

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

**Complaint no. :** 2814 of 2024  
**Date of filing complaint:** 12.06.2024  
**Date of Decision:** 21.11.2025

1. Shalini
2. Kuldeep Bhoriya

**Address:** - R/o 279, East Part of Outer Ring Road, Badali  
Village, Delhi - 110042

**Complainants**

Versus

JMS Buildtech Pvt. Ltd.

**Address:** 7<sup>th</sup> Floor, M3M Tee Point, JMS Group, North  
Block, Sector-65, Gurugram, Haryana

**Respondent**

**CORAM:**

Shri Arun Kumar

**Chairman**

**APPEARANCE:**

Ms. Nisha Rani  
Sh. Vikram Ahlawat

Complainants  
Respondent

**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 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 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	"Crosswalk", Sector-93, Gurugram
2.	Total area of the project	128.594 acres
3.	Nature of the project	Commercial colony
4.	DTCP license no.	44 of 2010 dated 09.06.2010 valid up to 08.06.2016
5.	Name of licensee	Ramprastha Estate Pvt. Ltd.
6.	Registered/not registered	Registered vide no. <b>GGM/313/45/2019/07</b> dated 18.02.2019
7.	Unit no.	FLEA-LG-75, Lower Ground Floor [pg. 35 of complaint]
8.	Area of the unit	118 sq. ft. of super area [pg. 65 of complaint]
9.	Date of allotment letter	20.01.2016 [pg. 19 of complaint]
10.	Date of execution of buyer's agreement	11.02.2022 [pg. 30 of complaint]
11.	Possession clause	<b>7. Possession of the Unit:</b> <i>7.1 The Promoter assures to offer the possession of the Unit as per the agreed terms and conditions on or before time granted under the registration by HRERA or such extension thereof as extended by HRERA unless there is delay</i>

		<p><i>due to "force majeure" which shall mean all such circumstances or factors not in control of the Promoter, including, but not limited to shortage of materials, inflation or recession in the market, dispute by the contractor, court orders, or by reason of war, or enemy action or earthquake or any act of God, or any act, notice, order, rule or notification of the Government and/or any other public or competent authority, affecting the regular development of Commercial Complex.</i></p> <p><i>(Emphasis supplied)</i></p> <p><i>[page 46 of complaint]</i></p>
12.	Due date of possession	<p>31.12.2021</p> <p>(as per Rera registration certificate)</p>
13.	Total Sale consideration as per payment plan annexed with BBA at page 67 of complaint	₹ 10,29,126/-
14.	Total amount paid by the complainants as per SOA annexed with offer of possession	₹ 4,66,500/-
15.	Occupation certificate	<p>08.03.2022</p> <p>(page no. 108 of reply)</p>
16.	Authority letter by respondent for leasing of unit	<p>21.03.2022</p> <p>(Pg. 109 of reply)</p>
17.	Offer of possession	<p>22.04.2022</p> <p>(pg. 73 of complaint)</p>
18.	Reminders for possession	<p>04.06.2022, 14.06.2022, 09.03.2023</p> <p>(pg. 120-124 of reply)</p>

**B. Facts of the complaint**

3. The complainants have made the following submissions: -

- I. That the complainants approached the respondent company and applied for the unit in the commercial complex vide application dated 20.01.2016 and allotted unit no./shop bearing no. FLEA-LG-75 admeasuring carpet area of 53.35 sq. ft.
- II. That the complainants booked the unit on dated 20.01.2016 for a basic sales price Rs. 7577/- under Assured + CLP (50:50), thereby making payment of an amount of INR 4,66,500/- whereby Rs. 4,00,000/- paid vide cheque and Rs. 66500/- vide cash dated 20.01.2016 for allotment. The respondent also provided the allotment letter to the complainants on dated 20.01.2016.
- III. That the respondent after providing the allotment letter on dated 20.01.2016, started paying the assured return amount agreed by the respondent from dated 16.02.2016 as monthly instalments of Rs. 4024/- in the complainants bank account but the same was not sanctioned regularly by the respondent and there was a delay always. Moreover after dated 16.05.2017, the respondent stopped sanctioning the assured return to the complainants and in total paid only 14 instalment of Rs. 53,610/- to the complainants. That the respondent also not took any step forward to sign the builder buyer agreement with the complainants till December 2017.
- IV. That when the respondent failed to sign the builder buyer agreement with the complainants within 2 years of the allotment which is required as per RERA Act 2016 at time of booking and also when respondent stopped paying the agreed assured amount to the complainants, the complainants approached the respondent through calls, WhatsApp and emails for the clarifications but no positive response was given by the respondent to the complainants.

- V. That therefore, the complainants decided to cancel the allotment of the said unit and sent an email to the respondent on dated 01-02-2018 for the cancellation of the allotment and to return the paid amount as booking amount. That the respondent acknowledged the email of the complainants and direct the complainants to hand over the original documents which included the allotment letter dated 20-01-2016 and the payment receipts of booking amount paid on 20-01-2016. As per the discussion the complainants surrendered the original documents on dated 27-04-2018.
- VI. That during the time of the surrendering the original documents the respondent offered the complainants that he will adjust the assured amount since 2017 till offer of possession in final demand/payment of offer o possession and requested the complainants to reconsidered their cancellation of allotment and offered to sign the builder buyer agreement as soon as possible.
- VII. That after the Covid lockdown, in order to facilitate the aforementioned deal, the complainants and the respondent executed a builder buyer agreement of understanding on dated 11.02.2022 with respect to the said unit, on total sale consideration of Rs. 10,29,126/- including carpet area price i.e., Rs. 9,56,036/- and tax on price i.e, 73,090/-.
- VIII. That after signing the builder buyer agreement with the delay of 6 years on dated 11.02.2022, the respondent on dated 21/03/2022 shared pictures of a letter with the complainants on their WhatsApp Number for authority to lease out the unit and directed the complainants to take print, sign and shared again the same on WhatsApp and Email.
- IX. That on dated 22/04/2022, the respondent issued letter of offer of possession to the complainants and mentioned in the letter that occupation certificate for the complainants unit has been received and said unit is ready for possession and thereby calling upon the

complainants to pay the outstanding dues and take possession of the unit as mentioned in the plan and as per the clause 11(d) physical possession of the unit praised to hand over the possession within 60 days on clearing the dues.

- X. That as per the payment plan annexed in the letter of offer of possession the total sales consideration of the said unit after including all the service tax was Rs. 10,29,126/-. The complainants being simple people and having bona-fide intention paid all the dues and amount as and when demanded by the respondent amounting Rs. 4,91,817/- on dated 21/10/2022 through RTGS as and in total Rs. 9,58,317/- as full and final payment by adjusting the assured return amount with the respondent. The assured amount was adjusted after the discussion with the respondent only.
- XI. That the respondent has already collected significant amount from the complainants in furtherance to the agreed payment plan but the possession of the unit is yet to be given by the respondent. Further the respondent has made false promises to the complainants for possession in committed time, but the construction work in the tower is completed, and further the said unit has been leased out by the respondent as well and the respondent is taking the lease amount/rent as well.

**C. Relief sought by the complainants:**

4. The complainants in the present complaint have sought the following relief(s).
- i. **Direct the respondent to handover the possession of the unit along with the delay possession charges.**
  - ii. **Direct the respondent to pay delayed possession charges on the total amount paid by the complainants at prevailing rate of interest.**
  - iii. **Direct the respondent to pay an amount of Rs. 70,000/- as litigation expenses.**

5. On the date of hearing, the authority explained to the respondent/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. That the complaint is neither maintainable nor tenable and is liable to be out-rightly dismissed.
  - I. That after receipt of application from the complainants, a commercial unit/space bearing no. FLEA-LG-75, lower ground floor in the project "Crosswalk", situated at Sector 93, Gurugram was allotted to the complainants vide allotment letter dated 20.01.2016.
  - II. That after issuance of allotment letter, the complainants started making excuses regarding execution of buyer's agreement for the said unit. The complainants deferred the execution of the buyer's agreement on one pretext to other.
  - III. That the complainants and the respondent entered into an understanding regarding payment of assured return to the complainants. Thus, the respondent started paying agreed assured return to the complainants on their assurance to execute the buyer's agreement for the said unit.
  - IV. Thereafter the complainants being uninterested in the said unit from the early stage, citing some personal reasons, requested for cancellation of unit vide email dated 01st February, 2018 and sought refund of the amount paid i.e. Rs. 4,66,500/-. The complainants have made the cancellation request by their own will and choice and due to personal reasons and without any protest or issue which is very clear from the bare reading of email dated 01-02-2018.

- V. That the respondent in terms of the request made by the complainants acknowledged the cancellation request and called upon the complainants to submit the original documents i.e. allotment letter, receipts, etc, to further process the request of refund.
- VI. That the complainants however initially failed to submit the original documents for processing of their request for refund and as such the refund got delayed and Moreover, due to the above stated cancellation request by the complainants and non-execution of the buyer's agreement by them, no further assured return amount was credited to them because the complaint was not eligible for the same.
- VII. That the complainants from the very beginning was least interested in the unit however the complainants viewing boom in the real estate and hike in the prices of the properties in Gurugram, approached the respondent's officials and requested for re-allotment of the unit earlier allotted to them and the respondent being customer friendly Organization, agreed to re-allot the Unit to the complainants.
- VIII. That on the basis of discussion for re-allotment of the said unit, vide email dated 25.02.2021, the officials of the respondent also agreed to adjust the assured return at the time of offer of possession subject to execution of buyer's agreement but the complainants again failed to execute the buyer's agreement after email dated 25-02-2021.
- IX. That finally the complainants agreed to execute the buyer's agreement, which was got registered vide Vasika No. 8768 dated 11.02.2022.
- X. That thereafter completion of the project, the respondent applied for and was granted occupation certificate by the competent authority vide memo dated 08.03.2022.
- XI. That after grant of occupation certificate, the complainants submitted signed copy of authority letter to the respondent to lease out the unit to

- a prospective lessee and thus the respondent made constant efforts to yield best returns to its customers and searched for prospective 'lessees'.
- XII. That the respondent also issued letter of offer of possession dated 22.04.2022 thereby requesting the complainants to visit the office for completion of handing over formalities and payment of outstanding dues. As per the statement of account annexed with the letter of offer of possession dated 22.04.2022 which is annexed by the complainants in the present complaint. The offer of possession letter was sent to the complainants within stipulated timelines as per the terms of the buyer's agreement and thus the respondent has not made any delay in sending the offer of possession to the complainants.
- XIII. That however the complainants failed to come forward to complete the possession formalities and clear the outstanding dues and as such the respondent was constrained to issue reminder letter for possession payment vide letter dated 04th June, 2022 requesting the complainants to clear the outstanding dues and complete the possession formalities.
- XIV. That even after the receipt of letter dated 04.06.2022, the complainants failed to clear the outstanding dues and come forward to complete the possession formalities, respondent issued another Final Letter dated 14.06.2022 thereby calling the complainants to clear the outstanding dues and complete the possession formalities.
- XV. That the complainants are not entitled for any assured amount because of non-execution of buyer's agreement by them. However, the complainants have paid Rs. 4,91,817/-, thereafter the complainants never turned up deposit other pending payments so that registration of conveyance deed can be done.

- XVI. That thereafter, a letter dated 09-03-2023 was sent to the complainants for request for physical possession of the unit subject to clear all pending possession formalities.
- XVII. That the complainants despite several follow-ups failed to clear all pending possession formalities and also failed to pay the fitouts charges of the said unit which was later on leased out to a reputed brand on the basis of Authority letter dated 21-03-2022. However, the payment of lease amount to the complainants was subject to clear all pending possession formalities and registration of conveyance deed and clearance of fitouts cost etc. , which are not cleared by the complainants till today.
- XVIII. That even otherwise the present complaint is not maintainable before the Hon'ble Court because the provisions of the Real Estate (Regulation and Development) Act, 2016 are not applicable to the facts of the present case and the said Act is prospective in nature. The allotment of the concerned/disputed property, took place prior to the coming into force of the said Act. Thus, the provisions contained therein and the reliefs envisaged cannot be applied to answering respondent's project and agreements, which had already commenced prior to coming into force of the said Act. Also, for this same reason, the provisions contained therein and the reliefs envisaged under the said Act, which fully came into force w.e.f. 01.05.2017, cannot be applied to transactions executed prior to the said date i.e. the date on which the provisions of the said Act came into force. The provisions of the said Act cannot operate retrospectively and imposed upon the answering respondent, for any of the actions done prior to coming into force of the said Act and prior to registration under the said Act. The provisions of the said Act have prospective operation, especially wherein inter-alia seeks to impose new burden. It is well

settled law that a statute shall operate prospectively unless retrospective operation is clearly made out in the language of the Statute. In the absence of any express legislative intent of the retrospective application of the said Act, and by virtue of the fact that the said Act creates a new liability, the said act cannot be construed to have retrospective effect.

7. 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 complainants.

**E. Jurisdiction of the authority**

8. The authority has complete territorial and 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) 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.*

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

**F. Findings on the objections raised by respondent:**

**F.I Objection regarding jurisdiction of the complaint w.r.t the builder buyer agreement executed prior to coming into force of the Act.**

12. The respondent submitted that the complaint is neither maintainable nor tenable and is liable to be outrightly dismissed as the buyer's agreement was executed between the parties prior to the enactment of the Act and the provision of the said Act cannot be applied retrospectively.

13. The authority is of the view that the provisions of the Act are quasi retroactive to some extent in operation and would be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. The Act nowhere provides, nor can be so construed, that all previous agreements would be re-written after coming into force of the Act. Therefore, the provisions of the Act, rules and agreement have to be read and interpreted harmoniously. However, if the Act has provided for dealing with certain specific provisions/situation in a specific/particular manner, then that situation will be dealt with in accordance with the Act and the rules after

the date of coming into force of the Act and the rules. Numerous provisions of the Act save the provisions of the agreements made between the buyers and sellers. The said contention has been upheld in the landmark judgment of **Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and others. (W.P 2737 of 2017)** decided on 06.12.2017 and which provides as under:

"119. Under the provisions of Section 18, the delay in handing over the possession would be counted from the date mentioned in the agreement for sale entered into by the promoter and the allottee prior to its registration under RERA. Under the provisions of RERA, the promoter is given a facility to revise the date of completion of project and declare the same under Section 4. The RERA does not contemplate rewriting of contract between the flat purchaser and the promoter..."

122. We have already discussed that above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting / existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports."

14. Also, in appeal no. 173 of 2019 titled as **Magic Eye Developer Pvt. Ltd. Vs. Ishwer Singh Dahiya**, in order dated 17.12.2019 the Haryana Real Estate Appellate Tribunal has observed-

"34. Thus, keeping in view our aforesaid discussion, we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. Hence in case of delay in the offer/delivery of possession as per the terms and conditions of the agreement for sale the allottee shall be entitled to the interest/delayed possession charges on the reasonable rate of interest as provided in Rule 15 of the rules and one sided, unfair and unreasonable rate of compensation mentioned in the agreement for sale is liable to be ignored."

15. The agreements are sacrosanct save and except for the provisions which have been abrogated by the Act itself. Further, it is noted that the builder-buyer agreements have been executed in the manner that there is no scope

left to the allottee to negotiate any of the clauses contained therein. Therefore, the authority is of the view that the charges payable under various heads shall be payable as per the agreed terms and conditions of the agreement subject to the condition that the same are in accordance with the plans/permissions approved by the respective departments/competent authorities and are not in contravention of any other Act, rules and regulations made thereunder and are not unreasonable or exorbitant in nature. Hence, in the light of above-mentioned reasons, the contention of the respondent w.r.t. jurisdiction stands rejected.

**G. Findings on the relief sought by the complainants.**

- i. Direct the respondent to handover the possession of the unit along with the delay possession charges.**
  - ii. Direct the respondent to pay delayed possession charges on the total amount paid by the complainants at prevailing rate of interest.**
16. The complainants intends 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."*

17. As per clause 7 of the agreement provides for handing over of possession and is reproduced below:

*Clause 7*

***The Promoter assures to offer the possession of the Unit as per the agreed terms and conditions on or before time granted under the registration by HRERA or such extension thereof as extended by HRERA unless there is delay due to "force majeure" which shall***

*mean all such circumstances or factors not in control of the Promoter, including, but not limited to shortage of materials, inflation or recession in the market, dispute by the contractor, court orders, or by reason of war, or enemy action or earthquake or any act of God, or any act, notice, order, rule or notification of the Government and/or any other public or competent authority, affecting the regular development of Commercial Complex.*

18. **Due date of handing over of possession:** As per possession clause 7 of the agreement dated 11.02.2022 the possession of the unit was to be handed over as per the agreed terms and conditions on or before time granted under the registration by HRERA. The said project is registered vide registration no. 07 of 2019 dated 18.02.2019 valid upto 31.12.2021. Therefore, the due date of possession of the unit comes out to be 31.12.2021.
19. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges in terms of proviso to section 18 of the Act which provides that where an allottee does not intend to withdraw from the project, they 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.*
20. 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.

21. 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., 21.11.2025 is 8.85%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.85% per annum.
22. 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;"*
23. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.85% p.a. by the respondent/promoter which is the same as is being granted to the complainants in case of delay possession charges.
24. On consideration of the documents available on record and submissions made by 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 dated 11.02.2022 executed between the parties. It is a matter of fact that agreement

- containing terms and conditions regarding the said unit was executed between the parties on 11.02.2022. As per the clause 7 of the agreement the possession of the unit was to be handed over as per the agreed terms and conditions on or before time granted under the registration by HRERA. The said project is registered vide registration no. 07 of 2019 dated 18.02.2019 valid upto 31.12.2021. Therefore, the due date of possession of the unit comes out to be 31.12.2021.
25. The respondent has obtained the occupation certificate of the project by the competent authority on 08.03.2022 and subsequently offered the possession of the unit on 22.04.2022. The respondent has failed to handover possession of the subject unit within prescribed time. 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. The authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement executed between the parties.
26. 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., 31.12.2021 till offer of possession (22.04.2022) after obtaining occupation certificate plus two months i.e., 22.06.2022 at prescribed rate i.e., 10.85 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.
27. The complainants in the present complaint are seeking relief for the possession of the unit. The occupation certificate for the said unit was received on 08.03.2022 thereafter possession was offered on 22.04.2022.

Therefore, the respondent is directed to handover the possession of the unit within 60 days of this order.

**iii. Direct the respondent to pay an amount of Rs. 70,000/- as litigation expenses.**

28. The complainants in the aforesaid relief are seeking relief w.r.t litigation cost. 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.

#### **H. Directions of the authority**

29. 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 the interest at the prescribed rate i.e. 10.85% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e., 31.12.2021 till offer of possession (22.04.2022) after obtaining occupation certificate plus two months i.e., 22.06.2022 as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- ii. The respondent is directed to handover the possession of the unit within 60 days of this order.

- iii. The respondent is directed to issue a revised account statement after adjustment of delay possession charges as per above within 30 days and thereafter the complainants are directed to pay outstanding dues, if any, within next 30 days and the respondent shall handover the possession of the allotted unit complete in all aspects as per specifications of buyer's agreement within next 30 days.
  - iv. The rate of interest chargeable from the allottees by the promoter, in case of default shall be 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 to the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
  - v. The respondent shall not charge anything from the complainants, which is not the part of the buyer's agreement
  - vi. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
30. Complaint as well as applications, if any, stands disposed off accordingly.
31. File be consigned to registry.

Dated: 21.11.2025



**(Arun Kumar)**  
Chairman  
Haryana Real Estate  
Regulatory Authority,  
Gurugram