

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

Complaint no. : 3157 of 2024
First date of hearing: 25.10.2024
Date of decision : 31.10.2025

Aarti,
R/o: -H.No. 27, Village Kadipur

Complainant

Versus

M/s Pyramid Propmoto Private Limited
Regd. Office at: Unit. No. 131, 1st floor
Vatika Towers, Sector- 54,
Gurugram-122003

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Sh. Sagar Yadav (Advocate)
Sh. Sanchit Garga (Advocate)

Complainant
Respondent

ORDER

1. The present complaint dated 26.07.2024 has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, 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 tabular form:

S.N.	Particulars	Details
1.	Name and location of the project	"The Balcony", Sec-93, Gurgaon
2.	Nature of the project	Affordable Group Housing Colony
3.	DTCP license no.	1 of 2019 dated 04.01.2019 valid up to 02.01.2026 (area 5 acre)
4.	RERA Registered/ not registered	28 of 2019 dated 13.05.2019 valid up to 03.01.2024
5.	Unit no.	E-1404, 14 th floor, Tower E [as per BBA on page 55 of complaint]
6.	Unit admeasuring area	589.68 sq. ft. of carpet area 88.705 sq. ft. balcony area [page no. 14 of complaint]
8.	Date of builder buyer agreement	24.11.2020 [page 51 of complaint]
9.	Allotment letter	18.08.2020 [on page 37 of complaint]
10.	Buyer agreement	08.06.2023 [on page 11 of complaint]
11.	Possession clause in Affordable Housing Policy	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.
11.	Date of approval of building plan	12.04.2019 [as per BBA on page 54 of complaint]
12.	Date of environment clearance	03.05.2019 (as per information obtained from the planning branch)
13.	Due date of possession	03.11.2023 (Calculated as 4 years from date of grant of environmental clearance i.e., 03.05.2019 as per policy of 2013 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
14.	Total sale consideration	Rs.25,22,069/- [as per demand notice on page 07 of complaint]
15.	Total amount paid by the complainants	Rs. 25,67,521/- [as per the reply on page 07]
16.	Reminder Letter	11.10.2024 (page 08 of reply)
17.	Occupation certificate	20.09.2024 (as per DTCP website)

B. Facts of the complaint

3. The complainant has made the following submissions: -
1. That the complainant is a respectful citizen. The complainant booked an apartment bearing no. 608, unit type b, 2bhk, admeasuring 580.54 sq.ft. and balcony area 100 sq. ft. situated at 6th floor tower-4 in Affordable

Group Housing Colony namely "Pyramid Fusion Homes, Gurugram" in revenue estate of village Palra, Sector 70A, Gurugram Manesar, Urban Complex District, Gurugram along with one two-wheeler open parking site in project.

- II. That the respondent " M/S PYRAMID PROPMOTO PVT. LTD." is a company incorporated under the provisions of the companies act, 1956.
- III. That the complainants booked a unit in the project namely "The Balcony" at sector 93, Gurugram, Haryana which is being developed by the respondent. The respondent misled the complainant and provided false assurance that the possession of the unit would be provided to them based on said assurance complainant paid a booking amount of Rs. 1,20,153/- for being eligible for the draw system.
- IV. The draw was held on 17/08/2020 and in that draw complainant was allotted Flat No. D-1408, in tower D having carpet area 589.679 sq. ft. and balcony area 88.705 sq. ft. on floor no. 14 together with two wheeler parking site in the project That the total payment of Rs. 24,03,069 /- were duly made by the complainants per schedule.
- V. The respondent, having received the total consideration, has failed to provide possession of the said flat as agreed upon. Furthermore, the respondent has neglected to provide any compensation in course of delay of the project. This constitutes a breach of contract, wherein the respondent has not fulfilled their obligations under the agreement to provide timely possession and as such the respondent is guilty under various provisions.
- VI. That the respondent is giving lame excuses for the delay of possession every now and then.
- VII. That due to the above-said conduct it is clear that the respondent is deliberately harassing the complainant and is trying to extort hard-earned money from the respondent and trying to take advantage by being a dominating position because the work is still pending. Even after paying all the demands raised by the respondent, the complainant is not receiving possession of the said flat .

VIII. That due to the said conduct of respondent the complainant is facing several issues and challenges by not being in possession of the said flat as per agreed terms and time and schedule of the buyer builder agreement.

C. Relief sought by the complainant

4. The complainant has sought following relief(s).
 - a) Direct the respondent to pay interest for every month of delay, till the handing of the possession. according to section 6 (b) of BBA.
 - b) Direct the respondent not to cancel the allotment/possession of said unit of the complainant.
 - c) Direct the respondent to provide possession of the said flat to the complainant as per rules and conditions as agreed upon in the BBA.
 - d) Direct the respondent to provide compensation to the complainant for causing mental agony and harassment to the tune of Rs. 1,00,000/-.
 - e) Direct the respondent to pay the legal expenses incurred by the complainant to the tune of Rs. 50,000
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.

- i. That the present complaint is sheer abuse of the process of law and the same has been moved by the complainant without any cause of action and without any merits and substance as without well as without any justified and lawful grounds and reasonable probable cause.
- ii. That the assertions made by the petitioner are merely bald assertions without any substance. I say that every statement of the petitioner is blatant lies and material facts have been concealed by the petitioner in the present complaint.
- iii. That the present complaint has been filed by the petitioner on vague grounds and does not inspire credence and trust.

- iv. That the contents of list of dates and events are not admitted and denied, save and except which forms part of records.
 - v. That the project being developed by the respondent no. 1 under the name and style of "The Balcony" situated at Sector 93, Village, Hayatpur, Gurugram, Haryana is being developed under the Affordable Housing Scheme and the respondent had completed the construction of the project in due time and has already obtained the Occupation Certificate vide memo No. ZP-1281-Vol-II/JD(RA)/2024/30051 on 20/09/2024.
 - vi. That the respondent has already issued offer of possession letter Dated 01 October, 2024 to the complainant.
 - vii. That the complainants have very conveniently not taken possession despite the same being offered as far back as on 01.10.2024 due to ulterior motives and is delaying taking possession of the Apartment.
 - viii. That the complainants are avoiding taking possession for reasons best known to them.
 - ix. That the present petition of the petitioner be dismissed with exemplary costs on the petitioner.
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 submissions made by the parties.

E. Jurisdiction of the authority

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

E.1 Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district.

Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to pay interest for every month of delay, till the handling of the possession. according to section 6 (b) of BBA.

F.II Direct the respondent not to cancel the allotment/possession of said unit of the complainant.

F.III Direct the respondent to provide possession of the said flat to the complainant as per rules and conditions as agreed upon in the BBA.

F.IV Direct the respondent to provide compensation to the complainant for causing mental agony and harassment to the tune of Rs. 1,00,000/-.

F.V Direct the respondent to pay the legal expenses incurred by the complainant to the tune of Rs. 50,000

11. On the above-mentioned reliefs sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other reliefs.

12. The complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

Section 18: - Return of amount and compensation

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

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

13. At the outset, it is relevant to comment on the possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the complainant not being in default under any provisions of these agreements and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by the allottees in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is not only in grave violation of clause 1(iv) of the Affordable Housing Policy, 2013, but also deprive the allottees of their right accruing after delay in possession.

14. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licenced 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 environment clearance and building plan approval in respect of the said project on 03.05.2019 and 12.04.2019 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 03.11.2023 (Calculated as 4 years from date of grant of environmental clearance i.e., 03.05.2019 as per policy of 2013 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020).

16. Admissibility of delay possession charges at prescribed rate of interest: Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

17. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
18. 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., 31.10.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85%.
19. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default
20. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.
21. On consideration of the documents available on record and submissions made by both the parties, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the

- respondent/promoter shall be necessarily required to complete the construction of the project within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Therefore, in view of the findings given above, the due date of handing over of possession was 03.11.2023. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.
22. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 03.11.2023 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
23. Further, as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
24. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Decided on 11.11.2021)*, has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and

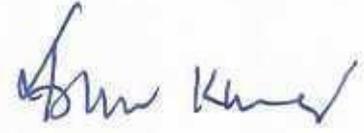
section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

G. Directions of the authority

25. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:
- i. The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.85% p.a. for every month of delay from the due date of possession i.e., 03.11.2023 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
 - ii. The arrears of such interest accrued from 03.11.2023 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
 - iii. The respondent/promoter shall handover possession of the flat/unit and execute conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and

- registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
- iv. The complainant(s) are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
 - v. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the Affordable Housing Policy, 2013 as well as buyer's agreement.
 - vi. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.85% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
1. Complaint as well as applications, if any, stand disposed off accordingly.
 2. Files be consigned to registry.

Dated: 31.10.2025



Arun Kumar
Chairman

Haryana Real Estate Regulatory
Authority, Gurugram