

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

Complaint no.: 6133 of 2024
Order pronounced on: 23.12.2025

1. Rajat kumar Khanna
2. Leena Khanna
Both R/o: E-1502, Bestech Park view Spa,
Sector-47, gurugram-122018.

Complainants

Versus

M/s Citra Properties Ltd.
Registered office at: M-62 & 63, First Floor,
Connaught Place, New Delhi-110001.

Respondent

CORAM:

Shri. Arun Kumar
Shri. Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Bhajan Lal Jangra (Advocate)
Pulkit Thareja (Advocate)

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 provisions of the Act or the Rules and regulations made thereunder 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:

S.No.	Particulars	Details
1.	Name of the project	"Indiabulls One 09"
2.	Nature of the project	Commercial shop
3.	Location of the project	Sector-109, Gurugram.
4.	HRERA Registered	Registered Vide registration no. 298 of 2017 Dated 13.10.2017
5.	DTCP License	License no. 43 of 2012 Dated-05.05.2012
6.	Shop no.	36, Floor-Ground (As on page no. 31 of complaint)
7.	Shop area	959 sq.ft. [Super Built up area] (As on page no. 31 of complaint)
8.	Buyer's Agreement	09.05.2016 (As on page no. 29 of complaint)
9.	Possession clause	Clause 23 <i>The Developer shall endeavor to complete the construction of the unit within a period of forty eight months with a six months grace period thereon, from the date of execution of the Buyer's Agreement subject to timely payment by the Buyer(S) of the Sale Consideration payable according to the Payment Plan applicable to him/her/them or as demanded by the Developer.</i> [Emphasis supplied] (As on page no. 39 of complaint)
10.	Due date of possession	09.05.2021 [09.11.2020 + 6 months on account of Covid 19]
11.	Payment plan [Possession linked]	On booking-Rs.2,00,000/- Within 30 days of booking-10% of sale price

		<p>Within 90 days of advance booking-20% of sale price</p> <p>On completion of Super Structure or 18 months (whichever is later)-40% of sale price</p> <p>On offer of possession-30% of sale price + 100% maintenance security deposit</p>
12.	Total sale consideration	<p>Rs.1,11,06,179/-</p> <p>(As on page no. 33 of complaint)</p>
13.	Amount paid	Rs. 1,23,42,246/-
14.	Occupation certificate	<p>19.07.2024</p> <p>(As on page no. 41 of reply)</p>
15.	Offer of possession	<p>20.08.2024</p> <p>(As on page no. 55 of complaint)</p>

B. Facts of the complaint:

3. The complainants have made the following submissions: -

- I. That the complainants are joint allottees of shop bearing no. 36, located on Ground Floor having Super Built area of 959 sq.ft in the Commercial Complex named as 'Indiabulls One 09, situated at Sector-109, Gurugram, comprising of 3 basements, Ground floor and 21 Floors consisting of shops/offices/showrooms/restaurant/food courts/multiplex other commercial.
- II. That the respondent offered for sale a commercial shop/unit in the project on Plot admeasuring 5.9 acres, situated at Village Pawala Khusrupur, Sector -109, Gurugram and represented to have obtained necessary permission for development of the same. The respondent undertook and represented to the complainants that the project shall be completed by November 2020 within a period of 4 years plus 6 months of grace period.

- III. That the complainants paid the booking amount sum of Rs.2,00,000/- at the time of signing of booking form. Based on the representation and assurances made by the respondent, the complainants jointly booked a commercial shop bearing no. 36, Ground Floor, having Super built area of 959 sq. ft. in the said commercial complex situated at Sector-109, Gurugram, against a total sale consideration of Rs.1,11,06, 179/-.
- IV. That subsequent to the booking of the said shop, a notarized Builder Buyer Agreement dated 09.05.2016 was executed between the complainants and the respondent. 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 09.05.2016.
- V. 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 date stood expired on comes to 08.11.2020 and the said possession date already stood expired.
- VI. That the complainants were informed by the respondent that Occupation certificate has been received and called upon to pay sum of Rs.36,12,256/-by sending offer of possession dated 20.08.2024 wherein the respondent raised illegal demands under various heads i.e. Energisation Infrastructure Charges, Water Connection Charges and Sewerage Charges which were objected to by the complainants and sent a mail dated 16.09.2024.
- VII. That as on 20.08.2024 the complainants had paid sum of Rs.88,52,638/- which was acknowledged and received by the respondent but neglected to pay the delay possession charges.

The complainants, as per demands sent by the respondent paid sum of Rs.1,23,42,246/- as per statement of account sent by the respondent.

- VIII. That the complainants had already made 100% payment, however the respondent failed to complete the project as stipulated despite having received the full payment from the complainants. The complainants had paid a sum of Rs.1,23,42,246/- before 01.10.2024 in excess of agreed total sale consideration of Rs.1,11,06,179/- as demanded by the respondent.
- IX. 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.
- X. That the respondent failed to complete and handover the physical possession of the shop on or before 08.11.2020. There is an inordinate delay of 4 years 1 months as on 09.12.2024.
- XI. That the respondent had illegally charged excess sale consideration and neglected to share GST payment receipts and also neglected to pay legitimate delayed possession charges under the Act, 2016. That it has come to the knowledge of the complainants, the respondent had obtained Occupation Certificate on 19.07.2024 issued by the DTCP with certain condition to be fulfilled by the respondent but sewerage work, electricity are still pending and the project is still incomplete as it lack basic infrastructural facilities including internal work.
- XII. Besides that the respondent neglected to provide electricity connection, water connection, and sewerage connection and sent, offer

of possession on 20.08.2024. As submitted above, without basic amenities the booked shop cannot be offered to the complainants.

XIII. That on visiting the site in the month of November 2024 the complainants found besides above, incomplete work of the project, incomplete roads even the respondent neglected to construct the common area thus have committed the breach of the terms of buyer agreement and appears to have managed the Occupation Certificate without completion thus Suo Moto enquiry be ordered to be conducted to verify the same.

XIV. That the respondent informed the complainants to pay TDS on sum Rs.1,23,42,246/-. Additionally, the TDS amounting to sum of Rs.1,23,227/- has been paid separately paid Income tax department.

XV. 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 09.05.2016 on or before 08.11.2020, 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.

XVI. That the respondent is also liable to refund illegal payments which were not part of initial cost shared by the respondent from the complainants under the various heads.

C. Relief sought by the complainants:

4. The complainants have sought following relief:

- i. Direct the respondent to handover the physical possession of the Shop after obtaining connection of proper electricity from competent authority, water connection and Sewerage connection.

- ii. Direct the respondent to execute the conveyance deed.
 - iii. Direct the respondent not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop.
 - iv. Direct the respondent to remit the payment took from the complainants under heads as mentioned in para no. 10 of the complainants.
 - v. Direct the respondent to pay delay possession charges in the form of interest from committed date of handing over the physical possession i.e. 08.11.2020
5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
6. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written submissions made by the parties.

D. Jurisdiction of the authority

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

D.I Territorial jurisdiction

8. 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 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.

D.II Subject matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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;

10. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

E. Findings on the relief sought by the complainants.

- E.I. Direct the respondent to handover the physical possession of the Shop after obtaining connection of proper electricity from competent authority, water connection and Sewerage connection.**
- E.II. Direct the respondent to execute the conveyance deed.**
- E.III. Direct the respondent to pay delay possession charges in the form of interest from committed date of handing over the physical possession i.e. 08.11.2020**

11. In the present complaint, the complainants intend to continue with the project and are seeking possession of the unit along with delayed possession charges.
12. In the present case, the complainants had applied for booking a shop in project "Indiabulls One 09" being developed by the respondent in Sector-109, Gurugram. The complainants were allotted a shop bearing no. 36 on the Ground Floor, admeasuring Super built up area of 959 sq.ft. Thereafter, the Buyer's Agreement was executed on 09.05.2016 inter-se parties for a sale

consideration of Rs.1,11,06,179/- against which the complainants had paid an amount of Rs.1,23,42,246/-.

13. Due date of handing over possession and admissibility of grace period:

As per clause 23 of the Buyer's Agreement executed between the complainants and the respondent, the possession of the unit was to be handed over to the complainants within a period of 48 months with a grace period of six months.

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The Developer shall endeavor to complete the construction of the unit within a period of forty eight months with a six months grace period thereon, from the date of execution of the Buyer's Agreement subject to timely payment by the Buyer(S) of the Sale Consideration payable according to the Payment Plan applicable to him/her/them or as demanded by the Developer.

[Emphasis supplied]

14. The Authority vide notification no. **9/3-2020** dated **26.05.2020** have provided an extension of 6 months for projects having completion date on or after 25.05.2020, on account of force majeure conditions due to the outbreak of Covid-19 pandemic and the same is also allowed to the respondent in lieu of the notification of the Authority. Thus, the due date of possession comes out to be **09.05.2021**.

15. Admissibility of delay possession charges at prescribed rate of interest:

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

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

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.

16. The legislature in its wisdom in the subordinate legislation under the 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.

17. 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., 23.12.2025 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

18. The definition of term 'interest' as defined under section 2(z a) 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—

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 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;"

19. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to them in case of delayed possession charges.

20. The Authority is of considered view that there is delay on the part of the respondent/promoter to offer of possession of the allotted unit to the complainants as per the terms and conditions of the agreement dated 09.05.2016. Accordingly, it is failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to handover the possession within the stipulated period.
21. 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 complainants are entitled to delay possession charges at prescribed rate of the interest @ 10.80% p.a. w.e.f. due date of possession i.e., 09.05.2021 till valid offer of possession after obtaining of Occupation Certificate from the competent authority plus two months or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules. Further, the respondent is directed to handover the physical possession of the allotted unit to the complainants, within a period of 30 days of this order. Further, the respondent is directed to get the conveyance deed of the allotted unit executed in the favour of the complainants within a period of 60 days of this order, in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.
- E.IV Direct the respondent to remit the payment took from the complainants under heads as mentioned in para no. 10 of the complainants.**
22. The respondent shall not charge anything from the complainants which is not the part of the agreement.

E.V Direct the respondent not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop.

23. As far as issue regarding maintenance charges is concerned, keeping in view the peculiar facts as stated above, the respondent is entitled to demand the maintenance charges from the date of offer of possession.
24. The Authority observes that this issue already stands settled by the Hon'ble Supreme Court vide judgment dated **14.12.2020** in civil appeal no. **3864-3889/2020**, whereby the Hon'ble Court had upheld the order dated 03.01.2020 passed by NCDRC, which lays in unequivocal terms that no holding charges are payable by the allottee to the developer. Thus, the respondent is not entitled to demand holding charges from the complainant at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

F. Directions of the authority

25. 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 handover the physical possession of the allotted unit to the complainants within a period of 30 days of this order.
 - ii. The respondent is directed to pay the interest to the complainants against the paid-up amount at the prescribed rate i.e., 10.80% p.a. w.e.f. due date of possession i.e., 09.05.2021 till valid offer of possession after obtaining the Occupation Certificate from the competent authority plus two months or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
 - iii. The respondent is directed to get the conveyance deed of the allotted unit executed in the favour of the complainants within a period of 60

days of this order, in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

- iv. The respondent is not entitled to demand holding charges from the complainant at any point of time even after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
- v. The respondent shall not charge anything from the complainants which is not the part of the agreement.

26. Complaint stands disposed of.

27. File be consigned to registry.


(Phool Singh Saini)
Member


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 23.12.2025

HARERA
GURUGRAM