

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

**Complaint No. : 92 of 2018**  
**First date of Hearing : 19.04.2018**  
**Date of Decision : 21.08.2018**

Mr. Ishwer Chand Garg  
Mr. Lohit Garg,  
R/o. U-5/46-47, DLF City,  
Phase-III, Gurugram, Haryana-122002.

**Complainants**

Versus

Ramprastha Promoters & Developers Pvt. Ltd.  
Address: 114, Sector 44,  
Gurugram, Haryana-122002.

**Respondent**

**CORAM:**

Dr. K.K. Khandelwal  
Shri Samir Kumar  
Shri Subhash Chander Kush

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Shri Nilotpall Shyam Advocate for the complainants  
Shri Ishwer Chand Garg Complainant in person  
Shri Dheeraj Kapoor Advocate for the respondent  
Shri Shobhit Maheshwari Legal representative on behalf of  
the respondent company.



**ORDER**

1. A complaint dated 21.03.2018 was filed under section 31 of the Real Estate (Regulation & Development) Act, 2016 read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 by the complainants Mr. Ishwer

Chand Garg and Mr. Lohit Garg, against the promoter Ramprastha Promoters & Developers Pvt. Ltd., on account of violation of the clause 15.a of apartment buyer's agreement executed on 11.11.2014 in respect of apartment described as below for not handing over possession on the due date i.e. 30<sup>th</sup> November 2015, as agreed by both the parties, which is an obligation under section 11(4)(a) of the Act ibid.

2. The particulars of the complaint case are as under: -

1.	Name and location of the project	"The Edge Tower", Sector 37D, Gurugram, Haryana.
2.	RERA registered/ not registered	<b>Registered</b>
3.	HRERA registration no.	279 of 2017 dated 09.10.2017
4.	Date of completion as per HRERA registration certificate.	31.12.2018
5.	Apartment/unit no.	401, 4 <sup>th</sup> floor, tower/ block no. A.
6.	Apartment measuring	2390 sq. ft.
7.	Apartment buyer's agreement executed on	11.11.2014
8.	Total consideration amount as per agreement dated 11.11.2014	Rs.1,11,14,583/-
9.	Total amount paid by the complainants till date	Rs.95,86,080/-
10.	Percentage of consideration amount	Approx. 86.24 percent
11.	Date of delivery of possession as agreed by both the parties.	30 <sup>th</sup> November 2015
12.	Delay in handing over possession till date	2 Years 8 months 23 days
13.	Penalty clause as per apartment buyer's agreement dated 11.11.2014	Clause 17.a of the agreement i.e. Rs.5/- per sq. ft. of the super area per month.



3. As per the details above have been checked on the basis of record available in the case file which have been provided by the complainants and the respondent. An apartment buyer's agreement is available on record for the aforesaid apartment. The possession of the said unit was to be delivered by 30<sup>th</sup> November 2015, as agreed between both the parties. Neither the respondent has delivered the possession of the said unit as on date to the purchaser nor they have paid any compensation @ Rs.5/- per sq. ft. of the super area per month of the said unit for the period of such delay as per clause 17.a of apartment buyer's agreement dated 11.11.2014. Therefore, the promoter has not fulfilled his committed liability as on date.
4. Taking cognizance of the complaint, the authority issued notice to the respondent for filing reply and for appearance. The respondent appeared on 19.04.2018. The case came up for hearing on 19.04.2018, 22.05.2018, 19.06.2018, 11.07.2018 and 21.08.2018. The reply has been filed on behalf of the respondent on 15.05.2018 has been perused. On 11.07.2018, the respondent was asked to file an affidavit regarding the status of the project and the same was filed on 21.08.2018. The complainants filed an application dated 10.07.2018 regarding impleadment of party and the same



was allowed. The complainants filed the rejoinder to rebut the reply filed by the respondent in which the complainants reasserted the contentions raised in the complaint.

5. Briefly stated, the facts of the case as culled out from the case of complainants are that the complainants are home buyer of a residential unit no. A-401 under the project named - "The Edge Tower" located at Sector 37-D, Ramprastha City, at Dwarka Expressway, Gurugram being developed by Ch. Balwant Singh, the chairman, Ramprastha Promoters and Developers Pvt. Ltd. The builder got a license no. 33 of 2008 dated 19.02.2008 for total area of 66.51 Acres from the concerned authority for the constructing 15 towers (A to P) of 19 stories each collectively named as "The Edge Towers". The apartment buyer's agreement was executed on 11.11.2014 and as per clause 15.a of apartment buyer's agreement, the proposed date for handing over the possession of the apartment was by 31.08.2012.

6. Vide an email dated 3<sup>rd</sup> November 2015, the respondent informed that the new timelines for completion of construction as follow:

Phase	Towers	Tentative completion date.
1 <sup>st</sup> phase	H, I, J, K, L & M	30 <sup>th</sup> June 2016



2 <sup>nd</sup> phase	A, B, C, D, E, F, G, N & P	<b>31<sup>st</sup> December 2016</b>
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Further vide an email dated 15<sup>th</sup> July 2016, the respondent again revised the timeline for completion of the construction as follow:

Sr. No.	Towers	Tentative completion date
1.	A, B, E, F, G & P	<b>March 2017</b>
2.	C, D & N	December 2016
3.	H, I, J, L & M	November 2016
4.	K	October 2016

Again, through an email dated 28<sup>th</sup> February 2017, the respondent sated a new timeline for the completion of the project, the same is stated as follow:

Sr. No.	Towers	Tentative completion date.
1.	A, B, C, D, E, F & G	<b>September 2017</b>
2.	H & N	June 2017
3.	I, J & L	April 2017
4.	K	Completed
5.	P	August 2017
6.	M	March 2017

But the completion date as declared by the respondent in HRERA registration certificate is 31<sup>st</sup> December 2018.

7. The complainants also submitted that in February 2015, the complainants availed housing loan from Axis Bank of



Rs.99,29,737/- with moratorium period of 30 months before start of the recovery for instalments for the borrowed housing loan. In terms of the housing loan from Axis Bank, there is an obligation for making monthly payment known as Pre-EMI interest amounting to Rs. 65,000-70,000/-, on the component of the loan amount disbursed to the builder on 21.02.2015.

8. Till date 31.03.2018, a total of Rs.24,71,864/- have already been paid to the lender axis bank. This is additional cost of the possession to the home buyer occurred only due to delayed delivery of the project/completion by the builder and which has already become whopping 25% as on 31.03.2018 and till promised date of delivery i.e. 31<sup>st</sup> December 2018, it is likely to go up to 30%. The complainants submitted that had the delivery been made in time, the complainants would not be coated with additional cost of Rs. 30 lakhs.
9. The complainants submitted that there is inordinate and deliberate delay in the completion of the project due to callous attitude, mis-management of the project and massive diversion of funds received from the home buyers of the “The Edge tower”, to other projects named like “The View” & “The Atrium” which were located adjutant to and launched couple of years later than the project in question on the same land



parcel on which the said tower is located. The complainants stated that the project named above - “The View” & “The Atrium” have got priority over “The Edge Tower” at the cost of Rs.30 lakhs each of said flat of 2,390 sq. ft. and the cost is even higher for those home buyers who have invested since inception in 2009-2010.

10. The complainants submitted that the builder has wilfully trapped and induced, with falsely promising the delivery date as 31.08.2012 in apartment buyer’s agreement. The apartment buyer’s agreement is completely one sided and solely created by the builders with the help of legal wizards only for the builder’s interest, leaving no space for gullible home buyers who have been promised delivery on 31.08.2012 i.e. within a span of about 3<sup>1/2</sup> years from original launch in January 2009. The promised delivery date for handing over possession as per the agreement i.e. 31.08.2012 which seems unachievable. It can be termed as fraudulent, as the project is complete upto 18<sup>th</sup> floor slab since last 3 years and no work was done by the builder & has taken 4<sup>th</sup> extension of time with new delivery date as 31.12.2018.

11. **The issues raised by the complainants are as follow:**



- i. Whether the promoter has the requisite infrastructure to meet the commitment of delivery /possession on 31.12.2018?
- ii. Whether there is fund diversion from the project money received from the home buyers?
- iii. Whether an immediate suo-moto notification under RERA, can be invoked bringing entire “The Edge Towers” consisting of 15 towers under ambit of RERA retrospectively for covering the ongoing project?

## 12. Relief sought

The complainants are seeking the following reliefs:

- i. Refund the entire money paid by the complainants towards the flat.
- ii. Interest @ 18% p.a. compounded quarterly from 31.12.2014 till date, which includes initial payment of Rs.16,65,500/- and direct payment of Rs.76,85,900/- by Axis Bank, under triparty agreement with the builder and the complainants.
- iii. Full refund of pre-EMI interest of Rs.25 lakhs paid till 10.03.2018 by the complainants to the Axis Bank or till date of actual payment – as compensation for soothing the mental fatigue and tension.



### Other reliefs

- iv. Setting-off of all claim of the builder arising in connection with the possession under terms of the agreement, against the award of the compensation being claimed for interest and compensation under section 31 read with section 71.
- v. Modification of the said agreement to the extent as required to provide legal backup of the compensation claimed.

### Respondent's reply

13. The respondent has raised various preliminary objections and submissions challenging the jurisdiction of this hon'ble authority. They are as follow:

- i. The complaint for compensation and interest under section 12, 14, 18 and 19 of the Act ibid is maintainable only before the adjudicating office.
- ii. It is also submitted that the complaint is not supported by any proper affidavit with a proper verification. In the absence of a proper verified and attested affidavit supporting the complaint, the complaint is liable to be rejected.



- iii. The respondent also stated that the statement of objects and reasons as well as the preamble of the said Act clearly states that the RERA is enacted for effective consumer protection. The complainants, who are already the owner and resident of U-5/46-47, DLF City, Phase-III, Gurugram-122002 (as mentioned in the booking application form, apartment buyer agreement and in the present complaint) is an investor, who never had any intention to buy the apartment for his personal use and kept on avoiding the performance of his contractual obligations of making timely payments.
- iv. The respondent submitted that this hon'ble authority has no jurisdiction to entertain the present complaint as the complainant has not come to this authority with clean hands and has concealed the material facts:
- (a) The complainant, along with his son Lohit Garg, is joint owner of the apartment in question. However, the present complaint has not been filed by both the joint owners and therefore is liable to be dismissed on this ground alone.
- (b) The complainants have been a defaulter, having deliberately failed to make the payment of various



instalments within the time prescribed, which resulted in delay payment charges, as reflected in the statement of account.

- v. The respondent submitted that from the date of booking till the filing of the present complaint, the complainants had never raised any issue whatsoever and has now concocted a false story to cover up his own defaults of non-payment of dues and raised false and frivolous issues and has filed the present complaint on false, frivolous and concocted grounds. This conduct of the complainants clearly indicates that the complainants are mere speculator having invested with a view to earn quick profit and due to slowdown in the market conditions, the complainants has failed to perform their contractual obligations of making timely payments.
- vi. The respondent submitted that despite several adversities, the respondent has continued with the construction of the project and is in process of completing the construction of the project and should be able to apply for occupation certificate by 31.12.2018 (as mentioned at the time of registration of the project with RERA).



- vii. The authority is deprived of the jurisdiction to go into the interpretation of, or rights of the parties inter-se in accordance with the apartment buyer's agreement signed by the complainant. It is matter of record that no such agreement as is referred under the provisions of the said Act or said rules has been executed between the complainant and the respondent. Rather, the agreement that has been referred to is dated 11.11.2014 which was executed much prior to coming into force of the said Act or said Rules.

**Reply on merits**

14. The respondent admitted the details pertaining to the apartment, project and execution of the agreement but denied that the project is being developed by Ch. Blawant Singh. The respondent submitted that the project is being developed by the respondent and not the chairman of the respondent.
15. The respondent denied that the possession date was agreed to be 31.08.2012 or that there is any delay of 6 years and 4 months, as alleged in the complaint. The respondent submitted that the complainants were caught in a web of his own lies as the proposed estimated time of handing over the



possession of the said apartment was November 2015 (as admitted by the complainant himself at page-3 of the complaint) + 120 days + 4 months and not 31.08.2012, as alleged by the complainant. The agreement was executed on 11.11.2014 and the date of handing over possession mentioned in the agreement (31.08.2012) was an old date, which was inadvertently not changed, and the complainants were duly informed about the date of handing over the possession as November 2014, which is also admitted by the complainants in their complaint.

16. The respondent further submitted that, without prejudice to the above, the said proposed time is applicable only subject to force majeure and the complainants having complied with all the terms and conditions and not being in default of any terms and conditions of the apartment buyer agreement, including but not limited to the payment of instalments. In case of any default/delay in payment, the date of handing over of possession shall be extended accordingly solely at the respondent's discretion, till the payment of all outstanding amounts and the same is provided in clause 15 of the apartment buyer agreement.

17. The respondent has submitted that the complainants are defaulter, having deliberately failed to make the payment of



various instalments within the time prescribed, which resulted in delay payment charges, as reflected in the statement of account. Therefore, the complainants are neither entitled to nor does it lie in the mouth of the complainants to raise the issue of delay in handing over and take advantage of his own wrongs.

18. The respondent submitted that section 19(4) of the said Act provides that the allottee shall be entitled to claim the refund of the amount paid along with interest at such rates as may be prescribed and compensation in the manner as provided in the Act, from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement for sale. Section 19(3) provides that the allottee shall be entitled to claim the possession of the apartment, plot or building, as the case may be, as per the declaration given by the promoter under section 4(2)(I)(C). Thus, conjoint reading of both the provisions, as aforementioned, would show that the entitlement to claim the possession or refund would only arise once the possession has not been handed over as per the declaration given by the promoter under section 4(2)(I)(C). In the present case, the respondent had made a declaration in terms of Section 4(2)(I)(C) that it



would complete the project by 31.12.2018. Thus, no cause of action can be said to have arisen to the complainants in any event to claim refund, along with interest and compensation, as sought to be claimed by it. Thus, on this score also, no relief as sought can be claimed by the complainants.

19. The respondent submitted that projects, such as the one in question, are huge projects and involve putting in place huge infrastructure and is dependent on timely payment by all the allottees. Such huge projects do take some reasonable time for completion and timelines are not absolute. This position is fortified from the fact that the parties, having envisaged that there could be some further delay after expiry of the committed period, agreed to a specific condition that in case the respondent fails to offer possession of the apartment within by the committed period, it shall be liable to pay delay compensation @ Rs.5/- per sq. ft. per month of the super area of the said apartment for the period of delay beyond the committed period or such extended periods as permitted under the apartment buyer's agreement. Such a clause would not have been agreed to by the complainants had the parties not envisaged time for offer of possession beyond the committed period. The parties thus specifically envisaged a situation where time for possession may be extended beyond



the committed period and remedy thereon is also specifically provided in the self-contained document (clause 17 of apartment buyer's agreement), which the complainants signed and executed with open eyes and after understanding all the terms and conditions.

20. The respondent submitted that there was no intentional delay in the construction on the part of the respondent. The respondent had started the construction of the above said project "The Edge" immediately after the approval of the building plan i.e. 13.08.2009 with the intention to complete the project within the stipulated time, but due to the various situations beyond the control of the respondent, the construction of the project could not be completed upto 31.08.2012.
21. The respondent submitted that the complainants are responsible for arranging his own funds and making payments as per the terms and conditions of the agreement and the respondent is neither concerned nor responsible for the same and was also provided in clause-23 of the apartment buyer agreement.
22. The respondent denied that there is any delay due to callous attitude or there is any mismanagement or there is any



diversion of funds to other projects or other projects have got priority or the buyers have been taken for a ride by advertisements, etc., as alleged. It is submitted that if there was any truth whatsoever in the allegations of the complainants then the respondent wouldn't have obtained the OC and handed over the possession for the other projects as admitted by the complainant. The respondent submitted that it has already obtained the OC for 5 towers on 13.02.2018 and is in the process of completing the construction of the project and should be able to apply the occupation certificate for the said apartment in question by 31.12.2018 (as mentioned at the time of registration of the project with RERA).

23. The respondent denied that the complainants were trapped or induced to sign the apartment buyer agreement or that the agreement was one sided for only builder's interest. The respondent submitted that the terms of the apartment buyer's agreement are binding between the parties. It is settled law that a person who signs a document which contains contractual terms is normally bound by them even though he has not read them, even though he is ignorant of the precise legal effect. This is so held by the Hon'ble Supreme Court in a number of cases.



**Determination of issues:**

After considering the facts submitted by the complainants, reply by the respondent and perusal of record on file, the issue wise findings of the authority are as under:

24. With respect to the first and third issue raised by the complainants, the authority came across that as per clause 15(a) of apartment buyer agreement, the possession of the said apartment was to be handed over by 31.08.2012 with a grace period of 120 days. The clause regarding the possession of the said unit is reproduced below:

*“15(a) Time of handing over the possession*

*Subject to terms of this clause and subject to allottee having complied with all the terms and condition of this agreement and the application, not being in default under any of the provisions of this agreement and compliance with all the provisions, formalities, documentation etc. as prescribed by Ramprastha, Ramprastha proposed to handover the possession of the apartment by 31.08.2012. the allottee agrees and understands that Ramprastha shall be entitled to a grace period of hundred and twenty (120) days, for applying and obtaining the occupation certificate in respect of the group housing complex.”*

25. The apartment buyer agreement was executed on 11.11.2014 and the due date of handing over possession as per the said agreement is 31.08.2012 plus 120 days of grace period, which is much prior to the execution of the said agreement. It appears from the aforesaid fact that the builder buyer's



agreement are signed blindly and without going through the terms of the said agreement. However, both the parties mutually agreed that the due date of handing over possession was 30<sup>th</sup> November 2015 and accordingly the possession has been delayed by two year eight months and twenty-three days till the date of decision. The delay compensation payable by the respondent @ Rs.5/- per sq. ft. of super area per month till the date of grant of possession to the allottee as per clause 17(a) of apartment buyer agreement is held to be very nominal and unjust. The terms of the agreement have been drafted mischievously by the respondent and are completely one sided as also held in para 181 **of Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and ors. (W.P 2737 of 2017)**, wherein the Bombay HC bench held that:

*“...Agreements entered into with individual purchasers were invariably one sided, standard-format agreements prepared by the builders/developers and which were overwhelmingly in their favour with unjust clauses on delayed delivery, time for conveyance to the society, obligations to obtain occupation/completion certificate etc. Individual purchasers had no scope or power to negotiate and had to accept these one-sided agreements.”*



26. The respondent also filed an affidavit on 21.08.2018 affirming that the said project is registered vide registration number 279 of 2017 with date of completion being 31.12.2018 and that out of 15 towers in the project, the

respondent has already obtained the OC for 5 towers and the development work for the other 10 towers is also in progress. The respondent also affirmed that construction of 17 floors out of 18 floors is already completed where the complainant's apartment is situated. During the proceedings, the counsel for the respondent vehemently stated that the project is almost complete and they shall offer possession of the said unit by 31.12.2018 as stated in registration certificate.

Thus, the authority is of the view that if the possession is not given by the committed date then the complainants shall be at liberty to exercise their right as per section 19(4) of the Act and also penal consequences will follow as per provisions of the said Act.

27. With respect to the second issue, the complainants have not adduced any evidence but have made only assertion with respect to the diversion of funds and the same has been denied by the respondent. Thus, the said issue becomes superfluous.

28. With respect to the third issue raised by the complainant, the authority has already decided the same in complaint titled as *Simmi Sikka V/s M/s EMAAR MGF Land Ltd.*



### Findings of the authority

29. The application filed by the respondent for rejection of complaint raising preliminary objection regarding jurisdiction of the authority stands dismissed. The authority has complete jurisdiction to decide the complaint in regard to non-compliance of obligations by the promoter as held in ***Simmi Sikka V/s M/s EMAAR MGF Land Ltd.*** leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.
30. As the possession of the apartment was to be delivered by 30<sup>th</sup> November 2015, the authority is of the view that the promoter has failed to fulfil his obligation under section 11(4)(a) of the Real Estate (Regulation and Development) Act, 2016, which is reproduced as under:

*“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:  
Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or*



*buildings, as the case may be, to the allottees are executed.”*

31. The complainants made a submission before the authority under section 34 (f) to ensure compliance/obligations cast upon the promoter as mentioned above.

**34 (f) Function of Authority –**

*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.*

The complainants requested that necessary directions be issued by the authority under section 37 of the Act ibid to the promoter to comply with the provisions and fulfil obligation which is reproduced below:

**37. Powers of Authority to issue directions**

*The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.*

32. In the present complaint, the complainants are seeking return of the entire money paid towards the apartment along with interest @ 18% p.a. compounded quarterly from 31.12.2014 till date and intends to withdraw from the project.
33. However, keeping in view keeping in view the present status of the project and intervening circumstances, the authority is of the view that in case refund is allowed in the present



complaint, it shall hamper the completion of the project as the project is almost complete and the respondent has committed to handover the possession of the said unit by 31<sup>st</sup> December 2018. The refund of deposited amount will also have adverse effect on the other allottees in the said project. Therefore, keeping in view the principles of natural justice and in public interest, the relief sought by the complainants cannot be allowed.

34. As the promoter has failed to fulfil his obligation under section 11, the promoter is liable under section 18(1) proviso to pay interest to the complainants, at the prescribed rate, for every month of delay till the handing over of possession. Section 18(1) is reproduced below:

*“18.(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,— (a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

*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.*

The complainants during proceeding dated 11.07.2018 made a statement that they are not appearing before the authority for compensation but for fulfilment of the obligations by the promoter as per provisions of the said Act and reserve their right to seek compensation from the promoter for which they shall make separate application to the adjudicating officer, if required. Therefore, the relief sought by the complainants regarding compensation becomes superfluous.

35. The authority is of the considered opinion that the respondent has failed to deliver the possession of the apartment number 401, 4<sup>th</sup> floor, tower/ block no. 'A' to the complainants by the committed date i.e. 30<sup>th</sup> November 2015 as agreed between both the parties and the possession has been delayed by 2 year 8 months 23 days till the date of decision i.e. 21.08.2018. Thus, the complainants are entitled to interest at prescribed rate for every month of delay till the handing over of the possession. Further, the respondent has submitted during the oral arguments that the construction of the project is almost complete and they shall offer the



possession of the unit to the complainants by December 2018.

**Decision and directions of the authority**

36. After taking into consideration all the material facts as adduced and produced by both the parties, the authority exercising powers vested in it under section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issues the following directions to the respondent in the interest of justice and fair play:

- (i) The respondent is duty bound to hand over the possession of the said unit by 31<sup>st</sup> December 2018 as committed by the respondent.
- (ii) The respondent is duty bound to pay the interest at the prescribed rate i.e. 10.45% for every month of delay from the due date of possession i.e. 30.11.2015 till the actual date of handing over of the possession.
- (iii) The respondent is directed to pay interest accrued from 30.11.2015 to 21.08.2018 on account of delay in handing over of possession which shall be paid to the complainants within 90 days from the date of decision and subsequent interest to be paid by the 10<sup>th</sup> of every succeeding month.



37. The order is pronounced.

38. Case file be consigned to the registry.

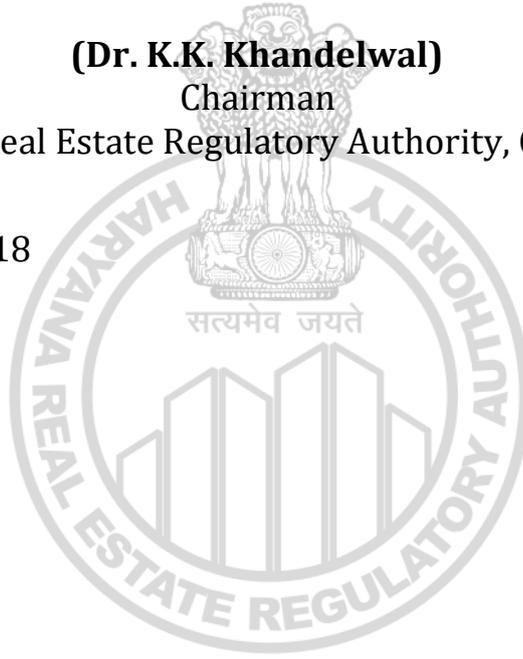
**(Samir Kumar)**  
Member

**(Subhash Chander Kush)**  
Member

**(Dr. K.K. Khandelwal)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 21.08.2018



**HARERA**  
GURUGRAM



**PROCEEDINGS OF THE DAY**

Day and Date	Tuesday and 21.08.2018
Complaint No.	92/2018 case titled as Mr. Ishwar Chand Garg versus M/s Ramprastha Promoters & Developers Pvt. Ltd.
Complainant	Mr. Ishwar Chand Garg
Represented through	Complainant in person with Shri Nilotpal Shyam, Advocate
Respondent	M/s Ramprastha Promoters & Developers Pvt Ltd.
Respondent represented through	Shri Shobhit Maheshwari authorized representative on behalf of the respondent with Shri Dheeraj Kapoor, Advocate.
Last date of hearing	11.7.2018

**Proceedings**

**The project is registered.**

The respondent has filed an affidavit regarding the registration and status of the project and the amount received from the complainant by the respondent.

Arguments advanced by the learned counsel for both the parties have been heard.

The learned counsel for the respondent made a statement that the construction of the project is almost completed and they shall offer the

possession of the unit to the complainant on 31.12.2018 so, the amount is not refunded to the complainant. The agreement between the parties was executed and signed on 11.11.2014 and they were mutually agreed by the both the parties, the possession was handed over to the complainant on 30.11.2015 but the respondent has failed to give the possession on the due date. The complainant has stated that he has paid Rs.95,86,080/- out of the total sale consideration of Rs.1,11,14,583/- to the respondent and no possession was delivered to him by the respondent. The respondent is bound to give interest at the prescribed rate i.e. 10.45% on the amount deposited by the complainant for every month of delay from the due date of possession i.e. 1.12.2015 till the handing over the possession of the unit. If the possession is not given on the date committed by the respondent then the complainant shall be at liberty to further approach the Authority for the remedy as provided under the provisions of the RERA Act. In case of default in giving possession by 31.12.2018, the complainant shall be at liberty to exercise his right as per section 19 (4) of the Real Estate (Regulation and Development) Act, 2016. The complaint is disposed of accordingly. Order is pronounced. Detailed order will follow. File be consigned to the Registry.

Samir Kumar  
(Member)

Subhash Chander Kush  
(Member)

Dr. K.K. Khandelwal  
(Chairman)  
21.8.2018