not taking good efforts to develop the project and there is every apprehension he will not be able to handover the physical possession in the near future as the scheduled date had already elapsed. To this, the respondent replied that they will complete the project and will hand over the unit soon and any failure to pay would result in cancellation of unit.
- ix. That the respondent kept raising payment demands and the complainant kept making payment in accordance with said demands only in the hope of getting possession of their unit and fearing cancellation of his unit as threatened by the respondent time and again. Till date, the complainant has made a payment of Rs. 20,83,049/- as against the total sale consideration of Rs. 22,24,887/-, in accordance with the demands raised by the respondent.
- x. That thereafter, to the utter shock of the complainant, he came to know that the respondent company had been blacklisted by dtcp and license bearing no. 106 of 2017 for the project in question was cancelled on 09.05.2022 by DTCP. On conducting further inquiry, the complainants caught hold of the blacklisting order dated 17.05.2022 whereby dtcp blacklisted the respondent company and also filed an FIR on account of committing grave violations of the licenses issued to them and for

fabricating bank guarantees and forging the signatures of bank officials in the guarantees produced before DTCP. This left the complainant aghast and accordingly, he rushed to the respondent's office in order to inquire about all this but the latter's representatives simply assured that there was some departmental misunderstanding which would be sorted out soon.

- xi. That thereafter, the Authority, also took suo-moto cognizance of the abovesaid blacklisting, cancellation of license and misconduct by the respondent company and filed suo-moto complaint against project mahira homes-68 bearing complaint no. RERA-GRG-2651-2022 dated 28.05.2022.
- xii. That thereafter, a series of applications seeking review of the blacklisting order was filed by the respondent company before dtcp which were heard and vide order dated 21.07.2022, the DTCP withdrew the blacklisting order but subject to conditions like submission of construction status, not demanding any money against the construction status, amongst others. this was followed by order dated 26.08.2022 whereby dtcp allowed the respondent to raise payment demands subject to submission of detailed construction status and strictly deliver projects as per the timeline laid down by the Affordable Housing Policy, 2013. Later, vide order dated 05.09.2022, in an appeal filed by the Respondent to the license cancellation, the Principal Secretary to the Government, Department of Town and Country Planning, set aside the cancellation order by DTCP and directed the respondent to complete construction within 6 months

from order date i.e. 5.09.2022 and handover the possession but the respondent miserably failed to adhere to said order.

- xiii. That from may'2022 till date, the construction at the project site has been completely stalled and the suo moto complaint filed against the respondent is being regularly heard by the Authority apart from the proceedings going on before the DTCP as well. The complainant along with several other buyers of the project in question has been running from pillar to post in order to seek justice for themselves and to pursue the respondent to resume construction and complete the project in question. The buyers also gave several representations before the STP in order to ensure monitoring of the construction at the project site but it seems the respondent is completely unaffected as till date, the construction is completely stalled.
- xiv. The complainant along with other buyers has been conducting protests, apart from approaching the STP, Gurugram on innumerable occasions in order to seek constant monitoring of the construction at the project site and the STP has also filed their representation several times before the DTCP against the respondent but all in vain as the respondent failed to pay heed to the persistent requests of the buyers as well as the directions of various government departments.
- xv. That since June'2022 till date, the complainant along with other buyers has been indefatigably pursuing the respondent to resume construction and handover possession after completion of the project but to no avail. The plight of the complainant can be highlighted from the fact that 100% payment had been taken from them by 2021 itself

thus defrauding them and wrongfully retaining their hard earned money and life savings.

- xvi. That the delay in handover of possession has caused extreme mental agony as well as financial hardship to the complainant. The hardship of the complainant is highlighted by the fact that full payment has been taken and till date, project is not even midway towards completion. To add to the misery of the complainant, he is being subjected to the hardship of paying rent every month apart from the emi's. had the unit been completed in time, the complainant wouldn't have to bear the burden of monthly rent. Moreover, even if it is presumed that the tower in question is completed in time, the complainant cannot be expected to live in an incomplete project without even basic amenities. Accordingly, by way of the present complaint, the complainant seeks delayed possession charges owing to the delay in handing over possession along with other reliefs.
- xvii. That it is pertinent to mention here that throughout the period from booking till execution of apartment buyer's agreement and even after that, the complainant showed utmost faith in the respondent company despite lapse on latter's part in adhering to their obligations as per said agreement. However, the respondent miserably failed in completing the project as per schedule.
- xviii. That the complainant has been severely exploited at the hands of the respondent. The aforesaid series of events clearly portray the amount of harassment and mental agony the complainant has gone through right from the date of booking till date. Even after a lapse of more than 5 years, the complainant has been left empty handed, under financial

distress as the respondent has failed in offering and handing over possession of the unit booked by the complainant, thereby duping the complainant of his hard earned money and causing him great mental trauma.

C. Relief sought by the complainants: -

4. The complainants have sought following relief(s):

- I. Direct the respondent to resume construction and offer possession of the unit in question after obtaining occupation certificate.
 - II. Direct the respondent to handover a complete unit to the complainant in accordance with the specifications mentioned in the agreement.
 - III. Direct the respondent to pay delayed possession charges to the complainant on the principal amount paid by the complainant, from the due date of possession till the date of actual handing over after receipt of valid occupation certificate and after completing the unit as per the specifications mentioned in the agreement.
 - IV. Direct the respondent to not threaten the complainant for cancellation.
 - V. Direct the respondent to charge maintenance only upon actual handing over of possession.
 - VI. Direct the respondent to not charge any holding charges from the complainant in future.
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

- a) That at the outset, respondent humbly submits that each and every averment and contention, as made in the complaint, unless specifically admitted, be taken to have been categorically denied by respondent and may be read as travesty of facts.
- b) That the complaint filed by the complainant before this authority, besides being misconceived and erroneous, is untenable in the eyes of law.
- c) That further, without prejudice to the aforementioned, even if it was to be assumed though not admitting that the filing of the complaint is not without jurisdiction, even then the claim as raised cannot be said to be maintainable and is liable to be rejected for the reasons as ensuing.
- d) That the reliefs sought by the complainant appears to be on misconceived and erroneous basis. Hence, the complainant is estopped from raising the pleas, as raised in respect thereof.
- e) That apparently, the complaint filed by the complainant is abuse and misuse of process of law and the reliefs claimed as sought for, are liable to be dismissed. No relief much less any interim relief, as sought for, is liable to be granted to the complainant.
- f) That the complainant has miserably and willfully failed to make payments in time or in accordance with the terms of the builder buyer's agreement. It is submitted that the complainant has frustrated the terms and conditions of the builder buyer's agreement, which were the essence of the arrangement between the parties and therefore, the complainant now cannot invoke a particular clause, and therefore, the complaint is not maintainable and should be rejected at the threshold. It is further submitted that timely payment was the essence to ensure

timely completion of construction & handover of the apartments as per the terms of the policy. The 'pith & substance' of the affordable housing policy is clearly captured in its essence, wherein the 'intended beneficiaries' were given Thirty-Six months to pay the entire cost of the apartment, against which the developer was provided with the timeline of forty-eight months to complete the project subject to timely payment.

- g) It has been categorically agreed between the parties that subject to the complainant having complied with all the terms and conditions of the buyer's agreement and not being in default under any of the provisions of the said agreement and having complied with all provisions, formalities, documentation etc., the developer contemplates to complete construction of the project within a period of 48 months from the date of commencement of project subject to force majeure and timely payment by the allottee toward the sale consideration.
- h) The respondent was faced with certain other force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. Similar orders staying the mining operations were also passed by the Hon'ble High Court of Punjab & Haryana and the National Green Tribunal in Punjab and Uttar Pradesh as well. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel

exponentially. It was almost for 2 years that the scarcity as detailed aforesaid continued, despite which, all efforts were made and materials were procured at 3-4 times the rate and the construction of the project continued without shifting any extra burden to the customer. It is to be noted that the development and implementation of the said project have been hindered on account of several orders passed by various courts.

- i) That additionally, even before the normalcy could resume, the world was hit by the Covid-19 pandemic. That the covid-19 pandemic resulted in serious challenges to the project with no available labourers, contractors etc. for the construction of the project. The Ministry of Home Affairs, GOI vide notification dated march 24, 2020 bearing no. 40-3/2020-dm-i (a) recognized that india was threatened with the spread of covid-19 pandemic and ordered a completed lockdown in the entire country for an initial period of 21 days which started on March 25, 2020. By virtue of various subsequent notifications, the Ministry of Home Affairs, GOI further extended the lockdown from time to time. Various State Governments, including the Government of Haryana have also enforced various strict measures to prevent the pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention, that considering the wide spread of Covid-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. That during the period from 12.04.2021 to 24.07.2021, each and every



activity including the construction activity was banned in the state. It is also to be noted that on the same principle, the Haryana Real Estate Regulatory Authority, Gurugram granted 6 months extension for all ongoing projects vide Direction dated 26th of May, 2020 on account of 1st wave of COVID-19 Pandemic. The said lockdown was imposed in March 2020 and continued for around three months. As such extension of only six months was granted against three months of lockdown.

- j) It is importance to mention herein that as per license condition developer are required to complete these projects within a span of 4 years from the date of issuance of environmental clearance since they fall in the category of special time bound project under section 7B of The Haryana Development and Regulation of Urban Area Act 1975, it is needless to mention that for a normal Group Housing project there is no such condition applied hence it is required that 4 years prescribed period for completion of construction of project shall be hindrance free and if any prohibitory order is passed by competent authority like National Green Tribunal Or Hon'ble Supreme Court then the same period shall be excluded from the 4 years period or moratorium shall be given in respect of that period also. It is important to mention herein that section 7(2)(i) of the act itself recognizes the relaxation for renewal of license in case the delay in execution of development work was the reason beyond control of the colonizer, here also colonizers were estopped because of force majeure.
- k) Therefore, it is safely concluded that the said delay of 422 days in the seamless execution of the project was due to genuine force majeure circumstances and the said period shall not be added while computing the delay. thus, from the facts indicated above and documents



appended, it is comprehensively established that a period of 422 days was consumed on account of circumstances beyond the power and control of the respondent, owing to the passing of aforesaid orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure in terms with the agreement.

- l) That it is pertinent to mention herein that in a similar case where such orders were brought before the Authority was in the Complaint No. 3890 of 2021 titled "Shuchi Sur and Anr. vs. M/s. Venetian LDF Projects LLP" which was decided on 17.05.2022, wherein the Authority was pleased to allow the grace period and hence, the benefit of the above affected 166 days need to be rightly given to the respondent builder.
- m) That even the UPRERA Authority at Gautam Budh Nagar has provided benefit of 116 days to the developer on account of various orders of NGT and Hon'ble Supreme Court directing ban on construction activities in Delhi and NCR, 10 days for the period 01.11.2018 to 10.11.2018, 4 days for 26.70.2019 to 30.10.2019, 5 days for the period 04.11.2019 to 08.11.2019 and 102 days for the period 04.17.2019 to 74.02.2020. The Authority was also pleased to consider and provided benefit of 6 months to the developer on account of effect of COVID also.
- n) That the UP REAT at Lucknow while deciding appeal No. 541 of 2011 in the matter of Arun Chauhan Versus Gaur sons Hi- Tech Infrastructure Pvt Ltd vide order dated 02.11.2021 has also granted the extension of 116 days to the Developer on account of delay in completion of construction on account of restriction imposed by the Environment Pollution Authority as well vide order of Hon'ble Supreme Court Dated 14.11.2019.

- o) That the present complaint is liable to be dismissed on the sole ground that the complainant has concealed the true and necessary facts from the Authority. It is submitted that the complainant is chronic defaulter in timely payment of the instalments as per the payment plan annexed with the builder buyer agreement. It is pertinent to mention here that respondent sent many reminder letter to clear dues. It is submitted that for non-payment of instalments demand letter as per the payment plan to the allottee sent final reminder notice through e-mail on dated - 09/02/2024 ANX-R/2 cancellation of unit. Thereafter the complainant never approached the respondent to made payment.
- p) It is pertinent mention here that if the complainant was aware about the respondent bank is blocked so he can come forward in respondent office but Thereafter the complainant never approached the respondent to restore the allotment and made payment.
- q) It is further imperative to note that despite many undulations such as Covid, GRAP Restrictions and most importantly non-compliance on the part of the 'Intended Beneficiaries' i.e. non-payment, the respondent has still fulfilled our obligations in terms of completing the construction, and has already applied for the OC and obtained it; even whilst facing the disruption in supply chain, migration of labourers due to covid, and without seeking any escalation linked to escalated cost of construction due to inflation. further, it had been also agreed and accepted that in case the delay is due to the reasons beyond the control of the company then the company shall be automatically entitled to the extension of time for delivery of possession.
- r) That it is pertinent to mention here that as per law of Affordable housing policy whom can apply this scheme only who have no house

their name and his spouse but in this case applicant are trying to put the curtain on this fact. Because complainant has grab a shelter of a needy person due to field the Affordable housing scheme because complainant has his own house and enjoying his life in a highly expensive society of Delhi

- s) That it is crystal and clear case of payment defaulter and complainant want to ruin and wipe out the images of respondent in society, and want to put the curtain her illegal act and conduct.
- t) That, moreover the applicant somehow wants to harass the answering respondent as the plea of the applicant is mere a pretense through the real intentions are otherwise and such a calculative and cunning act of the applicant has conveyed not only a wrong message to mislead this Hon'ble but also posed a threat in mind of answering respondent so as to succumb to the illegal, illogical and unjustified demand of the applicant.
- u) It is pertinent to mention here that when complainant apply the mortgage permission there is clear written that if the complainant find the non- payment defaulter respondent can cancel the unit.
- v) That it is pertinent to mention here that if the allottee found the doing violation of as per Affordable housing scheme respondent can cancel the unit as per housing policy 2013.
- w) That it is crystal and clear case of payment defaulter and complainant want to ruin and wipe out the images of respondent in society, and want to put the curtain her illegal act and conduct.
- x) That, thus the application under reply is not maintainable in law and facts as the same is false, frivolous, vexatious, uncalled for,

unwarranted, without any cause and justification and has been presented with sole intention to mislead the court only.

6. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainants.

E. Jurisdiction of the authority

7. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

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

E.II Subject matter jurisdiction

9. 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.

10. 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.

F. Findings on the relief sought by the complainants.

F.I Declaration to the effect that the act of cancellation of the unit of the complainant is null and void, being arbitrary and illegal;

F.II Pass an appropriate award directing the respondent party to revoke the unilateral, illegal cancellation of the unit.

F.III Pass an appropriate award directing the Respondent party to pay interest @ Prescribed rate on delayed Possession since due date of possession till date of actual possession. on paid amount i.e Rs.22,91,927/-. As respondent fails to handover the possession as on 29.09.2020 as mentioned in the builder buyer agreement and failure to adhere the guidelines laid in Haryana Affordable Housing Policy, 2013 Pass an appropriate order directing the respondent builder to transfer the unit from the original allottee's name to its legal heir Sudhir Ahuja.

F.IV Respondent party may kindly be directed to complete and seek necessary governmental clearances regarding infrastructural and other facilities including road, water, sewerage, electricity, environmental etc. before handing over the physical possession of the flats at the earliest.

11. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.
12. The factual matrix of case reveals that the complainants had booked a residential unit in the Affordable Group Housing project of the respondent

named "Mahira Homes-68" at Sector-68, Gurugram and was allotted a unit bearing no. C-508, having carpet area of 543.72 sq. ft vide allotment letter dated 02.05.2018. An agreement to sale dated 10.07.2018 was executed between the parties. The complainant has paid an amount of Rs. 20,83,049/- against the total sale consideration of Rs. 22,24,887/-.

13. In the present complaint, the complainant intends to continue with the project and is seeking possession along with interest as per Section 18(1) of the Act and the same is reproduced below for ready reference: -

"Section 18: - Return of amount and compensation

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

(a) *in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*

(b) ***due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,***

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

14. As per clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is reproduced as under for ready reference:

1 (iv)

"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

15. Due date of handing over of possession: As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that "All such projects shall be

required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The respondent has obtained building plan approval and environment clearance in respect of the said project on 23.02.2018 and 05.06.2018 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Therefore, the due date of possession comes out to be 05.06.2022.

16. The Authority considering the above facts opines that the due date of possession (05.06.2022) has lapsed much before the time of filing of the present complaint on 18.06.2024. The Authority observes that the registration certificate granted by the authority has already been revoked on 11.03.2024 and even licence of the respondent-promoter has been expired and at present the project is scrapped. Further, Section 18 of the Act is invoked if the promoter is unable to handover possession of the unit due to discontinuance of business as developer on account of suspension or revocation of registration under this Act or any other reason then the allottee shall be entitled to refund of the entire amount paid to the respondent along with prescribed rate of interest.
17. It is further observed that the Authority on 27.05.2022 initiated Suo-Motu action against the promoter under Section 35 of the Act, 2016 based upon the site visit report submitted on 18.05.2022 wherein it is clearly stated that the physical progress of the project was approximately 15-20% and progress of construction works did not seem commensurate to the payments withdrawn from the bank accounts. Moreover, on 17.05.2022 the Director Town & Country Planning blacklisted the said developer from

grant of license on account due to various grave violations by the promoter company which was subsequently withdrawn by the department on 21.07.2022 subject to fulfilment of certain conditions. Also, on 19.05.2022, all the accounts were freezed by the Authority due to non-compliance of the provisions of the Act, 2016. On 06.11.2023, the Authority initiated suo-moto revocation proceedings under Section 35 of the Act. Thereafter, the Authority vide order dated 11.03.2024 revoked the registration certificate of the project under Section 7(1) of the Act, 2016 and accordingly the respondent company shall not be able to sell the unsold inventories in the project and also, the accounts are freezed therefore, this amounts to discontinuation of business of the respondent.

18. The Authority is of the view that since vide order dated 11.03.2024, the registration certificate of the project stands revoked under section 7(1) of the Act, 2016 and also due to the promoter's serious violations, there seems no possibility of completing the said project in near future. Thus, the Authority is of the view that the complainant is entitled to his right under Section 18(1)(b) read with Section 19(4) of the Act of 2016 to claim the refund of amount paid along with interest at prescribed rate from the promoter.
19. Admissibility of refund at prescribed rate of interest: Proviso to Section 18 of the Act provides that where an allottee(s) intends to withdraw from the project, the promoter shall be liable to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf and it has been prescribed under Rule 15 of the Rules, *ibid*. Rule 15 is 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



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."

20. The legislature in its wisdom in the subordinate legislation under the 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.
21. 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., 10.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
22. Accordingly, the respondent is obligated to refund the paid-up amount of Rs.20,83,049/- received by it along with interest at the rate prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

G. Directions of the authority

23. 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):

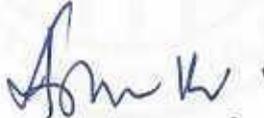
- I. The respondent/promoter is directed to refund the paid-up amount of, Rs.20,83,049/- to the complainant along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real

Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount.

- II. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
- III. The respondent is directed not to create third party right against the unit before full realization of the amount paid by the complainant. If any transfer is initiated with respect to the subject unit, the receivable from that property shall be first utilized for clearing dues of the complainant-allottee.

24. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.

25. Files be consigned to the registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 10.10.2025