



Complaint No. 812 of 2021

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No.:	812 of 2021
Date of Filing:	16.08.2021
First Date of Hearing:	05.10.2021
Date of Decision:	24.04.2026

Mr. Gyanendra Kumar Vatsa
S/o Sh. Anirudha Bahadur Singh
R/o Flat No. 3, H.No 331/2,
Ward No. 4, Mehrauli
Delhi, 110030

....COMPLAINANT(S)

VERSUS

1. Piyush Buildwell India Limited
A-16/B-1, Mohan Cooperative
Industrial Estate, Main Mathura Road
New Delhi, 110044

2. Piyush Facility Management Private Limited
A-16/B-1, Mohan Cooperative
Industrial Estate, Main Mathura Road
New Delhi, 110044

3. Resident Welfare Association Piyush Heights
Flat No. F-116, Piyush Heights, Sector 89
Faridabad, 121002

...RESPONDENT(S)

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CORAM: **Sh. Chander Shekhar** **Member**

Hearing: 26th

Present: - Mr. Akshat Mittal, Counsel for the Complainant through VC.
Mr. Yuvraj Singh Sharma, Counsel for the Respondent No. 1 through VC.
None for Respondent Nos. 2 and 3.

ORDER

Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the Project	Piyush Heights, Faridabad.
2.	Nature of the Project.	Residential

3.	RERA Registered/Not Registered	Unregistered
4.	Details of the unit	Flat No. A-1013, Block A, 10th Floor
5.	Date of Builder Buyer Agreement	22.10.2007
6.	Due Date of Possession	22.10.2010 (As mentioned in pleadings)
7.	Basic Sale Consideration	₹21,69,105/- (As mentioned in pleadings) Later increased to ₹23,64,000/-
8.	Amount paid by the Complainant	₹26,26,654/- (As per receipts submitted by the complainant)
9.	Offer of Possession	09.10.2017 (Possession taken on 01.02.2021)
10.	Occupation Certificate	17.08.2017

B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT

3. Facts of the complaint are that the respondents floated a scheme for the development of residential township to be constructed and developed under the name and style of "Piyush Heights" in Sector 89, Faridabad. The complainant approached the respondents to book the flat and entered into booking the flat on 15.11.2007 in pursuance of the assurances and promises as per the marketing brochure. Booking was made for Flat No. A-1013, Block-A, 10th Floor, for a Basic Sale Price of ₹21,69,105/-.

4. Thereafter, payments were made to the respondents in accordance with the payment plan and a total of ₹26,18,645/- has been paid to the respondents. A Builder Buyer Agreement was executed on 22.10.2007. As per Clause 27 of the Builder Buyer Agreement, the possession of the unit was to be handed over to the complainant within a period of 36 months with an extension of 6 months. A copy of the Builder Buyer Agreement and Marketing Brochure is annexed as Annexure C-1.

5. On 09.10.2017, the respondent promoter issued an offer of possession without completing the construction work of the unit in question. The unit in question is still not complete and the same has already been verified by site inspection ordered by the Authority. A copy of the offer of possession is annexed as Annexure C-2. The letter dated 09.10.2017 also contained illegal, frivolous and exaggerated amounts under several heads which are as follows:

I. The Basic Sale Price of the unit was increased from ₹21,69,105/- to ₹24,07,182.96 in denial of the agreed terms and conditions.

II. Charges for EDC and IDC were illegally increased from ₹2,45,832/- to ₹4,28,036.80/-


III. Charges for Interest Free Maintenance Security were increased from ₹36,152/- to ₹44,193.39/-

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The said letter also contained illegal charges under heads of 'Interest accumulated as on date', 'Cooking gas connection charges', 'Podium charges', 'PLC Charges', 'EEC and FFC etc' etc. The above said charges were against the letters dated 20.10.2010 and 20.09.2012 which are annexed as Annexure C-3.

6. With regard to the PLC charges, it is submitted that the unit in question did not fall under the preferably located units and no PLC was applicable. However, the same was demanded vide letter dated 07.09.2012 from the complainant. A copy of the same is annexed as Annexure C-4. The complainant deliberately did not choose a PLC unit at the time of booking. Therefore, the said charges must be set aside.

7. Further, the size of the unit was also increased arbitrarily from 1446.07 sq. ft. to 1576 sq. ft. The increase was without the consent of the complainant and is liable to be set aside.

8. The complainant also expressed his dissent to the letter dated 09.10.2017, which was the alleged offer of possession by sending a legal notice dated 28.12.2017. A copy of the legal notice is annexed as Annexure C-5. The complainant came to know that the directors of the respondent company were behind bars due to the frauds committed and the complainant has been running from pillar to post to get his grievances addressed.

 9. Further, the agreement entered into between the parties is in violation of the Act and the 'Annexure A- Agreement for sale' mentioned under Schedule III of The Haryana RE(R&D) Rules, 2017. Explanation (ii) under term 1.2 makes it evident that the total price is inclusive of all charges. However, the respondent promoter is levying charges above the total sale price of the unit in question.

10. The possession of the unit was to be handed over to the complainant within a period of 36 months from the date of execution of the agreement and the said period expired on 22.10.2010. The respondents have failed to deliver the possession within the said timeframe. The respondent company is not entitled to take benefit of the six months of grace period as stipulated in the agreement as the same could only be resorted to in cases of force majeure and extreme circumstances. Even if such benefit of the grace period of 6 months is extended to the respondents, the possession was still to be made by 22.04.2011. The respondents have failed to deliver the possession even after 14 years of the payment of booking amount towards the sale consideration and the delay is still continuing.

11. The complainant has been paying all the instalments demanded in good faith even after the default and delay on the part of respondents. It is also mentioned that the complainant had earlier filed a complaint bearing no. 1442 of 2018 before the Authority. The same was adjudicated upon wherein the respondents, vide order dated 16.10.2019 was directed to rectify the deficiencies in the apartment and hand over fresh possession to the complainant. The Authority also stayed the payment demands till the date the apartment is complete in all respects. The Authority also appointed a local commissioner to evaluate the project and the unit to peruse the deficiencies vide order dated 20.11.2019. The report of the local commissioner has been recorded in order

dated 12.03.2020 wherein it has been observed that the flats are in a shabby condition. Despite orders of the Authority, the complainant has not been able to obtain the possession due to the hindrances caused by respondent no.3 i.e. Resident Welfare Association, Piyush Heights.

12. Respondent no. 3 is creating obstacles for the complainant in obtaining the electricity connection and is also demanding maintenance charges despite the unit being incomplete. Respondent no. 3 is also not allowing the complainant to carry out repair work at the unit. The said fact was also brought to the notice of the Authority in complaint no. 1442 of 2018 and the Authority disposed of the case with liberty to file afresh with better particulars for any remaining grievances.

13. The complainant is left with no option but to approach this Authority seeking directions for waiver of the unreasonable demands and to offer possession along with delay possession charges, compensation and costs and necessary directions to all the respondents. The Authority, in complaint no 149 of 2018 set aside the maintenance demand raised by the respondent no.3 vide order dated 25.03.2021. A copy of all the orders referred to by the complainant has been annexed as Annexure C-6 Colly. Now the complainant has approached this Authority seeking relief.

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C. RELIEF SOUGHT

14. In view of the facts mentioned above, the complainant has prayed for the following relief(s):-

- i. To direct the respondent no.2 and respondent no.3 not to charge the maintenance charges from the complainant in retrospective effect.
- ii. To direct the respondents to immediately handover the physical possession of the unit to the complainant.
- iii. To direct the respondent no.3 to facilitate the complainant in taking over the possession of the unit and further in obtaining the electricity connection and other basic services like water, sewerage connection etc.
- iv. To direct the respondent no.3 to facilitate the complainant in effecting repairs and rectifications to the unit in question as ordered in complaint no. 1442 of 2018.
- v. To direct respondent no.1 and 2 to withdraw the letter dated 09.10.2017 and set aside illegal payment demands.
- vi. To direct the respondents to compensate for the delay in the offer of possession of the apartment complete in all respects by paying interest as prescribed under RE(R&D) Act, 2016 read with Haryana RE(R&D) Rules on the entire amount of ₹26,18,645/- which has been deposited against the property in question.

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- vii. To direct the respondents to waive of the amounts being charged under the heads of 'Interest accumulated as on date', 'Cooking gas connection charges', 'Podium charges', 'PLC Charges', 'EEC and FFC etc' and any other unreasonable demands and to return and refund the amounts paid already in this regard along with interest @18% per annum or as prescribed.
- viii. To set aside and direct the respondents to waive off any amount being charged qua taxes which is over the Total Sale Price agreed upon.
- ix. To direct the respondents to set aside the increased charges under the heads of 'Basic Sale Price', 'EDC and IDC', 'Interest Free Maintenance Security' etc. and to return and refund the amounts paid already in this regard along with interest @18% per annum or as prescribed.
- x. To set aside the increase in the size of the unit effected by the respondents unilaterally and contrary to the approved plans and to direct the respondents not to charge any amount qua the same.
- xi. To direct the respondents to execute the conveyance deed of the unit in question as the complainant has discharged his liabilities and is willing to discharge any other genuine liabilities in case called upon by the Authority.

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- xii. To direct the respondents to pay ₹5,00,000/- on account of frustration and mental agony caused to the complainant along with interest from the date of filing of the complaint.
- xiii. To revoke the registration, if any, granted to the respondents in the project "Piyush Heights" situated in Fardidabad, Haryana.
- xiv. To direct the respondents to pay costs and litigation expenses of ₹1,50,000/-.
- xv. Any other relief as this Hon'ble Authority may deem fit and appropriate in the facts and circumstances of the present case.

D. REPLY FILED BY THE RESPONDENT NO.1

15. A reply was filed on 16.05.2023 on behalf of the respondent no.1 wherein it has been stated that the offer of possession was made to the complainant on 09.10.2017 which is annexed as Annexure C-2 with the complaint filed by the complainant. The offer was made after getting the Occupation Certificate on 17.08.2017 vide no. *Goh* ZP-261-Vol-II/SD(DK)/2017/20147 along with the statement of account. The total due amount was ₹12,23,166/-. As per Clause 3 in the statement of accounts it was mentioned that:

"As far as EDC is concerned, whether original or enhanced, Till now company has demanded the charges from the customers on the basis of tentative calculations and the final calculations shall be made after the decision of Honorable High Court in CWP number 5835 of 2013 Titles as Balwan Singh and others versus State of

Haryana and others. Accordingly, customers will be liable to make the payment as per the final demand raised on the basis of final calculations and after the adjustments of the already paid amount by the customers. If any customer has paid any extra amount, then it will be refunded or adjusted in other payments, as applicable."

16. The complainant did not pay the balance payment and other charges and failed to come forward for registration of the conveyance deed. The increase in the area as well as EDC/IDC was consented by the complainant and he never objected to the same. The respondent no.1 also sent him the reminder as well as updated statement of accounts as per which ₹21,30,413/- is outstanding against him. Further, as per Para X of the complaint, the complainant has agreed that the area was increased and it is for the benefit of the complainant and therefore the complainant is liable to pay for the same.

17. As per Page 39 of the Builder Buyer Agreement, it has been clearly mentioned that the buyer will be entitled to the possession only after all the amounts are paid. The complainant has also not attached the entire payment receipts with the petition. The respondent no.1 also issued an offer for fit out possession before receiving the occupation certificate. However, the complainant refused the same as he was satisfied that the unit is complete in all respects. Thereafter, the Occupation Certificate was issued to the respondent no.1 by the competent authority, a copy of which is annexed as Annexure R-2.

18. The complainant also inspected the flat after receiving the offer of possession and no discrepancy was pointed out to the respondent no.1. There

has been no communication on part of the complainant and the complainant has directly approached this Authority.

19. The respondent no.1 has no objection to proceed with the registration of the conveyance deed for the said flat if the complainant agrees to pay the balance amount including the holding charges along with interest and all other due charges. The complaint is liable to be dismissed as the complainant has not fulfilled his responsibilities.

20. Further, numerous FIRs were lodged against the respondents by different persons and the directors of the respondent company were arrested on 18.06.2018. During custody, Mr. Puneet Goyal and Mr. Anil Goel expired and now Mr. Amit Goel is the only surviving director who is trying to settle all the matters.

21. After the arrest of the directors, a Residents Welfare Association was constituted and they illegally handed over the possession of the flat to the buyers despite the charges being due. The Residents Welfare Association procured false letter heads of the company and issued forged possession letters and no dues certificates on the same. The respondent company requested the Residents Welfare Association to stop this practice and thereafter filed a complaint on 23.10.2020 before the Commissioner Of Police, Faridabad.

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22. The entire record of the respondent company is with a resolution professional namely Sh. Swami Deep Gupta who was appointed by the National Company Law Tribunal and multiple requests were made to him for providing a copy of the records to the Authority. However, all such efforts went in vain.

23. After getting the offer of possession, the complainant never approached the respondents to get the registration of the conveyance deed done in his favour despite repeated requests of the respondent company. The respondent company has always been willing and ready to perform its obligations and it is the complainant who did not come forward to perform its part of the responsibility. Therefore, the present complaint is liable to be dismissed.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT NO.1

24. During the course of arguments, both the learned counsels for complainant and respondent no.1 reiterated the arguments as were submitted in their respective pleadings.

25. Learned counsel for the complainant has stated that the matter has been settled with the respondent no.3. He has stated that a complaint no. 1442/2018 was also filed before this Authority by the complainant wherein a local commissioner was also appointed by the Authority and the report submitted by the local commissioner stated that the flats were in a bad

condition. Further, he has submitted that the benefit of the grace period of 6 months should not be allowed to the respondent company and delay possession charges must be awarded till the date of handing over of the possession and not till the date of grant of the Occupation Certificate.

26. Learned counsel for the respondent no.1 has submitted that the offer of the possession has been made to the complainant with a valid Occupation Certificate. The charges of PLC, EDC etc. are beyond the control of the respondent no.1 and amount for an insignificant amount. He has further stated that dues are still pending on part of the complainant. However, he has shown his willingness to pay the delay possession charges and also arrive at an amicable settlement to which learned counsel for the complainant has objected and has prayed for disposal of matter by the Authority on merits.

F. ISSUES FOR ADJUDICATION

27. Whether the complainant is entitled to get possession of a booked flat alongwith delay interest in terms of Section 18 of RE(RD) Act, 2016?

G. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

28. The Authority has carefully considered the submissions made by both the parties. In the light of background of the matter as recorded in this order and the arguments advanced by the complainant and the respondent no.1, the Authority observes as follows:

- i. It is an admitted fact that the complainant entered into a Builder Buyer Agreement with the respondent no.1 company for a flat bearing no. A-1013, 10th Floor, measuring 1446.07 sq. ft. in the project "Piyush Heights, Faridabad" for a Basic Sale Price of ₹21,69,105/-. The complainant paid a total amount of ₹26,26,654/- to the respondent no.1 company between the years 2007 and 2013. As per Clause 27 of the Builder Buyer Agreement, the possession of the fit and complete unit was to be handed over to the complainant within a period of 36 months with an extension of 6 months. However, the respondent no.1 failed to do so.
- ii. The respondent no.1 issued an offer of possession on 09.10.2017 after obtaining the Occupation Certificate on 17.08.2017. However, the said offer also contained various charges under various heads which are being disputed by the complainant in the present case. The area of the unit was also increased from 1446.07 sq. ft. to 1576 sq ft. in the said offer of possession. The complainant objected to the same. It has been observed that the possession of the flat has been taken by the complainant on 01.02.2021 as also recorded in the order dated 17.09.2024 in the present matter. It is also pertinent to note that another complaint bearing no. 1442 of 2018 was filed by the complainant before the

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Authority, following which the possession was handed over to the complainant.

iii. It has been observed that the matter has been settled with the respondent no. 3 i.e. "*Resident Welfare Association, Piyush Heights*" as recorded in order dated 05.12.2023 in the present complaint. Therefore, no observations are made with regard to any applications/reply filed by it. Accordingly, the reliefs involving directions to respondent no. 3 are not being adjudicated upon. Further, no reply has been filed by respondent no. 2 i.e. "*Piyush Facility Management Private Limited*". The primary grievance of the complainant remains against respondent no.1 and it has effectively led the primary defence being the promoter company who entered into the agreement with the complainant. Therefore, no adverse order is being passed against respondent no.2.

iv. It is observed that one of the primary grievances of the complainant pertains to the levy of various charges under different heads, as well as the increase in the area of the flat etc. As there is a valid BBA executed between the parties, it would be appropriate to examine each of these components individually in the light of Builder Buyer Agreement (BBA) and the material placed on record.

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At the outset, a perusal of Clauses 3, 5, 7, 8 and 14 of the BBA reflects that the complainant had expressly agreed to bear charges on account of increase in area, Preferential Location Charges (PLC), External Development Charges (EDC), Infrastructure Development Charges (IDC), as well as government levies, taxes and other statutory charges, subject to their applicability. Therefore, the entitlement of the respondent no.1 to levy such charges, in principle, is not in dispute. However, the same must be exercised strictly in accordance with the terms of the BBA and cannot be imposed arbitrarily. Following observations are made with regard to the disputed charges:

(a) Increase in area:

The area of the unit has been increased from 1446.07 sq. ft. to 1576 sq. ft. It is an admitted position that the complainant has already taken possession of the flat and is in actual physical occupation of the flat. In such circumstances, the complainant is enjoying the benefit of the enhanced area, if any and therefore, the corresponding proportionate cost in the increase of the area cannot be denied. The same has also been agreed upon by the complainant in terms of Clause 5 and 7 of the BBA. Accordingly, the increase in area and the proportionate charges arising therefrom are held to be justified provided the increase in the area

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is also reflected in the approved plan. Therefore, the complainant shall be liable to pay any valid charges raised on account of the increased area. It is clarified that if the area of the flat in possession of the complainant is in deviation with the approved plan of the project, the said charges shall not be applicable.

(b) Preferential Location Charges (PLC):

As already observed, the complainant has been in possession of the flat since 01.02.2021. Further, PLC is a charge mentioned in the BBA subject to applicability and finalisation of the layout plan. In the absence of any material to establish that the unit falls within a preferential location or not and considering that the complainant has accepted possession of the unit in its present form, the levy of PLC can only be interfered if the flat does not fall under the PLC. The said PLC charges, if applicable, will be charged as per the applicable rate as mentioned in the BBA with proper justification, layout plan and basis for calculation for the same furnished to the complainant.

(c) External Development Charges (EDC) and Infrastructure Development Charges (IDC):

Although the BBA permits recovery of EDC and IDC and any increase thereof, the respondent no.1 was granted sufficient opportunity to place on record the basis, calculation and

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supporting documents justifying the enhancement in such charges. However, no such material/clarification has been filed by the respondent no.1. In the absence of any justification, the enhancement in EDC and IDC is deemed to be arbitrary and unsustainable. Accordingly, the increased component of EDC/IDC is set aside and the respondent no.1 is entitled to recover only such amount at the originally agreed rates. It is clarified that the respondent no.1 may charge EDC and IDC on the enhanced area of the flat, if justified by the approved plan of the project and at the rate applicable at the time of execution of the BBA. Further, the complainant shall be liable to pay the levy of EDC and IDC in accordance with the relevant government guidelines/notifications and the outcome of writ petition(s) in accordance with law.

(d) Miscellaneous charges (including 'Interest accumulated as on date', 'Cooking gas connection charges', 'Podium charges', 'EEC and FFC', etc.)

On perusal of the BBA, it has been observed that these charges do not expressly find mention in the BBA, nor any other supporting document for the same has been filed on record. Clause 3 of the BBA provides for "*other charges calculated on the basis of super area*". However, such charges cannot be arbitrary and must be reasonable and justified by appropriate

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supporting documents/evidence. In the absence of any such documents/evidence placed on record, such demands are held to be illegal and are accordingly set aside. Any amount recovered under these heads shall be liable to be refunded/adjusted in accordance with law. If such demands are raised, the same ought to be reasonable and with proper justification provided to the complainant.

It is further clarified that the complainant shall be liable to pay interest on the valid dues at the prescribed rate, i.e., 10.80% which is the same rate of interest which the respondent/promoter shall be liable to pay to the allottee.

(e) Holding charges and Taxes (if any):

As the matter has been under adjudication since the year 2021 and the demands on account of various charges along with delay payment charges were under adjudication before the Authority, the period till the date of this order is not being considered for application of the holding charges, if any. However, it is clarified that the complainant shall be liable to pay the maintenance charges, if any, from the date of taking possession i.e. from 01.02.2021. It is further clarified that applicable taxes shall be payable by the complainant on the

amount found due, strictly in accordance with the agreed terms and applicable laws.

v. The respondent no.1 has raised the contention that the complainant has defaulted in making the payments of the demand raised. However, the demands raised are also not strictly in accordance with the BBA and also lack proper justification and supporting evidence. In view of the above, respondent no.1 is directed to issue a revised statement of account strictly in accordance with the findings recorded above within 30 days. The complainant shall be liable to make payment only of such amounts as are found due in terms of this order and are in consonance with the terms of the BBA.

vi. With regard to the grant of delay possession charges, it is also observed that the Builder Buyer Agreement was executed on 22.10.2007. As per the Clause 27 Of the BBA, the possession of the flat was to be handed over within 36 months with a grace period of 6 months from the date of agreement. In the present case, the deemed date of possession comes to 22.04.2011. The Occupation Certificate was received by the respondent no.1 on 17.08.2017 which is beyond the due date of the possession. It reflects that there has been a delay in the completion of the project. Respondent no. 1 failed to honour its contractual

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obligations without any reasonable justification. In the present complaint, the complainant intends to continue with the project and is seeking delayed possession charges as provided under the proviso to Section 18(1) of the Act. Therefore, considering the aforesaid observations and the statutory and contractual obligations of the respondent no.1, the Authority finds it a fit case for allowing handing over of possession along with delay possession charges. The complainant's claim is, therefore, held to be just and enforceable under the provisions of Section 18(1)(a) of the RE(RD) Act, 2016.

vii. The next question that arises for consideration is the period for which delay possession charges are to be awarded. In the present case, although the Occupation Certificate was obtained on 17.08.2017, the actual physical possession of the unit was taken by the complainant only on 01.02.2021. It is pertinent to note that the complainant had earlier filed complaint no. 1442 of 2018 before this Authority, wherein a Local Commissioner was appointed to inspect the condition of the flats. As per the report recorded in order dated 12.03.2020, the flat was found to be in a shabby and incomplete condition despite the grant of the Occupation Certificate. Consequently, the possession was ordered to be taken on "as is where is" basis, and possession was ultimately taken on

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01.02.2021. Therefore, it is an established fact that despite the grant of the Occupation Certificate the flat was in a bad condition. As a general rule, delay possession charges are awarded up to the date of valid offer of possession after receipt of OC. However, in view of the finding that the unit remained incomplete and in an uninhabitable condition even after the issuance of the Occupation Certificate, the delay possession charges shall be payable from the deemed date of possession i.e. from 22.04.2011 till the date of actual handing over of possession, i.e., 01.02.2021, in order to do complete justice between the parties.

29. The term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

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30. As per the website of the State Bank of India (<https://sbi.bank.in>), the highest Marginal Cost of Lending Rate (MCLR) as on 24.04.2026 is 8.80%. Accordingly, in terms of HRERA rules, the prescribed rate of interest for the refund shall be $MCLR + 2\% = 10.80\%$ per annum, calculated from the date of deposit of each installment until the date of actual payment.

31. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

“Rule 15: “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”

32. The Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of this order at the rate of 10.80% and said amount works out as per detail given in the table below:

Sr. No.	Principal Amount in ₹	From Deemed Date of Possession (22.04.2011) or date of payment, whichever is later.	Interest Accrued till 01.02.2021 (Till the date of handing over of possession.)
1.	₹22,48,807/-	Payments made till 22.04.2011	₹23,78,141/-

18.	₹1,00,000/-	12.10.2011	₹1,00,632/-
19.	₹1,02,450/-	20.10.2011	₹1,02,855/-
20.	₹20,245/-	13.09.2012	₹18,354/-
21.	₹55,152/-	03.10.2013	₹43,718/-
22.	₹1,00,000/-	03.10.2013	₹79,269/-
	Total = ₹26,26,654/-		Total= ₹27,22,969/-
	Total Delay Interest Payable to the Complainant		₹27,22,969/-

33. As the possession has already been taken by the complainant, no monthly interest shall be applicable in the present case.

34. It is observed that the complainant has prayed for delay possession charges on an amount of ₹26,18,645/-. However, the payment receipts filed by the complainant in compliance with Regulation 8(dd), HRERA, Panchkula (Adjudication of Complaints), Regulations 2018 reflect a total paid amount of ₹26,26,654/-. Therefore, delay possession charges are being awarded on the amount of ₹26,26,654/-

35. The complainant has also sought compensation on account of frustration, mental agony, litigation costs and on other grounds. In this regard, it is observed that the Hon'ble Supreme Court of India in *Civil Appeal Nos. 6745-6749 of 2027, M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors. (supra)*, has held that an allottee is entitled to claim

compensation and litigation charges under Sections 12, 14, 18, and 19 of the RERA Act, 2016. The Court further clarified that such claims are to be adjudicated by the learned Adjudicating Officer under Section 71 of the Act, 2016, and the quantum of compensation and legal expenses is to be determined having due regard to the factors enumerated in Section 72 of the Act, 2016. Accordingly, the Authority observes that the claim for compensation and litigation costs cannot be adjudicated in the present proceedings. The complainant is, therefore, advised to approach the learned Adjudicating Officer for seeking relief in respect of compensation and litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

36. Hence, the Authority hereby issues the following directions under Section 37 of the RERA Act, 2016, to ensure compliance with the obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act, 2016:

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- i. Respondent no. 1 is directed to issue a fresh and revised statement of account strictly in terms of the Builder Buyer Agreement and in the terms as recorded in this order, within 30 days from the date of uploading of this order. Respondent no. 1 is directed to adjust the amount of ₹27,22,969/- as calculated by this Authority on account of delayed possession charges in the revised statement of account. Upon receipt of the same, the complainant

shall be liable to pay the balance amount, if any, strictly in accordance with the terms of the agreement and is entitled to receive the payments, if any.

ii. The rate of interest chargeable from the allottee by the respondent/promoter shall be charged at the prescribed rate, i.e., 10.80% which is the same rate of interest which the respondent/promoter shall be liable to pay to the allottee.

iii. It is further clarified that the respondent no.1 will remain liable to pay interest to the complainant till the actual realization of the above said amount.

iv. Respondent no.1 is directed to execute a conveyance deed in favour of the complainant within next 30 days after the settlement of receivables and payables in terms of this order.

37. Accordingly, the case is **Disposed of**. File be consigned to the record room after uploading of order on the website of the Authority.

24.04.2026
Raghav Jain
(Law Associate)


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CHANDER SHEKHAR
[MEMBER]