



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

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

Complaint No.:	2231 of 2022
Date of Filing:	25.08.2022
Date of First Hearing:	18.10.2022
Date of Decision:	30.01.2026

Mrs. Saroj Bala W/o Mr. Vedpal Singh  
R/o RZ-100, Gali No.4, Nav Uday School,  
E-Block, Prem Nagar, Najafgarh, Delhi.

....COMPLAINANT  
VERSUS

Gnex Realtech Pvt. Ltd.  
Essel House, 8-10, Lawrence Road,  
Industrial Area, Delhi-110035.

....RESPONDENT

**CORAM:** Sh. Chander Shekhar Member

**Hearing:** 13<sup>th</sup>

**Present:** - Mr. Gaurav Chauhan, Advocate, for the Complainant through VC.

Mr. Viren Sibal, Advocate, for the Respondent through VC.

**ORDER:**

The present complaint has been filed on 25.08.2022 by the complainant under Section 31 of the Real Estate (Regulation and

Development) Act, 2016 (for short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

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

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

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S.No.	Particulars	Details
1.	Name of the project	Asha Bahadurgarh Phase-III, Sec-36, Village Nuna Majra, Bahadurgarh, Jhajjar, Haryana
2.	RERA registered/not registered	Registered vide Registration No. 292-2017 dated 12.10.2017
3.	Details of Unit	Plot No. F010, having an area of 179 sq. yards.
4.	Date of Allotment	05.12.2017
5.	Date of Agreement for Sale	09.02.2018
6.	Due Date of Offer of Possession	14 Months (12 months+2 months) from the date of execution of the Agreement (As per Schedule-E of the Agreement for Sale dated 09.02.2018)

7.	Possession Clause in Agreement for Sale (Schedule E)	<i>"The company shall make all efforts to complete the development and handover the possession of the said plot within twelve months plus two months grace period from the date of signing of this Agreement subject to Force Majeure, Court orders, Government policy/guidelines, decisions affecting the regular development of the ASHA-Bahadurgarh project. If the completion of the said project is delayed due to the above conditions, then Allottee agrees that the Company shall be entitled to the extension of time for delivery of possession of the Plot for residential usage."</i>
8.	Total Sale Consideration	₹34,51,060/-
9.	Amount Paid by the Complainant	₹15,41,727/-
10.	Offer of Possession	11.10.2024

## B. FACTS OF THE COMPLAINT

3. Facts of the complaint are that the complainant had booked a plot in the project of the respondent namely; "Asha Bahadurgarh, Phase-III" situated at Sector-36, Bahadurgarh, District Jhajjar, by making payment of ₹3,44,520/- on 16.11.2017, following which allotment letter dated 05.12.2017 for plot no. F010, having an area 179 sq. yards was issued in favor of the complainant. The Agreement for sale was executed between the parties on 09.02.2018. As per the terms of Clause 8.1 read with Schedule-E of

Agreement for Sale, the possession was supposed to be delivered within 14 months (12 months+2 months) from date of signing of the said Agreement.

4. The complainant paid in total ₹15,19,675/- to the respondent but till date there is no progress in the development of the site in question and there is no construction at site till date. As per payment plan attached with the allotment letter, the complainant paid three installments and the next payment would be paid on the start of sewer and water work, but still there is no progress in the name of development due to which the complainant has not paid the next payment/installment to the respondent. However the respondent sent a demand notice dated 01.08.2022 to the complainant by demanding ₹17,13,032/- as overdue alongwith interest of ₹5,32,877/- as on 01.08.2022 and stated that in case the complainant failed to pay the same within 30 days from the receipt of the said letter, the allotment of the plot would be cancelled.

A copy of the same is attached as C-7.

5. As per clause 8.6 of the Agreement for Sale “where the Allottee does not intend to withdraw its allotment for the plot from the said project, the company shall pay to the allottee interest as the rate specified in the rules which is State Bank of India highest marginal cost of lending rate plus 2% for every month of delay till the handing over of the possession of the plot or as otherwise notified by the competent Authority from time to time.



6. As per Schedule-E of the Agreement for Sale, the company shall make all efforts to complete the development and handover the possession of

the said plot within twelve months plus two months grace period from the date of signing of this Agreement subject to Force Majeure, Court orders, Government policy/guidelines and decisions affecting the regular development of the ASHA-Bahadurgarh project. If the completion of the said project is delayed due to the above conditions, then the allottee shall be entitled to the extension of time for delivery of possession of the plot for residential usage. However, in the present project, no such factors as mentioned above have come in the way, rather the delay is wilful on the part of the respondent due to which the complainant has suffered huge financial loss and his dream of constructing the house in the said area remains a dream till date.

### **C. RELIEF SOUGHT**

7. The complainant in her complaint has sought the following reliefs:-

i. To direct the respondent to hand over the possession as per the Agreement for Sale after taking the due payments from the complainant without claiming any interest or other charges, as the respondent is at fault in completing the basic amenities at the site in question, as per the Agreement for Sale.

ii. To direct the respondent not to cancel the allotment of the plot in question i.e. F010 allotted to the complainant.

- iii. To stay the operation of the demand letter dated 01.08.2022 till the decision of the complaint.
- iv. To direct the respondent to pay compensation for mental harassment, agony caused to the complainant.
- v. To direct the respondent to pay litigation expenses.
- vi. Any other relief which this Hon'ble Authority deems fit in the present facts and circumstances may also be granted to the complainant for which he is found entitled.

#### **D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed a detailed reply on 07.12.2022 pleading therein:

8. The present complaint filed by the complainant is not admissible in the court of law as clause no. 34 of the Builder Buyer Agreement clearly states a binding arbitration clause. Therefore, the Authority does not have jurisdiction to entertain the purported complaint as it has been specifically mentioned in the BBA that all disputes shall be referred to an Arbitrator to be appointed as per provisions of Arbitration and Conciliation Act, 1996. A copy of the said BBA is annexed as Annexure A-1.

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9. The project was adversely affected by various construction bans, lack of availability of building material, regulation of the construction and development activities by the judicial authorities including NGT on account of the environmental conditions, restriction on usage of ground water by the Hon'ble Punjab and Haryana High Court, demonetization, adverse effects of Covid-19 along with other force majeure circumstances. Further, the respondent was severely affected by the delay caused by the allottees in making payment/installments on time.

10. The present complaint is bad in the eyes of law as the respondent has never refused to hand over the possession of plot no. F010 booked by the complainant. The delay in possession is due to unforeseen circumstances which were totally beyond the control of the respondent which amounts to force majeure and hence respondent is not liable for reliefs sought by the complainant. The BBA also provided for the interest to be paid to the complainant in the event of delay of completion of project. Therefore, the alleged breach of delay on the part of respondent cannot provide a cause of action for filing the present complaint.

11.  Timely payment of the installments was the essence of the agreement and the respondent regularly demanded installments from the complainant which were payable according to the agreed payment plan before the offer of possession, however, the complainant breached his obligation to pay the said installments as per agreed payment schedule. Several reminders/

demand letters dated 07.09.2018, 22.05.2019, 12.04.2021, 28.12.2021, 25.01.2022, 15.02.2022 and 18.05.2022 were sent to the complainant, but all went in vain. Further the respondent granted one final opportunity vide letter dated 01.08.2022 to clear outstanding dues within 30 days but the complainant failed to avail this opportunity. Hence, his allotment was terminated on 11.10.2022.

#### **E. WRITTEN SUBMISSIONS FILED BY THE COMPLAINANT**

12. The complainant has filed written submissions on 30.09.2025, whereby it is submitted that the complainant paid a total of ₹15,41,727/- to the respondent. As per the allotment letter, next payment was to be given on the start of sewer and water works, but as there was no progress in the said works, no further payment was made by the complainant.

13. The respondent sent a demand letter dated 01.08.2022 demanding ₹17,13,032/- as overdue along with interest of ₹5,32,000/- as on 01.08.2022 and informed that in case the complainant failed to pay the same within 30 days from the receipt of the said letter, the allotment of the plot will be cancelled. The demand raised by the respondent is illegal and premature. It is in direct contravention with the RERA norms and constitutes unfair trade practice. The complainant is not liable to pay any interest though she is entitled to get interest for the delay of possession. The calculation sheet mentioning the amount and interest to be claimed by the complainant as per RERA rules is annexed as Annexure A-1.



#### **F. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT**

14. The respondent has filed written submissions on 27.11.2025 whereby it is submitted that the present complaint filed by the complainant is liable to be dismissed as it contains wrong, distorted, manipulated and frivolous facts. The complainant herself has failed to pay the sale consideration of the unit in question in accordance with the terms agreed between the parties as per the Agreement for Sale.

15. The Agreement for Sale executed between the complainant and the respondent clearly provides that the estimated time of delivery was subject to the other terms and conditions of the said agreement. The respondent had issued various communications, including several demand notices and reminder letters on multiple occasions calling upon the complainant to clear her outstanding dues. However, the complainant ignored all such communications and failed to make the payments within the stipulated timeframe. The complainant herself defaulted in complying with the terms of the agreement and cannot now shift her own faults onto the respondent.

16. The complainant had also sent an email dated 06.04.2019 to the respondent wherein the complainant had specifically mentioned that until her loan gets sanctioned, the complainant shall not pay the sale consideration to the respondent. A copy of which is annexed at Page no.8 written submissions. It is further submitted that neither it was agreed between the complainant and the respondent in any communication, nor it was anywhere mentioned in the

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said Agreement for Sale that payment shall be made only after approval/disbursement of loan. Arrangement of funds and payment of the sale consideration was the sole obligation of the complainant and the same cannot be inflicted upon the respondent. It was not the concern of the respondent as to how the complainant had to arrange funds for purchasing the said unit. At the time of entering into the said Agreement for Sale, the complainant was given the discretion to choose between different payment plans i.e., One Time Payment, Construction Linked Payment Plan and Time Linked Payment Plan and the complainant herself chose to continue with Time Linked Payment Plan. Further, it was specifically agreed between the complainant and the respondent vide the said Agreement for Sale that in case the complainant defaults in making timely payments of the instalments, the respondent shall charge interest upon the said period of delay.

17. The present complaint filed by the complainant is liable to be dismissed/rejected as the respondent had rightfully and lawfully charged the delayed interest towards delay in payments of outstanding installments. The Agreement for Sale dated 09.02.2018 clearly provides that delay interest shall be charged from the complainant in case of any delay in payment of the total sale consideration. Relevant part of Clause 2.9 of the said Agreement is reproduced as below;

*“...and the Allottee hereby agrees to pay the remaining price of the plot/unit as per the payment plan as prescribed in the schedule 'B', attached hereto, as may be demanded by the*

*Company within the time and in the manner specified herein. However, if the Allottee delayed in paying the said payment towards any amount which is payable to the Company, the Allottee shall be liable to pay interest which shall be the then effective State Bank of India's highest marginal cost of lending rate plus two percent or as otherwise notified by the competent Authority, from time to time."*

18. The complainant has admittedly delayed in making payments towards the outstanding installments of the said unit and therefore, the said act of the respondent of charging delayed interest is totally in consonance with the terms said forth in the said Agreement for Sale. The respondent had on numerous occasions issued various demand letters/reminder letters to the complainant requesting her to pay outstanding dues towards her booked unit, however, the complainant never paid any heed to the said letters/reminders of the respondent and instead opted to file the present complaint before this Hon'ble Authority. It is submitted that the respondent issued several demand/reminder letters dated 07.09.2018, 22.05.2019, 12.04.2021, 28.12.2021, 25.01.2022, 15.02.2022, and 18.05.2022 to the complainant, but no payment was made by the complainant. The copies of the said demand letters are annexed alongwith this application as Annexure-B.

19. The respondent has terminated the unit allotted to the complainant strictly in accordance with the terms set forth in the Agreement for Sale executed between the complainant and the respondent. Thus, the present complaint filed by the complainant is liable to be dismissed.

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## **G. ARGUMENTS OF THE COMPLAINANT AND THE RESPONDENT**

20. During oral arguments, learned counsels appearing on behalf of both parties reiterated the submissions/arguments as already submitted in their complaint, reply and written submissions respectively.

## **H. ISSUES FOR ADJUDICATION**

21. Whether the complainant is entitled to get possession of booked plot alongwith delay interest in terms of Section 18 of RERA Act, 2016?

## **I. OBSERVATIONS AND DECISION OF THE AUTHORITY**

22. The Authority has gone through the rival contentions. In the light of the background of the matter as captured in this order and also the arguments submitted by both parties, the Authority observes as follows:

(i) With regard to the objection taken by respondent that the complaint is not maintainable in view of the Arbitration Clause 34 of the Agreement for Sale, it is observed that the presence of such a clause does not divest this Authority of the jurisdiction expressly conferred under the Real Estate (Regulation and Development) Act, 2016. The Hon'ble Supreme Court in Imperia Structures Ltd. vs. Anil Patni (2020) SC 822, held that statutory remedies under special legislations like RERA cannot be ousted by an arbitration clause. Accordingly, the



Authority holds that it is competent to hear and decide the present matter and this objection of the respondent is rejected.

(ii) Admittedly, the complainant herein had booked the plot in respondent's project- 'Asha Bahadurgarh Phase-III, Sector-36, Bahadurgarh' by paying booking amount of ₹3,44,520/- on 16.11.2017. Following which allotment of plot no. F010, was issued in favour of the complainant on 05.12.2017. The Agreement for Sale was executed between the parties on 09.02.2018 and in terms of Clauses 8.1 and Schedule-E, the respondent was supposed to deliver the possession within fourteen(14) months from the signing of the Agreement for Sale. Accordingly, the deemed date of the possession in the present case works out to be 09.04.2019.

(iii) As per information available on the website of the Authority regarding registration of the project, the Completion Certificate dated 08.02.2024 had been obtained by the respondent and after that it had issued a valid offer of possession with a demand letter to the complainant on 11.10.2024 which contains interest of ₹9,84,557/. The contents and language of the offer of possession clearly reveal that the complainant was duly given a valid and legal offer of possession. It is also not disputed that the offer was accompanied with a demand of ₹9,84,557/- which the



complainant is objecting to. But it is not the case in hand where the respondent has offered the possession without completing the plot in question or without obtaining occupation/completion certificate.

In general, the offer of possession is to be evaluated in two aspects; first is completion of the construction work along with receipt of necessary approvals/sanctions and second is the additional demand, if any. Herein, first aspect towards completion of the plot and receipt of Completion Certificate stands complied with in entirety. In the prevailing circumstances, it can be established that the complainant was given a valid offer of possession on 11.10.2024 duly supported with Completion Certificate dated 08.02.2024. It is the complainant who did not come forward to accept it due to the alleged unjustified demand of interest of ₹9,84,557/-.

(iv) Now the grievance of the complainant which remains to be adjudicated regarding alleged unjustified demand of interest of ₹9,84,557/- raised with the offer of possession dated 11.10.2024. The said charges are disputed by the complainant in totality stating that these charges are not allowed to be recoverable in terms and provisions of the Agreement for Sale. It is the stand of the respondent that the complainant is at fault as

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she has not paid the installment on due dates as agreed between them in the Agreement for Sale and further she has not paid any heed to the demand and reminder letters dated 07.09.2018, 22.05.2019, 12.04.2021, 28.06.2021, 25.01.2022, 15.02.2022, 18.05.2022.

(v) The complainant has relied upon Clause 10.2 of the Agreement for Sale, the relevant part of the said clause is reproduced for ready reference:

*"In case of default by company under the conditions listed above in clause 10.1, the Allottee is entitled to the following-*

*(i) stop making further payments to the company as demanded by the company. If the Allottee stops making payments, the company shall correct the situation by completing the development milestones and only thereafter, the Allottee will be requested to make the next payment without any penal interest for the period of such delay;"*

The complainant has stated that the payment of instalments was stopped on account of the construction having been halted by the respondent. The respondent has not denied this fact and has, in its reply, admitted that the construction was halted for a certain period due to multiple factors. It is an admitted position that the complainant made the last payment of ₹3,56,597/- on 29.12.2017. It is also pertinent to note that the Completion Certificate was obtained by the respondent on 08.02.2024 which have been duly verified from the website of the Authority.

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Therefore, it is evident that the construction was resumed at some point during the intervening period and that the plot was ultimately made ready for possession. As per the Agreement for Sale, the complainant was entitled to stop making payments and also not to pay any interest for the same for the period when construction was halted. However, once the construction recommenced and progressed, resulting in the issuance of the Completion Certificate, the complainant could not indefinitely withhold payment of the installments. The complainant was under an obligation to resume payments as and when the construction restarted. However, from the record, it is evident that the complainant has failed to make any payment after the year 2017. The respondent has also placed on record an e-mail dated 06.04.2019, sent by the complainant, wherein she herself has stated that she will be unable to pay the instalment until her loan is sanctioned. A copy of the said e-mail has been annexed as Annexure A with the written submissions filed by the respondent.

  
Accordingly, it cannot be denied that there has been a default on the part of the complainant in making the due payments despite the reminders and demand letters issued by the respondent.

In the light of above facts and observations, the Authority is of the view that although the complainant was justified in stopping payments during the period of non-construction, she was equally obligated to resume payment once construction recommenced. The complainant has failed to discharge this obligation. Hence, the contention of the complainant for waiving off the interest is hereby rejected.

Further, with regard to the interest charged for the period during which construction was halted, the complainant has already sought relief in the form of delayed interest in handing over of the possession. The said issue can be addressed by appropriate directions, which shall be further dealt with and settled by this order.

(v) With regard to delayed possession interest, in the present case, the Authority observes that the complainant had paid ₹15,41,727/- against the total sale consideration of ₹34,51,060/-. The Agreement for Sale was executed between the parties on 09.02.2018 and the respondent was supposed to deliver the possession within fourteen(14) months from the signing of the Agreement for Sale i.e. by 09.04.2019. However, the respondent had issued an offer of possession to the complainant



on 11.10.2024. Admittedly there has been an inordinate delay in delivery of possession but the complainant wishes to continue with the project and take possession. In these circumstances, provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the booked unit, the complainant is also entitled to receive interest from the respondent on account of delay caused in delivery of possession for the entire period of delay till a valid possession is given to the complainant.

23. Now with regard to the period for which delay interest is admissible to the complainant, the interest shall be calculated on deposited amount from the deemed date of possession till a valid offer of possession. In this particular case, an offer of possession had been given on 11.10.2024 after obtaining Completion certificate. Hence, the said offer of possession is valid in the eyes of law. But the respondent has given the offer of possession after a delay of almost five years for which the complainant is entitled to delay interest on the entire paid amount i.e. from 09.04.2019 to 11.10.2024. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:



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

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

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

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

**“Rule 15:** “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”*

24. Considering the above facts, delay in handing over of the possession of the unit has been established. Hence, the Authority directs the respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI highest marginal cost of lending rate (MCLR) + 2 % which as on date



works out to be 10.80% (8.80% + 2.00%) from the due date of possession till the date of valid offer of possession i.e. from 09.04.2019 to 11.10.2024.

25. Authority has got calculated the interest on total paid amount from due date of possession or from the date of payments whichever is later till the date of valid offer of the possession as mentioned in the table below:

Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till 11.10.2024 (in ₹) @ 10.80% p.a rate of interest
₹15,41,727/-	09.04.2019	₹9,18,295/-

26. The complainant is also seeking compensation on account of mental agony, torture, harassment caused for delay in possession, deficiency in services and cost escalation. It is observed that Hon'ble Supreme Court of India, in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & ors.*" (supra), has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18 and Section 19 of the RERA Act, 2016, which is to be decided by the learned Adjudicating Officer as per Section 71 and the quantum of compensation and litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72 of the Act, 2016. The



Adjudicating Officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

#### **J. DIRECTIONS OF THE AUTHORITY**

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

- (i) The respondent is directed to hand over the physical possession of the plot to the complainant after adjustment of the delay interest of ₹9,18,295/- as calculated by the Authority against the outstanding dues of the complainant and execute conveyance deed within 90 days from the date of passing of this order.
- (ii) The complainant is directed to take possession and to execute conveyance deed after making the due payments as per agreed terms and conditions of the Agreement for Sale.
- (iii) To balance the equities in the matter and in the interest of justice, the rights and liabilities of both parties are being freezed on the date of offer of possession i.e on 11.10.2024, therefore the

parties are directed to settle the receivables and payables till the said date within 90 days from the date of passing of this order, failing which interest shall be charged till the realization of the amount.

(iv) The respondent shall not charge anything from the complainant which is not part of the agreement. If any amount is collected by the respondent in violation of the terms and conditions of the agreement, it shall be refunded to the complainant.

(v) A period of 90 days is given to both the parties to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation and Development) Rules, 2017, failing which legal consequences would follow.

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

  
(CHANDER SHEKHAR)  
MEMBER

30.01.2026  
Gaurav Saini  
(Law Associate)