



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER, HRERA, PANCHKULA

Complaint No.: 888 of 2025

Date of Institution: 30.06.2025

Date of Decision: 29.01.2026

Sunita W/o Sh. Ranbir Singh R/o H. no. 2000 Maruti Kunj Bhondsi Sohna Road
Gurugram, 122102

....COMPLAINANT

Versus

Green Space Infraheights Pvt. Ltd. 306, 3rd floor, indraprakash building, 21-
barkhamba road, new delhi-110001

....RESPONDENT

Hearing: 3rd

Present: - Mr. Gaurav Gupta, Adv. proxy for Mr. Neeraj Gupta, Advocate, for the
Complainant.

Respondent Ex-parte vide order dated 14.10.2025

ORDER

This order of mine will dispose of a complaint filed by the complainant namely 'Sunita against Green Space Infraheights Pvt. Ltd.', seeking compensation and the interest from this Forum, in accordance with the provisions of Rule 29 of the HRERA, Rules, 2017 (hereinafter to be referred as the Rules 2017), read with

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Sections 71 & 72 of the RERA Act, 2016 (hereinafter to be referred as the Act, 2016).

2. Brief facts of the complaint are that the Complainant booked a Flat in affordable Housing Project "Shree Vardhman Green Space", Sector -14, Panchkula Extension-II, Panchkula, developed by the Respondent, by way of depositing the 5% booking amount of ₹1,04,700/- on dated 06.11.2017 and the draw of lots was held on dated 21.12.2017 at Panchkula. That, the complainant was allotted a flat having a super area of 780 sq. ft. and carpet area of 511 sq. ft. The allotment Letter dated 02.01.2018 was issued for allotment of flat in tower C, Floor no. 06, Flat no. 07. That, the written Flat Buyer's Agreement dated 18.01.2018, containing terms of allotment was signed between the parties. The Basic Sale Price was ₹ 20,94,000/-, which included EDC/IDC and as per clause 8(a) the time period for offer of possession was within four years of date of approval of building plans or environment clearance, after obtaining occupation certificate from the competent Authority. That, the complainant paid ₹1,17,264/- on dated 08.11.2017, ₹1,17,264/- on dated 30.12.2017, ₹3,51,792/- on dated 23.03.2018, ₹5,23,500/- on dated 06.07.2018, ₹41,880/- on dated 11.07.2018 and ₹4,04,708/- on dated 15.06.2019. Thus, the total amount paid by the complainant is ₹15,56,408/-. That, the respondent persistently raised demands for payment from the allottee without showing due concern for the development or timely completion of the project and

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the complainant, however, made payments strictly in accordance with the agreed schedule, yet respondent failed to discharge its duties and obligations and has been unable to hand over possession of the flat. That, the respondent /developer received approval of building plans on dated 09.12.2014 and got the environment clearance on dated 15.03.2016 so the date of handing over of possession comes to 15.03.2020. Even after paying more than 75% of the agreed sale amount, the development work at site has not been completed and occupation/completion certificate not taken. The complainant personally visited the project site and approached the respondent to provide the completion/occupation certificate; however, no response was received. Thereafter, complainant gave a legal notice dated 30.05.2024 to the respondent for refund of his amount, but no response was received. That, the respondent has deliberately failed to complete the project and hand over possession within the promised time, despite collecting substantial amount from the complainant. Owing to prolonged delay, the complainant suffered severe mental agony, harassment, and financial loss, having been compelled to spend further hard-earned money on litigation to secure refund and justice. The conduct of the respondent clearly reflects mala fide intention, aimed at unjust enrichment, particularly in light of the steep rise in property and land prices in the vicinity from approximately ₹ 50 lakhs per acre in 2017 to about ₹ 7 crores per acre in 2025 which explains the respondent's reluctance to complete the project

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and deliver possession. That, the complainant has already paid a total amount of ₹15,56,408/-, yet no possession was offered, nor any credible progress was made at site. The respondent's acts of misrepresentation, delay, and non-delivery have caused immense harassment, anxiety, and loss of valuable time to the complainant. Therefore, the complainant approached the RERA, Panchkula by filing Complaint No. 876 of 2024 seeking refund of the amount along with interest and vide order dated 28.04.2025, the Authority ordered the refund with interest.

Finally, the complainant prayed that the respondent be directed to pay litigation cost ₹1,40,000/- ; ₹10,00,000/- on account of mental agony, harassment, stress causing irreversible mental issues and health deterioration, anxiety, depression, torture, etc., caused by the inactions of respondent company and making the complainant wait for more than 5 year and award 3.9% interest as compensation on the deposited amount as compensation; ₹20,00,000/- on account of loss of opportunity and enhancement in property rates; ₹1,00,000/- for repetitive nature of default; and other relief this Forum may grant.

3. On receipt of notice of the complaint, respondent filed a reply, which in brief states that compensation cannot be claimed as a matter of right. The Complainant is required to specifically plead and establish a case for compensation by placing material on record in consonance with the factors prescribed under Section 72 of

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the Act. That, the Act, 2016 casts a mandatory obligation upon the Complainant to substantiate the nature, extent, and frequency of defaults so as to justify any claim for compensation. That, under the guise of the present complaint for compensation, the complainant is seeking enhancement of the rate of interest on the refunded amount already awarded by the Authority in an earlier complaint. That, the complainant has failed to place on record any cogent pleadings or evidence as mandated by the Hon'ble Supreme Court in Kailash Nath Associates v. DDA AIR 2015 SC (SUPP) 780 and Fortune Infrastructure v. Trevor D'Lima CIVIL APPEAL NO(S). 3533-3534 OF 2017. That, an identical complaint, based on the same cause of action and containing substantially similar pleadings, has already been adjudicated by this Authority in Complaint No. 876 of 2024, wherein the Complainant had sought refund of the deposited amount. That, as per the well-established doctrine of restitution, interest awarded on the deposited amount constitutes compensation for the deprivation of the use of money for the relevant period. Therefore, the interest granted in the earlier order is itself in the nature of compensation, and no further entitlement to additional compensation arises. That, the object of awarding interest is to compensate the aggrieved party for the period during which the money remained with the opposite party. Once such interest has been granted, the claim for further compensation is legally untenable. Compensation in the form of interest having already been awarded in the disposed

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of complaint, the complainant is not entitled to any compensation beyond what has already been granted. None of the factors enumerated under Section 72 of the RERA Act, 2016 have been pleaded or substantiated by evidence in the present complaint, rendering the claim for compensation wholly unsubstantiated. By awarding interest in the earlier proceedings, this Authority has already adjudicated the dispute in accordance with settled judicial precedents and the mandate of law. That, filing of multiple complaints on the same subject matter clearly reflects an abuse of process. Grant of any relief beyond the doctrine of restitution would be manifestly unjust to the Respondent and contrary to established judicial principles. That, the delay in the project occurred solely due to the Complainant's failure to adhere to the payment schedule as stipulated under the Flat Buyer's Agreement, coupled with the force majeure event of the global COVID-19 pandemic and that the respondent is a builder of sound repute, having successfully completed several projects with a large base of satisfied customers, and has neither any intention nor motive to deceive or mislead any person. Finally, he has prayed to dismiss the present complaint being devoid of merit and not maintainable before this Forum.

4. During proceedings, the respondent was proceeded ex-parte on dated 14.10.2025, due to non-appearance.

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5. No rejoinder was filed. Nor, any party opted for compliance of Rule 29(2)(d) of the Rules, 2017.

6. This Forum has heard Mr. Neeraj Goel, Advocate, for the complainant and has also gone through the record carefully.

7. In support of its contentions, learned counsel for the complainant has argued that in the instant case, complainant is very much entitled to get compensation and the interest thereon, because despite having played its part of duty as an allottee, the complainant had met all the requirements including payment of 75% sale consideration for the unit booked but it is the respondent who made to wait the complainant to get his unit well in time complete in all respect for more than 6 years, which forced the complainant to go for unwarranted litigation to get the amount refund by approaching Hon'ble Authority at Panchkula, which has finally granted on dated 28.04.2025. He has further argued that the respondent forced the complainant to visit time and again to its offices to get the possession of the unit or refund of amount paid, thus to spend unnecessary money on travelling and physical harassment. He has further argued that the complainant has taken money from friends and relatives. He has further argued that the complainant has been played fraud upon by the respondent as it despite having used money deposited by the allottees did not complete the project and enjoyed the said amount for its own cause which amounts to misappropriation of complainant's money on the part of

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respondent. Finally, he has prayed to grant the compensation in the manner prayed in the complaint.

8. Since, in the instant case, the respondent has been proceeded ex-parte, there is none to argue for it but in the interest of justice the specific averments made in its reply by the respondent against the complainants' claim for compensation, are reproduced in brief in the following manner;

i) That, the complainant is not entitled for any compensation as have been granted the relief of refund with interest by Hon'ble Authority under Section 31 of the Act, 2016;

ii) That, the complainant has not led any evidence to fulfil the ingredients of Section 71 read with Section 72 of the Act, 2016, so not entitled to get compensation;

Finally, prayer is made to reject the claim for compensation.

9. With due regards to the rival contentions and facts on record to decide the lis, this Forum possess following questions/issues to be answered;

(a) Whether the RERA, Act, 2016 and Rules, 2017 bars this Forum to grant compensation when relief of refund with interest has already been granted by Hon'ble Authority?

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- (b) What are the factors to be taken note of to decide compensation?
- (c) Whether it is necessary for the complainant to give evidence of mental harassment, agony, grievance and frustration caused due to deficiency in service, unfair trade practice and miserable attitude of the promoter, in a case to get compensation or interest?
- (d) Whether complainant is entitled to get compensation in the case in hand?

10. Now, this Forum will take on each question posed to answer, in the following manner, to decide the lis;

10(a) Whether the RERA, Act, 2016 and Rules, 2017 bars this Forum to grant compensation when relief of refund with interest has already been granted by Hon'ble Authority?

The answer to this question is in negative.

This question has been answered by Hon'ble Apex Court in Civil Appeal no.(s) 6745-6749 of 2021 titled as "M/s New Tech Promoters and Developers Pvt. Ltd. v/s State of U.P. & Ors." on dated 11.11.2021, to the effect that relief of adjudging compensation and interest thereon under Section 12,14,18 and 19, the Adjudicating Officer exclusively has the power to determine, keeping in view the

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provisions of Section 71 read with Section 72 of the Act. The relevant

Para of the judgment is reproduced below;

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the Regulatory Authority and Adjudicating Officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the Regulatory Authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the Adjudicating Officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the Adjudicating Officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the Adjudicating Officer under Section 71 and that would be against the mandate of the Act 2016."

Thus, in view of above law laid down by Hon'ble Apex Court, the reliefs provided under Section 31 and then Section 71 of the RERA Act, 2016 read with Rule 29 of Rules, 2017 are independent to each other to be granted by two different Authorities.

In nutshell, the plea of bar of granting compensation or interest, is devoid of merit.

10(b) What are the factors to be taken note of to decide compensation?

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On this point, relevant provisions of RERA Act, 2016 and also law on the subject for grant of compensation, are as under;

(i) Section 18 - Return of amount and compensation

(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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

Section 18(1) of the Act, 2016, caters for grant of compensation to the allottee who withdraws from the project and its proviso bars the

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grant of compensation to the allottee who elects to continue with project.

(ii) How an Adjudicating Officer is to exercise its powers to adjudicate, has been mentioned in a case titled as **Mrs. Suman Lata Pandey & Anr v/s Ansal Properties & Infrastructure Ltd. Appeal no. 56/2020, by Hon'ble Uttar Pradesh Real Estate Appellate Tribunal at Lucknow dated 29.09.2022** in the following manner;

12.8- The word "fail to comply with the provisions of any of the sections as specified in sub section (1)" used in Sub-Section (3) of Section 71, means failure of the promoter to comply with the requirements mentioned in Section 12, 14, 18 and 19. The Adjudicating Officer after holding enquiry while adjudging the quantum of compensation or interest as the case may be, shall have due regard to the factors mentioned in Section 72. The compensation may be adjudged either as a quantitative or as compensatory interest.

12.9 – The Adjudicating Officer, thus, has been conferred with power to directed for making payment of compensation or interest, as the case may be, "as he thinks fit" in accordance with the provisions of Section 12, 14, 18 and 19 of the Act after taking into consideration the factors enumerated in Section 72 of Act.

(iii) What is to be considered by the Adjudicating Officer, while deciding the quantum of compensation, as the term "compensation" has not been defined under RERA Act, 2016, is answered in Section 71 of the Act, 2016, as per which " he may direct to pay such compensation of interest, as the case may any be, as he thinks fit in accordance with the provisions of any of those sections,"

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Section 72, further elaborate the factors to be taken note of, which read as under;

Section 72: Factors to be taken into account by the adjudicating officer.

72. While adjudging the quantum of compensation or interest, as the case may be, under Section 71, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused as a result of the default;*
- (c) the repetitive nature of the default;*
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.*

(iv) For determination of the entitlement of complainant for compensation due to default of the builder/developer Hon'ble Apex Court in M/s Fortune Infrastructure (now known as M/s. Hicon Infrastructure) & Anr. Vs. Trevor D'Lima and Others, Civil Appeal No.(s) 3533-3534 of 2017 decided on 12.03.2018, has held as under:-

“Thus, the Forum or the Commission must determine that there has been deficiency in service and/or misfeasance in public office which has resulted in loss or injury. No hard-and-fast rule can be laid down, however, a few examples would be where an allotment is made, price is received/paid but possession is not given within the period set

out in the brochure. The Commission/Forum would then need to determine the loss.

Loss could be determined on the basis of loss of rent which could have been earned if possession was given and the premises let out or if the consumer has had to stay in rented premises, then on the basis of rent actually paid by him. Along with recompensing the loss the Commission/Forum may also compensate for harassment/injury, both mental and physical.”

In the aforesaid case, Hon’ble Apex Court laid down the principle for entitlement of the compensation due to loss or injury and its scope in cases where the promoter of real estate failed to complete the project and defaulted in handing over its possession. Similarly, Hon’ble Three Judge Bench of the Hon’ble Apex Court in **Charan Singh Vs. Healing Touch Hospital & Ors. (2000) 7 SCC 668**, had earlier held regarding assessment of damages in a case under Consumer Protection Act, in the following manner;

“While quantifying damages, Consumer Forums are required to make an attempt to serve the ends of justice so that compensation is awarded, in an established case, which not only serves the purpose of recompensing the individual, but which also at the same time, aims to bring about a qualitative change in the attitude of the service provider. Indeed, calculation of damages depends on the facts and

circumstances of each case. No hard and fast rule can be laid down for universal application. While awarding compensation, a consumer forum has to take into account all relevant factors and assess compensation on the basis of accepted legal principles, and moderation. It is for the consumer forum to grant compensation to the extent it finds it reasonable, fair and proper in the facts and circumstances of a given case according to the established judicial standards where the claimant is liable to establish his charge."

10(c) Whether it is necessary for the complainant to give evidence of mental harassment, agony, grievance and frustration caused due to deficiency in service, unfair trade practice and miserable attitude of the promoter, in a case to get compensation or interest?

The answer to this question is that no hard and fast rule could be laid to seek proof of such feelings from an allottee. He/she may have documentary proof to show the deficiency in service on the part of the builder and even this Forum could itself take judicial notice of the mental and physical agony suffered by an original allottee due to non-performance of duties on the part of the promoter, in respect of the promises made to lure an allottee to invest its hard earned money to own its dream house without realising the hidden agendas or unfair practices of the builder in that project.

In nutshell, to award compensation, the Forum can adopt any procedure suitable in a particular case to decide the availability of factors on record entitling or disentitling an allottee to get compensation which is the

reason even under Rule 29 of the Rules 2017, it is not compulsory to lead evidence.

10(d) Whether the complainant is entitled to get compensation in the case in hand?

Before deliberating on this aspect, it is necessary to deliberate upon admitted facts to be considered to decide the lis;

(i)	Project pertains to the year	2017												
(ii)	Date of Allotment	02.01.2018												
(iii)	Proposed Handing over of possession	17.01.2022, 4 years from date of approval of building plans or environment clearance after obtaining OC (18.01.2018)												
(iv)	Basic sale price	₹20,94,000/-(Including EDC & IDC)												
(v)	Total amount paid	₹15,56,408/-												
(vi)	Period of payment	08.11.2017-15.06.2019 <table border="1"> <thead> <tr> <th>Sr. No.</th><th>Date of payment</th><th>Amount in (₹)</th></tr> </thead> <tbody> <tr> <td>1.</td><td>08.11.2017</td><td>₹1,17,264/-</td></tr> <tr> <td>2.</td><td>30.12.2017</td><td>₹1,17,264/-</td></tr> <tr> <td>3.</td><td>23.03.2018</td><td>₹3,51,792/-</td></tr> </tbody> </table>	Sr. No.	Date of payment	Amount in (₹)	1.	08.11.2017	₹1,17,264/-	2.	30.12.2017	₹1,17,264/-	3.	23.03.2018	₹3,51,792/-
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		4.	06.07.2018	₹5,23,500/-
		5.	11.07.2018	₹41,880/-
		6.	15.06.2019	₹4,04,708/-
			Total-	₹15,56,408/-
(vi)	Occupancy certificate Whether received till Filing of complaint	NO		
(vii)	Date of filing of complaint under Section 31 before Hon'ble Authority	03.07.2024		
(viii)	Date of order of Authority	28.04.2025		
(ix)	Date of filing of complaint under Sections 71 read with Rule 29	30.06.2025		
(x)	Date when total refund made, if made	No amount refunded till date		

It is a matter of record that the project advertised in the year 2017, did not get completion certificate till filing of the complaint on dated 30.06.2025 and also that the complainant on its part had performed its part of duty by paying just short of basic price of the unit. Admittedly, the basic price of the unit was ₹20,94,000/- whereas the complainant paid ₹15,56,408/- till 15.06.2019.

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It is also admitted on record that the complainant did not get possession of the apartment allotted. There can also be no denial that allottees of the unit generally spend their lifetime earning and they are not at equal footings with that of the promoter, who is in a dominating position. The position of the allottee becomes more pitiable and sympathetic when he or she has to wait for years together to get the possession of a unit allotted despite having played its bid. But, on the contrary, it is the promoter who enjoys the amount paid by allottees during this period and keep on going to delay the completion of the project by not meeting legal requirements on its part to get the final completion from competent Authority about fulfilling which such promoter knew since the time of advertisement of the launch of the project. Further, the conduct of the promoter to enjoy the amount of allottees paid is nothing but misappropriation of the amount legally paid as the promoter did not hand over possession, which the promoter was legally bound to do. It is not out of place to mention here that if the promoter/respondent had a right to receive the money from the allottee to hand over the possession in time, it is bound to face the consequences for not handing over the possession in time. Here, it is worth to quote a Latin maxim "ubi jus ibi remedium." which means "where law has established a right, there should be a corresponding remedy for its breach." If this be the

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legal and factual position, the promoter is not only bound to refund the amount but also to compensate the allottee for disappropriate gain or unfair advantage on the part of the promoter within the meaning of Section 72(a) of the Act 2016, of the amount paid. It is not out of place to mention here that as per record, the allottee had paid ₹15,56,408/-. However, it is not in dispute that the respondent neither completed the project, nor handed over possession till allottee having been forced to approach Hon'ble HRERA Authority, Panchkula, to get refund along with interest after having indulged in unwarranted forced litigation by the promoter at the cost of allottee's personal expenses, which it has not got till date. During this period, obviously, the allottee had to suffer inconvenience, harassment, mental pain and agony during the said period bringing its case within the ambit of Section 72(d) of the Act, 2016 as such feelings are to be felt/sensed by this Forum without seeking any proof thereof.

In view of the above, since, the promoters had been using the amount of ₹15,56,408/-, for the last more than 6 years. For the sake of repetition it is held that it can definitely be termed as disappropriate gain or unfair advantage, as enumerated in Section 72(a) of the Act. In other words, it had been loss to allottee as a result of default on the part of the promoter which continues till date. Thus, it would be in the interest of justice, if the

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compensation is ordered to be paid to the complainants after taking into consideration, the default of respondent for the period starting from 2017 till date and also misutilization of the amount paid by the complainants to the respondent. In fact, the facts and circumstances of this case itself are proof of agony undergone by the complainant for so long, hence, there is no need to look for formal proof of the same. Further, there can't be denial to the effect that the allottee must have had to run around to ask the promoter to hand over the possession and also that if the unit provided in time, there was no reason for the complainant to file the complaints/execution petition by engaging counsel(s) at different stages, and also that because of escalation of prices of unit in last 9 years, the complainant may not be in a position to purchase the same unit now, which amounts to loss of opportunity to the allottee. These factors also enable an allottee to get compensation.

In view of the forgoing discussions, the complainant is held entitled for compensation.

10. Once, the complainant has been held entitled to get compensation, now it is to be decided how much compensation is to be granted, on which amount, what would be rate of interest and how long the promoter would be liable to pay the interest?

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Before answering this question, this Forum would like to reproduce the provisions of Section 18 of the Act, 2016, Rules 15 and 16 of HRERA, Rules, 2017 and also definition of 'interest' given in Section 2(z) of the RERA Act, 2016;

Rule 15 - Prescribed Rate of Interest - [Proviso to section 12, section 18 and sub section (4) and sub-section (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.]

Rule 16- Timelines for refund of money and interest at such rate as may be prescribed, payment of interest at such rate as may be prescribed:- [Section 18 and Section 19].-

(1). Any refund of money along with the interest at such rate as may be prescribed payable by the promoter in terms of the Act, or rules and regulations made there under shall be payable by the promoter to the allottee within a period of ninety days from the date on which such refund alongwith interest such rate as may be prescribed has been ordered by the Authority.

(2) Where an allottee does not intend to withdraw from the project and interest for every month of delay till handing over of the possession at such rate as may be prescribed ordered by the Authority to be paid by the promoter to the allottee, the arrears of such interest accrued on the date of the order by the Authority shall be payable by the promoter to the allottee within a period of ninety days from the date of the order of

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the Authority and interest for every month of delay shall be payable by the promoter to the allottee before 10th day of the subsequent month.

Section 18 - Return of amount and compensation.

(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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

Section 2(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;

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(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;

Perusal of provisions of Section 18(1)(b) make it clear that in case of refund or compensation, the grant of interest may be at such rate as prescribed in this behalf in the Act, 2016. It is not out of place to mention here that Section 18(1)(b), not only deals with cases of refund where allottee withdraws from project but also the cases of compensation as is evident from the heading given to this section as well as the fact that it has mention of refund and rate of interest thereon including cases of compensation. However, it bars grant of compensation to allottee who continue with project. Further, perusal of provisions of Section 18(1)(b) of the Act, 2016, indicate that the allottee shall be entitled to get refund or compensation, as the case may be, with interest at the rate prescribed in the Act, 2016.

Rule 15 of the Rules 2017, defines the "prescribed rate" as "State Bank of India highest marginal cost of lending rate+2% with proviso".

Further, Rule 16 of the Rules, 2017, provides for the time limit to refund money and interest thereon and that interest is to be as per the rate prescribed in Rule 15 in the matters covered under Proviso to section 12,

Section 18 and Section 19 (4) and 19(7) of the Act, 2016. It further deals with two situations, one, where the allottee has opted for a refund rather than a unit in a project and second case where he has gone for the project but there is delay in delivery. Hence, it cannot be said that the Rule 16 deals with only one situation out of two mentioned in sub rule (1) and sub rule (2) respectively. It is not out of place to mention here that this Rule 16 deals with cases related to Sections 18 & 19 of the Act, 2016 only in those cases where allottee withdraws from the project. In other words, where allottee continues with project, then is entitled to relief mentioned in proviso to Section 18(1) only as proviso does not cater for grant of compensation where allottee continues with project.

How long the interest would remain payable on the refund or compensation, as the case may be, is provided in Section 2(z) of the Act, 2016, which says that "cycle of interest would continue till the entire amount is refunded by the promoter". In other words, if the provisions of Section 18 read with Rule 15 read with Rule 16 and Section 2(z) are interpreted co-jointly, then it would mean that in case of refund or compensation, as the case may be, the promoter will be liable to pay the interest from the date the promoter received the amount or any part thereof till the date the amount of refund or compensation, as the case may be, or part thereof along with up to

date interest is refunded/paid, even if not specified in the order under execution. However, the situation is different in case of an allottee's default in payments to the promoter till the date it is paid. With this legal position, it is safe to conclude in the case in hand,? In view of Explanation (ii) to Section 2(za) the allottee will be entitled to get the interest up to date of the final payment at the rate prescribed in Rule 15.

RELIEF

11. Reverting back to the facts of the case under consideration, having the above discussed legal position in mind, it is concluded that respondent is directed to make payment of compensation as calculated below in relief; having in mind the provisions of Rule 15;

The calculation of compensation as verified by the Account Branch of Hon'ble Authority is tabulated below:

Amount Paid (in ₹)	Time period	Rate	Compensation Amount (in ₹)
₹1,17,264/-	08.11.2017- 29.01.2026	10.80%	₹1,04,265/-
₹1,17,264/-	30.12.2017- 29.01.2026	10.80%	₹1,02,461/-
₹3,51,792/-	23.03.2018- 29.01.2026	10.80%	₹2,98,744/-

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₹5,23,500/-	06.07.2018- 29.01.2026	10.80%	₹4,28,295/-
₹41,880/-	11.07.2018- 29.01.2026	10.80%	₹34,202/-
₹4,04,708/-	15.06.2019- 29.01.2026	10.80%	₹2,89,913/-
Total- ₹15,66,762/-			₹12,57,880/-

12. Since, the complainant has been forced to file the complaint to get his legal right of compensation, the complainant is granted ₹30,000/- as litigation charges.

The total compensation comes to ₹ 12,57,880/-+ ₹30,000/- = ₹12,87,880/- (Twelve Lakhs Eighty Seven Thousand Eight Hundred and Eighty Rupees only). Undoubtedly, the amount of compensation, if calculated with the relief granted by the Hon'ble Authority, it appears that the allottee has got much more than they spent but it is justified because the property which he had applied in the year 2017, may be costing now much more than the amount which the allottee is ordered to get in total under the Act, 2016.

13. Consequently, the present complaint is allowed in the manner discussed above. The respondent is directed to pay an amount of ₹ 12,57,880/-+ ₹30,000/- = ₹12,87,880/- (Twelve Lakhs Eighty Seven Thousand Eight Hundred and Eighty Rupees only). within 90 days to the complainant. First instalment is to

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be paid within 45 days from the date of uploading of this order and remaining amount within the next 45 days.

It is further directed that if the payment is not made in the manner directed within stipulated time, in view of the provisions of Section 2(z) of the Act, 2016, the respondent shall be liable to pay interest on delayed payment as per the provisions of Rule 15 of the Rules, 2017, till realization of the amount.

14. No deduction of Tax at Source

It is directed that since, the amount so ordered to be paid with interest till realisation of total amount, is in the form of compensation, the respondent will have no authority to deduct Tax at source (TDS) in view of the law laid down in All India Reporter Ltd vs. Kanchan P Dhuri, 8/1422-WPL4804-2020, All India Reporter Ltd. And Anr. vs Ramchandra Dhondo Datar (AIR 1961 BOM 292), M/s. Beacon Projects Pvt. Ltd versus The Commissioner of Income Tax (ITA No. 258 of 2014) decided by Hon'ble Kerala High Court on 23.06.2015, Parsvnath Developers Ltd. vs. Rajesh Kumar Aggarwal (Civil Appeal Nos. 11248-11249 of 2016, decided on 11.09.2017, Sainath Rajkumar Sarode and 8 Ors. vs. State of Maharashtra and 6 Ors (Writ petition (L) No. 4804 of 2020 decided on 18.08.2021, Madhav Joshi vs Vatika Limited by NCDRC in execution application no. 159 of 2022 in CC/277/2019 decided on 26.04.2024 and Civil Appeal nos. 822-823 of

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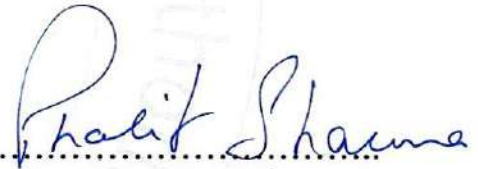
2024 titled as M/S BPTP LIMITED & ORS. vs. Terra Flat Buyers Association decided by Hon'ble Apex Court on 28.11.2024.

15. The present complaint stands **disposed of** in view of the above observations. File be consigned to record room after uploading of this order on the website of the Authority.



MAJOR PHALIT SHARMA
ADSJ(Retd.)
ADJUDICATING OFFICER
29.01.2026

Note: This order contains 28 pages and all the pages have been checked and signed by me.



MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
29.01.2026

Akshita
Law Associate