

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

Complaint no. : 5057 of 2024
Date of complaint : 24.10.2024
Date of decision : 30.01.2026

1. Mandeep,
2. Suman Lata,
Both R/o: - H. No. 532/30, Azad Nagar,
Thanesar, Kurukshetra.

Complainants

Versus

1. M/s Elan Buildcon Pvt. Ltd.
Having Regd. Office at: 3rd floor, Golf View
Corporate Tower, Golf Course Road, Sector-42,
Gurugram, Haryana.
2. Ravish Kapoor, Managing Director, M/s Elan
Buildcon Pvt. Ltd.
Having Corporate Office at: 15th Floor, Two
Horizon Center, DLF Phase-V, Golf Course Road,
Sector-43, Gurugram.
3. The House of Rare, M/s Radhamani Textiles
Pvt. Ltd.
Having Regd. Office at: Plot no. 314-319,
Jigani, Bangalore, Karnataka.

Respondents

CORAM:
Arun Kumar

HARERA
GURUGRAM

Chairman

APPEARANCE:
Ritu Bhalla (Advocate)
Ishaan Dang (Advocate)
None

Complainants
Respondent No.1 & 2
Respondent No.3

ORDER

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act,



2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

Sr. No.	Particulars	Details
1.	Name of the project and location	"Elan Miracle", Sector 84, Gurugram, Haryana
2.	Project area	5.91875 Acres
3.	Project type	Commercial Colony
4.	DTCP License	34 of 2014 dated 12.06.2014
	valid up to	11.06.2019
	Licensee name	Bajaj Motors(P) Ltd. and others
5.	RERA Registered/ not registered	Registered vide no. 190 of 2017 dated 14.09.2017 valid up to 13.09.2023
6.	Unit no.	G-062, Ground floor, Block-Retail/commercial (As per page no. 62 of the reply)
7.	Unit area admeasuring	360 sq. ft. (super area) 180 sq. ft. (carpet area) (As per page no. 62 of the reply) Increase in super area- 433 sq.ft. Increase in Carpet area- 200.23 sq.ft. (page 107 of reply)
8.	Date of booking application	26.06.2017 (As per page no. 37 of the reply)
9.	Allotment letter	26.10.2017 (As per page no. 37 of the reply)



10.	Date of apartment buyer's buyer agreement	21.02.2019 [on page 55 of reply]
11.	Endorsement of unit in favour of complainants	10.06.2021 (page 92 of reply)
12.	Possession clause	7. POSSESSION OF THE UNIT: 7.1 Schedule for Possession of the said Premises/Unit - The Promoter agrees and understands that timely delivery of possession of the said premises / unit to the allottee(s) and the common areas to the association of allottee(s) or the competent authority, as the case may be, is the essence of the Agreement. The Promoter assures to hand over possession of the said premises / unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place within a period of 48 (forty eight) months from the date of this Agreement with an extension of further twelve months..... (As per page no. 68 of the reply)
13.	Due date of possession	21.02.2024 (Calculated as 48 months from the date of execution of buyer's agreement along with a grace period of 12 months)
14.	Total sale consideration	Rs.60,97,129 /- (As per SOA on page no. 112 of the reply)
15.	Amount paid by the complainants	Rs.58,25,594 /- (As per SOA on page no. 112 of the reply)
16.	Reminder and pre-cancellation	I - 28.12.2021 II- 08.02.2022 III- 05.04.2022 Pre- cancellation- 20.02.2024 [page 100-103 of reply]
17.	Offer of possession for fit out	07.09.2021 (page 96 of reply)
18.	Occupation certificate	15.03.2023 (As per page no. 104 of the reply)



19.	Intimation regarding grant of occupation certificate	22.03.2023 (page 107 of reply)
20.	Lease deed between Respondent no.1 & 3	19.05.2025 (page 38 of amended reply)

B. Facts of the complaint

3. The complainants have made the following submissions in the complaint: -
- I. That the respondent no. 1 flouted a project namely "Elan Miracle" at Sector-84, Gurugram and after going through the proposal being given by the agent of the respondent No. 1, Ms. Raj Lata Panwar (first allottee) booked a commercial shop bearing unit No. G-062 on Ground Floor, admeasuring 360 sq. ft. approx. super area being developed & constructed by the respondent No. 1. The total sale consideration of the above-mentioned unit was Rs.45,33,300/-.
 - II. That on dated 24/10/2017, Ms. Raj Lata Panwar booked the unit in the above said project and at the time of booking/ registration of shop, Ms. Raj Lata Panwar have paid an amount of Rs.4,29,408/- against the above said unit. Thereafter, the respondent no. 1 and 2 issued an allotment letter dated 26/10/2017 in favour of the allottee namely Ms. Raj Lata Panwar.
 - III. That thereafter the allottee further, paid a sum of Rs.8,58,816/-, a sum of Rs.3,00,000/-, a sum of Rs.1,11,667/-, an amount of Rs.7,70,275/- and a sum of Rs. 12,75,000/- and thereafter the allottee namely Ms. Raj Lata Panwar sold out the above said shop/unit to the complainants dated 10/06/2021 and thereafter the complainants paid all the payments to the respondent no. 1. as per the demand and requirement. In this manner, the complainants have paid a total sum of Rs.52,74,512/- to the respondent no. 1 and 2.



- IV. That the complainants had booked the said unit/shop under Special Fixed Return Payment Plan and as per the said plan, the respondent no. 1 promised to pay the assured return after expiry of 30th September, 2018 but the respondent no. 1 and 2 have failed to pay the same to the complainants and thereafter, the respondent no. 1 and 2 refused to pay the same on the pretext that their assured return will be adjusted at the time of taking physical possession of the unit/ shop. That it is further pertinent to mention herein that in 25th January, 2019, the first allottee namely Ms. Raj Lata Panwar signed the BBA and handed over the copies of Builder Buyers Agreement to the respondent no. 1 and 2 and the copies of the same were delivered to the complainants by the respondent no. 1 and 2 on 10/06/2021 after taking the transfer charges from the first allottee Ms. Raj Lata Panwar as the first allottee sold out the above said unit/shop to the complainants.
- V. That on 07/09/2021, the complainants received an offer of possession of fit-out letter in respect of the above said unit, from the respondent no. 1 and 2 and after seeing the said letter, it was came in the notice and knowledge of the complainants that the respondent no. 1 and 2 have arbitrarily, illegally and unlawfully decreased the area of the shop from 360 sq. ft. to 347 sq. ft. without any prior consent of the complainants and also demanded a sum of Rs.10,25,905/- from the complainants, due to which, the complainants approached to the office of the respondent no. 1 and 2 and asked about the same, but the respondents did not give any satisfactory reply to the complainants.
- VI. That in February, 2024, the complainants received an email from the respondent no. 1 and 2 where the respondent no. 1 and 2 stated that they wanted to execute the lease deed in favour of the respondent no.

- 3, but the complainants were intended to run their own business and they refused for the same by visiting in the office of the respondent no. 1 and 2.
- VII. That the complainants paid all the payments of the said unit/ shop and the officials of the respondent no. 1 and 2 assured the complainants that they would hand over the possession of the said unit/shop to the complainants at the earliest. The officials of the respondent no. 1 and 2 again issued a pre cancellation letter to the complainants for fitout and also demanded an amount of Rs.9,94,590/- from the complainants. The complainants enquired about the same and then they came to know that the super area of their shop has been increased from 347 sq. ft. to 433 sq. ft. by the respondents without any prior notice, information or obtaining any consent from the complainants in an illegal, unlawful and arbitrary manner, but despite that the complainants had paid the amount of increased area after deducting the pillar charges to the respondents which was duly waived off by the respondent no. 1 and 2.
- VIII. That the respondent no. 1 and 2 further cancelled the unit of the complainants despite the fact that the complainants had already paid the entire sale consideration of the unit/shop to the respondent no. 1 and 2. The complainants again visited to the office of the respondent no. 1 and contacted to the officials of the respondents in order to resolve the matter. After hearing the same, the officials of the respondent no. 1 assured that the complainants would have handover the possession of their unit/ shop in a short span of time.
- IX. That the respondent no. 1 and 2 have not handed over the physical possession of the shop to the complainants till date in an arbitrary, illegal and unlawful manner. The complainants enquired from the



officials of the respondent no. 1 about the physical possession of their shop but the officials of the respondent no. 1 did not give any satisfactory reply to the complainants. When the complainants did not get any positive reply from the officials of the respondent no. 1, then, the complainants visited the site of the project and found that the fitout work has been in progress and the respondent no. 1 and 2 in collusion with the respondent no. 3 are doing fitout work in the allotted shop of the complainants as per the wish of the respondent no. 3. The complainants again visited to the office of the respondent no. 1 in order for the redressal of their grievance but all the requests of the complainants fell on the deaf ears and the officials of the respondents.

- X. That the respondent no. 1 and 2 knowingly, intentionally with ulterior motives and malafide intentions did not handover the unit/ shop to the complainants and neither paid any assured return as promised by the respondent no. 1 and 2 till today which is categorical, default and deficiency in service on their part and attempted to cause loss to the complainants which was being caused due to willful default on the part of the respondents. The respondent no. 1 and 2 in active collusion of the respondent no. 3 are further creating pressure upon the complainants to leased out their shop to the respondent no. 3 while the sole purpose of purchasing the shop was only that the complainants wanted to run their own business.
- XI. That when nothing fruitful came out, then, the complainants through their counsel Adv Ritu Bhalla sent a legal notice dated 20/08/2024 to the respondents in which the respondents were called upon to handover the physical possession of the shop/unit to the complainants and also pay the assured return amount as agreed by the respondent no. 1 and 2 along with interest @ 24% p.a. to the complainants and

further directed to stop fitout work in the allotted shop of the complainants within 15 days after receipt of that notice and were also directed to pay an amount of Rs.10,00,000/- to the complainants on account of deficiency of service, mental pain, agony, harassment, but despite receiving of legal notice, the respondent neither paid any amount nor replied the legal notice and threatened the complainants that if they will not get agree to lease out the said shop/unit to the respondent no. 3 they will cancel the said unit/shop.

- XII. That when the complainants kept visiting the office of the respondent no.1 and did not take the threat serious, the respondent no. 1 and 2 started to raise illegal money demands regarding the said unit/shop through emails.
- XIII. That according to clause 49 of the BBA, the respondent no.1 & 2 had the right to lease the property till the date of offer of possession. Accordingly, the respondent no.1 & 2 are not having right to lease out the shop of the complainants without their prior consent or after the date of offer of possession.

C. Relief sought by the complainants

4. The complainants have sought following relief(s).
- I. Direct the respondent to set aside cancellation of the unit, if any.
 - II. Direct the respondent to pay delay possession charges.
 - III. Direct the respondent to handover physical possession of the unit to the complainants, stop fitout works and stay lease of unit which was illegally done between respondent no.1, 2 & 3.
 - IV. Direct the respondent to pay compensation and litigation expenses.
5. On the date of hearing, the Authority explained to the respondents/promoter about the contravention 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

6. The counsel for the respondent no.1 & 2 has filed an application dated 31.10.2025, seeking permission to file amended reply and to append lease deed bearing vasika no.2264 dated 19.05.2025 stating that on account of paucity of time and entirely out of inadvertence, certain minor incorrect averments were made in the reply filed by respondents no.1 & 2 dated 18.07.2025. After considering the above and in the interest of justice, the same is being taken on record. The respondent no.1 & 2 vide their amended reply dated 31.10.2025 have contested the complaint on the following grounds: -

- i. That the original allottee, Mrs. Rajlata Panwar had approached the respondent expressing an interest in the purchase of a unit in the commercial complex being developed by the respondent known as "ELAN MIRACLE", situated in Sector-84, Gurugram. The original allottee had approached the respondent after making independent enquiries and duly satisfying herself regarding the viability and suitability of the aforesaid project as per her needs and requirements as well as the capability of the respondent to undertake the project. The Original allottee had opted for a special fixed return payment plan in terms of which 10% of the basic sale price was payable on booking, 30 % of basic sale price within 3 months of booking, 100% of EDC and IDC plus 100% of PLC, 30% of the basic sale price on super structure and on offer of possession, 30% of basic sale price, , 100% IFMS, 100% car parking usage charges, if any, stamp duty, registration and administrative charges, applicable taxes, interest on delayed payment, and other amounts were payable at the time of offer of possession.



- ii. That the original allottee was allotted unit bearing No. G-062, tentatively admeasuring 360 sq. ft. super area, located on the Ground Floor of the project by the respondent, subject, inter alia, to increase or decrease on basis of variation in calculation of actual super area of the premises which were to be determined at the time of offer of possession of the premises. The terms and conditions forming part of the application form were duly understood and accepted by the original allottee.
- iii. That letter dated 03.04.2018 was issued in favour of the original allottee setting out the terms and conditions for payment of fixed amount. In terms of the said letter, the respondent had undertaken to fixed amount of Rs.13,913/- (less applicable taxes) per month to the original allottee in accordance with the terms and conditions set out in the said letter. It was clarified therein that if there was any delay in payment of installment as per the payment plan opted by the original allottee, payment of fixed amount would be made after adjustment of interest towards delayed installment. In terms of clauses 4 and 5 of the said letter, the fixed amount was agreed to be paid till the date of issuance of offer of possession by the respondent and that the offer of possession shall be given on applying for the occupation certificate. It was specifically stated therein that the offer of possession shall not be dependent upon grant of completion certificate and/or occupation certificate and if the original allottee obstructs/neglects/defaults/refused to accept offer of possession, the respondent shall stand discharged of all liabilities towards payment of down payment discount and/or penalty amount.



- iv. That a sum of Rs.9,24,838/- (inclusive of TDS) has been paid by the respondent to the original allottee/complainants towards fixed amount in terms of the letter dated 03.04.2018.
- v. That the original allottee was called upon to come forward for execution and registration of the buyer's agreement upon payment of applicable charges. Since the original allottee did not do the needful, reminder dated 15.12.2018 was issued to the original allottee. Eventually, the buyer's agreement was executed between the original allottee and the respondent on 25.01.2019 and registered on 21.02.2019. The terms and condition of the buyer's agreement dated 25.01.2019 have been willingly and consciously accepted by the original allottee/complainants and the same are binding upon the complainants with full force and effect.
- vi. That the unit was transferred in favour of the complainants and the buyer's agreement and other documents were endorsed in favour of the complainants vide application dated 26.03.2021.
- vii. That the complainants had agreed and undertaken to be bound by the buyer's agreement and also undertook to make timely payment of sale consideration as per the applicable payment plan.
- viii. That the respondent duly completed construction of the project and made an application to the competent authority on 09.06.2021 for issuance of the occupation certificate.
- ix. That vide letter dated 19.06.2021, the respondent informed the complainants that the respondent had applied for the Occupation Certificate on 09.06.2021 in respect of the project in question. The complainants were also informed that upon the application for the occupation certificate, the complainants would no longer be entitled to receive fixed amount/delay penalty/down payment discount in

terms of the agreement between the parties. Pertinently, no objection was made by the complainants upon receipt of the said letter and subsequent cessation of payment of committed amounts.

- x. That vide offer of possession letter dated 07.09.2021, the respondent, offered possession of the unit to the complainants for fit outs and called upon to make payment of balance amounts as per the attached statement. The complainants were informed by the said letter that the final super area of the unit was 347 sq. ft. instead of 360 sq. ft. and that the amounts payable by the complainants had been calculated on the basis of the finally determined super area. Furthermore, the complainants have deliberately concealed the fact that they have executed an assignment agreement dated 21.03.2023 wherein it is clearly mentioned that the super area of the unit stands revised to 433 sq.ft. from 360 sq.ft.
- xi. That since the complainants did not come forward to clear their outstanding dues, reminder for possession dated 05.04.2022 and thereafter pre cancellation letter dated 20.02.2024 were issued by the respondent. In the meantime, lease deed dated 19.05.2025 has been executed and registered by respondent no.1 in favour of respondent no.3 in respect of the said unit as well as for adjoining units as a composite lease for the benefit of all concerned.
- xii. That Occupation certificate was issued by the competent authority on 15.03.2023 and by letter dated 22.03.2023, the complainant was informed about receipt of the occupation certificate from the DTCP. The complainant was informed that as a gesture of goodwill, respondent no.1 had decided not to charge any common area maintenance charges for a period of three months commencing from

the date of grant of the occupation certificate i.e. 15.03.2023 till 15.06.2023.

- xiii. That it is submitted that respondent no.1 has duly fulfilled its obligations in terms of the agreement between the parties and also under RERA. There is no default or lapse in so far as respondent no.1 is concerned. From a perusal of the statement of account reflecting the payments made by the original allottee/complainants, it is evident that the complainants are liable to pay delay interest amounting to Rs.5,93,263/- out of which respondent no.1 has waived an amount of Rs.22,067/- as a gesture of goodwill.
- xiv. That in terms of Clause 7 of the buyer's agreement dated 25.01.2019, possession of the unit was agreed to be offered to the complainants within 48 months from the date of execution of the buyer's agreement, with grace period of 12 months and subject to force majeure conditions and events beyond the power and control of the respondent no.1. Respondent No.1 has duly offered possession of the unit, complete in all respects in accordance with the buyer's agreement, well ahead of the timelines for delivery of possession as set out therein. Hence there is no delay whatsoever on the part of respondent no.1 in offering possession of the unit to the complainants. However, it is the complainants who have failed to clear their outstanding dues and take possession of the unit.
7. Despite due service of notice through speed post and specific direction for filing reply in the matter, neither anyone has put in appearance on behalf of respondent no.3 before the Authority, nor any written reply to the present complaint has been received from it. Therefore, the respondent no.3 was proceeded ex-parte vide proceedings dated 30.01.2026.



E. Jurisdiction of the authority

8. 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

9. 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

10. 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)(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;

11. So, in view of the provisions of the Act quoted above, the Authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainants.

F.I. Direct the respondent to set aside cancellation of the unit, if any.

12. The complainants are seeking direction to the respondents/promoter to set aside cancellation of the unit, if any issued by them. However, as per record, no cancellation letter with regard to the unit in question has



been issued by the respondent no.1/promoter till date and the said unit still subsists in the name of the complainants. According, no direction to the same.

F.II Direct the respondent to pay delay possession charges.

F.III Direct the respondent to handover physical possession of the unit to the complainants, stop fitout works and stay lease of unit which was illegally done between respondent no.1, 2 & 3.

13. In the present complaint, the complainants intend to continue with the project and are 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."

14. Clause 7 of the buyer's agreement dated 21.02.2019 provides for handing over of possession and is reproduced below:

"7. POSSESSION OF THE UNIT:

7.1 Schedule for Possession of the said Premises/Unit - The Promoter agrees and understands that timely delivery of possession of the said premises / unit to the allottee(s) and the common areas to the association of allottee(s) or the competent authority, as the case may be, is the essence of the Agreement. The Promoter assures to hand over possession of the said premises / unit along with ready and complete common areas with all specifications, amenities and facilities of the project in place within a period of 48 (forty eight) months from the date of this Agreement with an extension of further twelve months..."

(Emphasis supplied)

15. As per clause 7.1 of the builder buyer agreement dated 21.02.2019, the respondent/promoter undertook to handover possession of the unit to the complainants within 48 months from the date of execution of the agreement, with an extension of twelve months due to force majeure conditions. The said grace period of 12 months being unqualified, is

allowed to the respondent. Thus, the due date of possession, including the grace period of 12 months comes out to be 21.02.2024.

16. After considering the documents available on record as well as submission made by the parties, it is determined that as per clause 7.1 of the buyer's agreement, the due date for handing over of possession was 21.02.2024. The occupation certificate regarding the project in question was granted by the concerned authority on 15.03.2023. Thereafter, vide intimation regarding grant of OC letter dated 22.03.2023, the respondent/promoter intimated the complainants regarding grant of OC by the competent authority and has requested them to take the possession immediately after payment of the due installments. The said intimation letter dated 22.03.2023 can be termed as a valid offer of possession. Proviso to Section 18(1) of the Act, 2016, provides that in case, the allottee does not intend to withdraw from the project, the promoter is liable to pay interest at the prescribed rate on the amount paid in respect of unit for every month of delay, till the handing over of the possession if it fails to complete or is unable to give possession of the unit in accordance with the terms of the agreement for sale or due to discontinuance of business. However, in the present case, the Authority observes that there is no delay on part of the respondent in offering possession of the unit. Accordingly, no case for delay possession charges is made out under Section 18 of the Act.
17. The complainants are further seeking relief with respect to handover of possession and staying lease of unit in question by respondent no.1, 2 & 3. The Authority observes that vide clause 7 of the buyer's agreement dated 21.02.2019, it was agreed between the parties that the unit in question shall to be handed over to the complainants. Further, vide



clause 49 of the said agreement, it was agreed that the developer would have the exclusive rights to lease out the said unit till the date of offer of possession only. It was further agreed that the developer's right to lease out the unit on allottee(s) behalf shall lapse automatically on offer of possession if a binding LOI/Term Sheet/MOU/ Lease Deed or any such agreement is not executed till that time. Clause 49 of the buyer's agreement dated 21.02.2019 is reproduced as under for ready reference:

49. LEASING RIGHTS

The Allottee(s) hereby requests the Developer to Lease out the Unit to a Brand(s) for Retail/F&B / Hospitality etc. Usage / Commercial usage, as the case may be and the Developer agrees to do the same on a best efforts basis only. The Allottee /s further clearly understands and agrees that the Developer would have the exclusive rights to Lease out the said Unit till the date of Offer of Possession only:

Developer in turn would ensure on a best efforts basis, attractive Lease terms for the Allottee(s). However the Letter of Intent (LOI) / Term Sheet / MOU and subsequent Lease Deed would be directly executed by the Allottee(s) with the Tenant / Brand if the Lease terms are acceptable to the Allottee(s). It is further expressly agreed by the Allottee(s) that the Developer's right to Lease out the Unit on Allottee(s) behalf shall lapse automatically on Offer of Possession if a binding LOI/Term Sheet/ MOU/Lease Deed or any such Agreement is not executed till that time.

The Allottee(s) at his / her discretion however can request the Developer post Offer of Possession also for Leasing out his / her Unit and the developer may accept/ reject the same at it's sole discretion.

18. Admittedly, in the instant case, the unit in question was offered to the complainants on 07.09.2021 and 22.03.2023 whereas, the lease deed between the respondent no.1 and 3 was executed on 19.05.2025. Therefore, the said lease deed dated 19.05.2025 is in direct contravention to the agreed terms and conditions of buyer's agreement dated 21.02.2019 executed between the respondent/promoter and complainants.
19. The Authority observes that as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to handover possession of the unit and to get the conveyance deed executed in

favour of the complainants. 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.

20. The possession of the subject unit has already been offered to the complainants after obtaining occupation certificate on 15.03.2023. Therefore, the respondent/promoter is directed to handover possession in terms of the agreement dated 21.02.2019 and to get the conveyance deed of the allotted unit executed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.

F.IV Direct the respondent to pay compensation and legal expenses.

21. The complainants are seeking above mentioned 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.* has held that an allottee is entitled to claim compensation and litigation charges 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 and litigation expense 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 and legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of compensation and litigation expenses.

G. Directions of the authority

22. 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. No case for delay possession charges is made out.
 - ii. The respondent/promoter is directed to handover possession in terms of the agreement dated 21.02.2019 and to get the conveyance deed of the allotted unit executed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.
 - iii. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement dated 21.02.2019.
 - iv. A period of 90 days is given to the respondent/promoter to comply with the directions given in this order and failing which legal consequences would follow.
23. Complaint stands disposed of.
24. File be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 30.01.2026