

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

Date of decision : 16.12.2025

NAME OF THE BUILDER		M/s CITRA PROPERTIES LIMITED	
PROJECT NAME		"Indiabulls one09" at sector 109, Gurugram	
Sr. No.	Case No.	Case title	Appearance
1.	CR/2711/2025	Rajat Dhingra and Garima Dhingra Vs. M/s Citra Properties Limited	Shri BL Jangra (Advocate) Shri Pulkit (Advocate)
2.	CR/2709/2025	Pardeep Vs. M/s Citra Properties Limited	Shri BL Jangra (Advocate) Shri Pulkit (Advocate))
3.	CR/2710/2025	Ranjan Kumar and Linda Srivastava Vs. M/s Citra Properties Limited	Shri BL Jangra (Advocate) Shri Pulkit (Advocate)
4	CR/2730/2025	Neetu and Narender Kumar Vs. M/s Citra Properties Limited	Shri BL Jangra (Advocate) Shri Pulkit (Advocate)

CORAM:

Shri Arun Kumar
Shri Phool Singh Saini

**Chairman
Member**

ORDER

1. This order shall dispose of the aforesaid complaints titled above filed before this authority under Section 31 of the Real Estate (Regulation and

- Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, Indiabulls one09 situated at Sector-109, Gurugram being developed by the same respondent/promoter i.e., M/s Citra Properties Limited. The terms and conditions of the buyer's agreements and fulcrum of the issue involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking possession of the unit along with delayed possession charges.
 3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

Project Name and Location	"Indiabulls One09", Sector 109, Gurugram
Nature of the project	commercial
Project area	5.9 acres
DTCP License No. and validity	License no. 43 of 2012 Dated-05.05.2012
HRERA Registered	Registered Vide registration no. 298 of 2017 Dated-13.10.2017
Possession Clause (23)	The Developer shall endeavour to complete the construction of the unit <i>within period of forty-eight months with a six months grace period thereon, from the date of execution of the Buyers Agreement subject to timely payment by the buyer of the Sale Consideration payable</i>



<p>) <i>according to the Payment Plan applicable to him/her/them or as demanded by the Developer.</i> The Developer on completion of the construction/development shall issue final call notice to the Buyer(s), who shall within 15 days thereof, remit all dues and take possession of the Unit. In the event of his/her/their/its failure to take possession of the Unit within the stipulated time for any reason whatsoever, he/she shall be liable to bear all taxes, levies, outflows and maintenance charges/ cost and any other levies on account of the allotted Unit along with interest and penalties on the delayed payment, from the dates these are levied/made applicable irrespective of the fact that the Buyers) has/have not taken possession of the Unit or has/have not been enjoying benefit of the same. The Buyers) in such an eventuality shall also be liable to pay the holding charges@ Rs. 7/ PER, per sq ft (of the Super Area) per month to the Developer, from the date of expiry of said 30 days till the time possession is actually taken over by the Buyer(s).</p>							
S.N	CR NO.	Unit no. and area	Date of buyer agreement	Due date of possession	Date of occupation certificate	Offer of possession	Relief
1	2711-2025	Shop No. 141 Area: 566 sq.ft.	14.06.2017	14.12.2021 (including grace period)	19.07.2024 (page 29 of reply)	20.08.2024 (page 32 of reply) BSP: Rs. 45,84,600/- A.P: Rs. 50,81,739/-	- DPC -Handover -Execute of conveyance deed. -Refund GST Credit Input. - Not to charge holding charges and maintenance charge.



2	2709-2025 Pardee p Vs Citra Properties Limited	Shop No. 18 Area: 981 sq.st.	10.10.2016	10.04.2021 (including grace period)	19.07.2024 (page 38 of reply)	20.08.2024 (page 32 of reply) TSC: Rs. 1,13,60,961/- A.P: Rs. 1,27,64,338/-	- DPC -Handover -Execute of conveyance deed. -Refund GST Credit Input. - Not to charge holding charges and maintenance charge. -refund excess sale consideration.
3	2710-2025 Ranjan Kumar and Linda Srivastava Vs Citra Properties Limited	Shop no. 29 Area: 880 sq.ft.	06.05.2016	06.11.2020 (including grace period)	19.07.2024 (page 37 of reply)	21.08.2024 (page 31 of reply) TSC: Rs. 1,01,01,280/- A.P: Rs. 1,13,36,388/-	- DPC -Handover -Execute of conveyance deed. -Refund GST Credit Input. -Not to charge holding charges and maintenance charge. -refund excess sale consideration.
4	2709-2025	Shop No. 134	28.11.2016	28.05.2021	19.07.2024	21.08.2024	- DPC -Handover

	Neetu and Narender Kumar Vs Citra Properties Limited	Area: 771 sq.ft.		(including grace period)	(page 32 of reply)	(page 35 of reply)	-Execute of conveyance deed. -Refund GST Credit Input. - Not to charge holding charges and maintenance charge. -refund excess sale consideration.
						BSP: Rs. 64,22,430/- A.P: Rs. 76,79,911/-	

4. The aforesaid complaints were filed by the complainant-allottee(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties in respect of subject unit for not handing over the possession by the due date, seeking the physical possession of the unit along with delayed possession charges and other reliefs.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the respondent in terms of Section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant-allottee(s) are similar. Out of the above-mentioned cases, the particulars of lead case *CR/2711/2025 titled as "Rajat Dhingra and Garima Dhingra Vs. M/s*

Citra Properties Limited are being taken into consideration for determining the rights of the allottee(s) qua the relief sought by them.

A. Project and unit related details

7. The particulars of the project, the details of sale consideration, the amount paid by the complainant(s), date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

CR/2711/2025 titled as "Rajat Dhingra and Garima Dhingra Vs. M/s Citra Properties Limited"

S.No.	Particulars	Details
1.	Name of the project	"Indiabulls One 09", Sector 109, Gurugram
2.	Nature of the project	Commercial Multiplex
3.	Project area	5.9 acres
4.	DTCP license no.	License no. 43 of 2012 Dated-05.05.2012
5.	RERA Registered/ not registered	Registered Vide registration no. 298 of 2017 Dated-13.10.2017
9.	Unit no.	Shop no. 141
10.	Unit area admeasuring	566 sq.ft. (page 38 of complaint)
11.	Date of execution of Buyer's Agreement	14.06.2017 (Page 36 of complaint)
12.	Possession clause as per BBA	Clause 23 <i>The Developer shall endeavor to complete the construction of the unit within a period of 48 months with a grace period of 6 months from the date of execution of the Buyer's Agreement subject to timely payments by the Buyers.</i> (Page 46 of complaint)
16.	Due date of possession	14.12.2021 (including grace period)
17.	Total sale consideration	Rs. 49,13,446/- Page 40 of complaint)

18.	Amount paid by the complainant	50,81,739/-
19.	Occupation certificate	19.07.2024 (page 29 of reply)
20.	Offer of possession	20.08.2024 (page 32 of reply)

B. Facts of the complaint

8. The complainant has made following submissions in the complaint:

- a) That the complainants are joint allottee of unit bearing no. Shop 141 ad-measuring 566 Sq. Feet on first floor in the project "**Indiabulls One 09**", Gurgaon, Haryana by virtue of Buyer Agreement dated 14th June 2017 and due to non-performance of the contractual obligation, deficiency in service and unfair trade practice adopted by the respondent the present complaint is being moved before the Hon`ble Authority for seeking direction of physical possession of the booked shop with complete compliance and law and necessary permission from authority.
- b) That the respondent claimed to be a registered company under the provisions of the Company Act and is carrying out its business in the real estate area by constructing and developing the residential and commercial project in the NCR Zone. Further, the respondent represented that booking of the unit/shop in the project namely "**Indiabulls One 09**", Gurgaon, Haryana to be constructed and developed over the land owned by respondent has been started and the physical delivery of the booked shop will be affected in time bound manner as per agreement.
- c) That the respondent represented that DTCP license no. 43/2012 dated 05.05.2012 for development and construction of the said commercial

project has been procured and project will be completed by June 2021 within a period of 48 months.

- d) That complainants were attracted by the respondent and induced to book the shop/unit in the project "**Indiabulls One 09**", Gurgaon, Haryana.
- e) That after negotiation the complainants signed a booking application form by making booking amount sum of INR 2,00,000/- against booking of Unit No. Shop 141 in the project "**Indiabulls One 09**", Gurgaon, Haryana. The respondent duly acknowledged the payment by issuing confirmation of receipt of no. 91 dated 10th August 2015.
- f) That as per the demand raised by the respondent, the complainants had paid the sum of INR 3,04,940/- by RTGS on 31st August 2015 in the account of the respondent. The complainants were paying the payment as per demands from the respondent and never in default in making the same.
- g) That despite repeated request and reminders the respondent signed a Buyer Agreement dated 14th June 2017 wherein the respondent mentioned that shop was booked against BSP @ 8100/- per square feet of Super Area and **total cost of the booked shop is 49,13,446/- (hereinafter sale consideration)** more particularly details given in clause no. 2 and 6(i) of the Buyer Agreement. It is relevant to mention here that the complainants opted possession linked payment plan more particularly mentioned in the "Annexure D" of the BBA dated 06.05.2016. The Possession Linked plan as per BBA is reproduced herein below for your kind perusal:

ON BOOKING	Rs. 2,00,000/-
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Within 30 days of advance towards booking less booking 2 Lakh	10% of sale price
Within 90 days of advance towards booking	20% of Sale Price
On completion of super structure for 18 months (whichever is later)	40% of Sale Price
On offer of possession	30% of sale price + 100% Maintenance security deposit

- h) That the complainants submit that as per clause no. 23 of the Buyer Agreement the physical possession of the said unit/shop was to be delivered within 48 eight months with a six month grace period from the date of execution of Builder Buyer Agreement i.e. within a period of 54 months, thus possession was to be handed over on or before 14.12.2021 and till date the respondent failed to deliver the shop in grave violation of buyer agreement and RERA Act.
- i) That the complainants had paid the sum of INR 50,81,739/- to the respondent as follows.

Receipts No.	Date	Amt./INR

1961	17.04.2018	INR 5,00,000/-
1962	17.04.2018	INR 5,00,000/-
1974	19.04.2018	INR 10,00,000/-
2036	23.05.2018	INR 1,62,784/-
4223	18.05.2024	INR 18,44,493/-

- j) That as per the payment receipts issued by the respondent, they had received sum of INR 55,23,498/- from the complainant but neglected to handover the physical possession and demanding more payment without any justification.
- k) That the complainants had already paid more than 100% sale consideration, however the respondent failed to complete the project as per the timeline. That the complainant had been regularly calling and visiting the respondent office since 2019 seeking information about completion and possession of project writing numerous mails regarding progress of the project and occupation certificate but of no consequence.
- l) That the respondent failed to complete and handover the physical possession of the shop on or before 14.12.2021 if we include the 6 months of grace period from the date of execution of Builder Buyer Agreement dated 14.06.2017 and possession of the Shop is still awaited. There is an inordinate delay of 3 years 4 months approx. as on 01.05.2025.

- m) That it has come to the knowledge of the complainants, the respondent had obtained Occupation Certificate on 19.07.2024 issued by the DTCP. The respondent after obtaining OC sent offer of possession letter dated 20.08.2024, directing the complainant to take physical possession of the said shop and demanded balance payment of INR 1,12,562/- which was also paid by the complainant. Thus, full amount of INR 50,81,739/- stood paid as on September 2024 inclusive of all charges as per BBA but the respondent have neglected to account for the delay possession charges for 4 years and 6 months which the Respondent is liable to pay under section 18 of the RERA Act.
- n) That on visiting the site the complainants had found the project had still remained incomplete. The internal roads have not been constructed, the common area comprising of parking space, the internal roads, landscaping work is incomplete, no regular electricity connection for electricity department has been obtained nor independent electricity meters have been installed, the respondent is supplying electricity through temporary arrangements using gen-sets and charging heavily for the same, besides the sewage work is still under process and lifts are also not functional and only service lifts are operational so the project is not fit for habitation. All these have been pointed out to the respondent but they have neglected to complete the same and intending to put maintenance charges and holding charges from the date of offer of possession which are clearly illegal and liable to be waived off.
- o) That the respondent had mischievously bifurcated the project into 2 parts without information and approval from the Allottes which has adversely affected their prime location and as promised and assured

the respondent have also failed to acquire the frontage land, making accessibility to the project difficult, thus have cheated upon the allottees by making sub tile and lucrative advertisements to invite booking, thus liable to be prosecuted under Section 12 read with Section 61 of RERA Act.

- p) That it is relevant to mention here that the respondent has denied the use of the main lift citing ongoing construction relating to the adjoining office building which is part of the project. Additionally, the staircase and walls adjacent to the lift areas are in neglected and unfinished condition. The walls are marred with construction marks, dust and lack basic finishing and maintenance. This not only reflects poorly on the project's promised quality standard but also creates an unsafe and unappealing environment for the customers.
- q) That the respondent, at the time of sale, committed to delivering a fully functional and commercially conducive space. However, the current state of access and maintenance is in stark contrast to such promises, amounting to unfair trade practices and deficiency in services.
- r) That the complainant is also entitled to GST Input Tax Credit as at the time of launch of project the respondent was charging 5% service tax from the complainant and thereafter in 2016 after introduction of GST the respondent started charging 18% GST and availed the benefit of GST Input Tax Credit from the competent authority which the respondent was liable to provide to the allottees. The complainant in this regard visited the office of the respondent numerous times but the respondent always gave evasive replies and did not provide the same to the complainant.

s) That the respondent by their acts, conduct and omission had failed to handover the physical possession of the unit in term of Builder Buyer Agreement dated 14.06.2017 on or before 14.06.2021, thus played upon unfair trade practice hence the complainants are entitled to seek delay possession charges in the form of interest for inordinate delay in completion of the construction besides physical possession of the booked shop.

C. Relief sought by the complainant

9. The complainant has sought the following relief(s):

- I. The respondent be directed to handover the physical possession of Unit bearing no. Shop 141 ad-measuring 566 Sq. Feet on first floor in the project "**Indiabulls One 09**", Gurgaon, Haryana with all the basic amenities as per the agreement.
 - II. The respondent is directed to pay delay possession charges in the form of interest from committed date of handing over the physical possession i.e. 14.12.2021 (inclusive of 6 months grace period) for period of 4 Years and 6 Months.
 - III. The respondent be directed to execute the conveyance deed/sale deed in respect of the Unit/Shop no. 141 on first floor, in Commercial Complex named as "**INDIABULLS ONE 09**", situated at Sector - 109, Gurugram.
 - IV. The respondent be directed to refund GST Input Tax Credit.
 - V. The respondent be directed not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop.
10. 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

11. The respondent has contested the complaint on the following grounds.

- a) That the present complaint is devoid of any merits and has been preferred with the sole motive to harass the answering respondent. In fact the present complaint is liable to be dismissed on the ground that the said claim of the complainants are unjustified, misconceived and without any basis as against the respondent. That the present complaint is baseless and flagrant abuse of process of law to harass the respondent.
- b) That the respondent after completing the construction of the alleged tower wherein the subject unit is located applied for grant of Occupational Certificate before the Director, Town and Planning Department, Chandigarh (Haryana) on 25.09.2023, and the same was granted on 19.07.2024 by the Director, Town and Planning Department, Chandigarh (Haryana). As such the construction of the Tower wherein the unit of the complainants is located got completed on 25.09.2023 i.e. the date of submission of the application for grant of occupational certificate.
- c) That subsequent to the issuance of the occupation certificate, the possession of the unit had been offered to the complainants on 20.08.2024, and vide the said possession letter the complainants were called upon to take the physical possession of their unit and also to remit the balance possession due upon the complainants as per the terms of the agreement.
- d) That the complainants, after having several discussions with the Respondent, made payment of the possession dues on 18.09.2024, 14.10.2024 & 24.12.2024. However, for the sake of clarity is it submitted that the complainants only paid **Rs.36,79,005/-** as on 20.08.2024 i.e. the date when possession got offered which is also

clearly reflected in the ledger sent to the complainants at the time of offer of possession.

- e) That the respondent on 09.10.2024 issued a provisional letter of allotment to the complainants.
- f) That the respondent vide letter dated 01.04.2025 called upon the complainants for the registration of the conveyance deed. Despite the issuance of the letter dated 01.04.2025, the complainants did not come forward for registration of the conveyance deed. The complainants are now putting the blame on the respondent for their own failures to take the physical possession of their unit followed by a conveyance deed.
- g) That it is an admitted fact that the complainants themselves are at fault in taking the physical possession of their unit post offer of possession on 20/08/2024. That the complainants are in violation of the provisions of the Act especially 19(10) of the Act, which obligated the complainant to take the physical possession of the unit post receiving of Occupational Certificate.
- h) That as per provision of clause 19 of the agreement the complainant has agreed and understood the force majeure circumstances and also the fact that respondent shall not be held liable for not performing obligations or undertaking provided therein and allottee shall not be liable for any compensation for such delay. Thus, the respondent is entitled for extension of timeline due to force majeure circumstances.
- i) That despite offering possession on 20/08/2024 the complainants failed to take the physical possession of their unit and delayed the same despite repeated request, as such the complainants may equally be held liable and accountable for violation of the provisions of the RERA ACT and equally liable to compensate the respondent.

- j) That the respondent was faced with certain force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. Similar orders staying the mining operations were also passed by the Hon'ble High Court of Punjab & Haryana and the National Green Tribunal in Punjab and Uttar Pradesh as well. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel exponentially. It was almost for 2 (Two) years that the scarcity as detailed aforesaid continued, despite which, all efforts were made and materials were procured at 3-4 times the rate and the construction of the project continued without shifting any extra burden to the customer.
- k) That additionally, even before normalcy could resume, the world was hit by the Covid-19 pandemic. That the COVID- 19 pandemic resulted in serious challenges to the Project with no available labourers, contractors, etc. for the construction of the Project. The Ministry of Home Affairs, GOI vide notification dated March 24, 2020, bearing no. 40-3/2020- DM-I (A) recognized that India was threatened with the spread of the COVID-19 pandemic and ordered a complete lockdown in the entire country for an initial period of 21 days which started on March 25, 2020. By various subsequent notifications, the Ministry of Home Affairs, GOI further extended the lockdown from time to time.

Various State Governments, including the Government of Haryana, have also enforced various strict measures to prevent the pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of the Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention that considering the widespread of COVID-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. During the period from 12/04/2021 to 24/07/2021 various activities including construction activity was banned in the state.

l) That there exists no cause of action as much as in favour of the complainant or against the respondent and the complaint under reply is liable to be dismissed as per the facts and averments as explained hereinabove.

12. All other averments made in the complaint were denied in toto.
13. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority

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

E.I Territorial jurisdiction

15. As per notification no. *1/92/2017-1TCP dated 14.12.2017* issued by Town and Country Planning Department, the jurisdiction of Real Estate

Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

16. 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."

17. 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 objections raised by the respondent.

F. I Objection regarding delay due to force majeure circumstances.

18. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as lockdown due

to outbreak of Covid-19 pandemic. But all the pleas advanced in this regard are devoid of merit. The authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit by 14.12.2021 (including grace period being unqualified). Further, quoting HARERA notification no. 9/3-2020 dated 26.05.2020, the respondent requested for an extension of 6 months in lieu of Covid-19. However, it is observed by the Authority that a respondent has already obtained a 6-month extension due to being "unqualified" as per clause 23 of the buyer agreement and is now seeking a second extension based on the COVID-19 pandemic which is unjustified double-benefit. Therefore, any extension in timeframe for handover of possession in lieu of Covid-19 cannot be granted and the due date for handover of possession remains unaltered i.e. 14.12.2021.

G. Findings on the relief sought by the complainant

G.I The respondent be directed to pay delay possession charges in the form of interest from committed date of handing over the physical possession i.e. 14.12.2021 (inclusive of 6 months grace period) for period of 4 Years and 6 Months.

19. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges at prescribed rate of interest on amount already paid by her as provided under the proviso to Section 18(1) of the Act which 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."

20. Clause 23 of the buyer's agreement (in short, the agreement) provides the time period for handing over possession and the same is reproduced below:

"The Developer shall endeavour to complete the construction of the unit within period of forty-eight months with a six months grace period thereon, from the date of execution of the Buyers Agreement subject to timely payment by the buyer of the Sale Consideration payable according to the Payment Plan applicable to him/her/them or as demanded by the Developer. The Developer on completion of the construction/development shall issue final call notice to the Buyer(s), who shall within 15 days thereof, remit all dues and take possession of the Unit. In the event of his/her/their/its failure to take possession of the Unit within the stipulated time for any reason whatsoever, he/she shall be liable to bear all taxes, levies, outflows and maintenance charges/ cost and any other levies on account of the allotted Unit along with interest and penalties on the delayed payment, from the dates these are levied/made applicable irrespective of the fact that the Buyer(s) has/have not taken possession of the Unit or has/have not been enjoying benefit of the same. The Buyer(s) in such an eventuality shall also be liable to pay the holding charges@ Rs. 7/ PER, per sq ft (of the Super Area) per month to the Developer, from the date of expiry of said 30 days till the time possession is actually taken over by the Buyer(s)."

21. **Due date of handing over possession:** As per clause 23 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit within a period of 48 months with a 6 month grace period from the date of execution of buyer agreement. Accordingly, the due date of possession comes out to be 14.12.2021 including grace period being unqualified.
22. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. Proviso to section 18 provides that where an allottee(s) 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, *ibid*. 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]

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.

23. The legislature in its wisdom in the subordinate legislation under the Rule 15 of the Rules, *ibid* has determined the prescribed rate of interest. The rate of interest, determined by the legislature, is reasonable and if the said Rule is followed to award the interest, it will ensure uniform practice in all cases.
24. 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., 16.12.2025 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
25. 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. The relevant section is reproduced below:

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

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

- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of*

interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

26. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondents/ promoters which is the same as is being granted to them in case of delayed possession charges.
27. On consideration of the circumstances, the evidence and other record and submissions made by the parties, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. The due date of handing over possession was 14.12.2021. As far as grace period is concerned, the same is allowed for the reasons quoted above. The occupation certificate has been received by the respondent on 19.07.2024 and the possession of the subject unit was offered to the complainant on 20.08.2024. The authority is of the considered view that there is delay on the part of the respondent to offer possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities to handover the possession within the stipulated period. Therefore, the delay possession charges shall be payable from the due date of possession, i.e., from 14.12.2021 till the expiry of 2 months from the date of offer of possession (20.08.2024) which comes out to be 20.10.2024.
28. Further, as per Section 19(10) of Act of 2016, the allottees are under an obligation to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on

19.07.2024. The respondent offered the possession of the unit in question to the complainant only on 20.08.2024. So, it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 month of reasonable time is being given to the complainant keeping in mind that even after intimation of possession, practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit, but this is subject to that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 14.12.2021 till the expiry of 2 months from the date of offer of possession (20.08.2024) which comes out to be 20.10.2024.

29. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession at prescribed rate of interest i.e., 10.80% p.a. w.e.f. 14.12.2021 till 20.10.2024 as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19 (10) of the Act

G.II The respondent be directed to handover the physical possession of Unit bearing no. Shop 141 ad-measuring 566 Sq. Feet on first floor in the project "Indiabulls One 09", Gurgaon, Haryana with all the basic amenities as per the agreement-

30. The respondent obtained the occupation certificate from the competent authority on 19.07.2024 and offered possession of the unit in question to the complainant on 20.08.2024. Therefore, the respondent is directed to

hand over the physical possession of the subject unit within a period of 30 days from the date of this order.

G.III The respondent be directed to execute the conveyance deed/sale deed in respect of the Unit/Shop no. 141 on first floor, in Commercial Complex named as "INDIABULLS ONE 09", situated at Sector - 109, Gurugram.

31. Under Section-17(1) proviso of the Act, 2016, the respondent/promoter is under an obligation to execute the registered conveyance deed in favour of the allottee/complainant within three months from the date of issue of occupancy certificate. The relevant provision is reproduced below:

"Section 17 . Transfer of title

- (1) *the promoter shall execute a registered conveyance deedlocal laws: Provided that, in absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from the date of issue of occupancy certificate.*

[Emphasis supplied]

32. The Authority hereby directs the respondent to execute the conveyance deed in favour of the complainants within 60 days from the date of this order.

G.IV The respondent be directed to refund GST Input Tax Credit.

33. It is contended on behalf of complainants that the respondent raised an illegal and unjustified demand towards GST. It is pleaded that the liability to pay GST is on the builder and not on the allottee. But the version of respondents is otherwise and took a plea that while booking the unit as well as entering into flat buyer agreement, the allottee agreed to pay any tax/ charges including any fresh incident of tax even if applicable retrospectively. It is important to note that the possession of the subject unit was required to be delivered by 14.12.2021 and the incidence of GST came into operation thereafter on 01.07.2017. The authority is of view that

the due date of possession is after 01.07.2017 i.e. date of coming into force of GST, the builder is entitled for charging GST w.e.f. 01.07.2017. The promoter shall charge GST from the allottees **where the same was leviable**, at the applicable rate, if they have not opted for composition scheme subject to furnishing of such proof of payments and relevant details.

G.V The respondent be directed not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop.

34. The respondent shall not charge anything from the complainant which is not the part of the agreement. However, holding charges shall also not be charged by the promoter at any point of time even after being part of agreement as per law settled by the Hon'ble Supreme Court in civil appeal no. 3864-3889/2020 dated 14.12.2020. Further, the complainants raised an objection towards the amount raised towards maintenance charges. This issue has already been dealt with by the Authority in complaint bearing no. **4031 of 2019 titled as "Varun Gupta Vs. Emaar MGF Land Limited" decided on 12.08.2021**, wherein it was held that the respondent is right in demanding maintenance charges at the rates' prescribed in the buyer's agreement at the time of offer of possession. However, the respondent shall not demand the maintenance charges for more than one year from the allottee even in those cases wherein no specific clause has been prescribed in the agreement or where the maintenance charges has been demanded for more than a year.

H. Directions of the authority

35. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations

cast upon the promoter as per the function entrusted to the authority under Section 34(f):

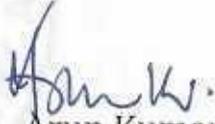
- I. The respondent is directed to pay delayed possession charges at the prescribed rate of interest i.e., 10.80% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due date of possession 14.12.2021 till the expiry of 2 months from the date of offer of possession (20.08.2024) which comes out to be 20.10.2024, as per Proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.
- II. The respondent is directed to pay arrears of interest accrued so far within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*.
- III. The respondent is directed to handover the physical possession of the unit within period of 30 days from the date of this order.
- IV. The respondent is directed to execute the registered conveyance deed in favour of the complainant within 60 days from the date of this order
- V. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- VI. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.
- VII. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

VIII. The respondent-promoter is not entitled to charge holding charges from the complainant-allottees at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 on 14.12.2020.

36. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
37. The complaints stand disposed of. True certified copy of this order shall be placed in the case file of each matter.
38. Files be consigned to registry.



Phool Singh Saini
Member



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 16.12.2025