

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

Complaint no. : 4783 of 2025
Complaint Filed on : 01.10.2025
Date of First Hearing : 13.11.2025
Order pronounced on : 23.04.2026

Ankit Rathore

R/o: 114 Y-1 Shankara Charya Nagar Near
Shukla Agency Kidwai Nagar S.O., Kidwai
Nagar, Kanpur, Uttar Pradesh- 208011

Complainant

Versus

M/s Vikas Park Private Limited

Regd. office: F1, Qutub Hotel Complex,
Saheed Jcet Singh Marg, New Delhi-110016

Respondent

CORAM:

Sh. Phool Singh Saini

Member

APPEARANCE:

Sh. Varun Dahiya (Advocate)
Sh. Sumesh Malhotra (Advocate)

**Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottee 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 there under or to the allottee as per the agreement for sale executed inter-se them.



A. Unit and Project-related details:

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

CR/4783/2025 titled as Ankit Rathore Vs. M/s Vikas Park Private Limited

Sr. No.	Particulars	Details
1.	Name of the project	"Hero Homes", Sector-104, Dwarka Expressway, Village Dhanwapur, Gurugram, Haryana
2.	Nature of the project	Residential Group Housing
3.	RERA Registered/ not registered	Registered RC/REP/HARERA/GGM/743/475/87 dated 28.08.2023, valid upto 30.09.2027 Registered area: 0.1514 acres
4.	DTCP License No. and licensee(s)	246 of 2007 dated 29.10.2007 valid till 25.02.2020 56 of 2011 dated 23.06.2011 valid till 25.02.2020 37 of 2012 dated 22.04.2012 valid till 17.09.2020 66 of 2012 dated 21.06.2012 valid till 06.04.2021 67 of 2012 dated 21.06.2012 valid till 06.04.2021 43 of 2014 dated 16.06.2014 valid till 25.02.2020 44 of 2014 dated 16.06.2014 valid till 25.02.2020
	Name of Licensee(s)	M/s Mabon Properties Private Limited and M/s Juventus Estate Limited
5.	Unit no.	602, 6 th floor, Tower T-06 with basement parking no. B1-243 (as per agreement for sale at page 33 of complaint)
6.	Unit area admeasuring	1099 sq. ft. super area 683.83 sq. ft. carpet area (as per allotment letter at page 25 of complaint and agreement for sale at page 33 of complaint)



8.	Date of Allotment	20.02.2021 (page 25 of complaint)
9.	Date of agreement for sale	Executed on: 26.02.2021 (page 30 of complaint)
		Registered on: 22.03.2021 (page 29 of complaint)
11.	Possession clause	<p>7.1. Possession of the said apartment along with parking:</p> <p><i>".....The Promoter assures to handover possession of the said apartment for residential usage along with parking on or before 31.12.2024 unless there is delay or failure due to "force majeure", court orders, government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Apartment for residential usage."</i></p> <p>(as per agreement for sale at page 63 of complaint)</p>
12.	Due date of possession	31.12.2024 (As per clause 7.1 of agreement for sale executed between the parties on 26.02.2021)
	Payment Plan	Construction Linked Payment Plan (as per agreement for sale - Schedule C at page 53 of complaint)
13.	Basic sale consideration	Rs.64,89,551/- (as per Customer Ledger dated 14.01.2026 at page 207 of reply)
	Total sale consideration	Rs.85,22,804.34/- (as per Customer Ledger dated 14.01.2026 at page 207 of reply)
14.	Amount paid by the complainant	Rs.76,21,069/- (as per Customer Ledger dated 14.01.2026 at page 207 of reply)
15.	Occupation certificate /Completion certificate	07.01.2026 (Page 31 of reply)
16.	Offer of possession	09.01.2026 (Page 34 of reply)



18.	Demand Letter sent by respondent to the complainant for payment of outstanding dues of Rs.10,26,180.06/-	09.01.2026 (Page 185-186 of reply)
19.	E-mail sent by respondent to complainant for payment of outstanding dues of Rs.34,34,124.34/-	18.07.2025 (Page 86 of complaint)

B. Facts of the complaint:

3. The complainant is making the following submissions:

a) In 2018, the respondent had launched the "Residential space project" by the name of "Hero Homes", situated at Sector 104, Dwarka Expressway, Gurugram. The respondent had promoted the said project with extensive and aggressive print and electronic media advertisements. Some other highlights of the project were: -

- A Home that nurtures wellness
- A Home which is full of life and light
- A Home that doesn't let vehicles shares ground space with you
- A Home that fosters and nurtures creativity
- Environmental Wellness
- Inner Wellness
- Spiritual Wellness
- Physical Wellness
- Social Wellness
- Regular Shaped Land
- Clear Access Roads
- Friendly Neighbourhood
- Right Next to Dwarka Expressway

b) That having trusted the representations made by the respondent and investing a huge amount of hard-earned money in the project, the complainant is now aggrieved as none of the promises made by respondent have fulfilled. Those false representations and promises were



made only to lure the innocent buyers such as the complainant into investing with their hard-earned money for their dream house. That upon making the Application for the allotment, the respondent issued an allotment letter to the complainant with respect to the following unit on 20-Feb-2021.

- c) The complainant and the respondent then entered into buyer's agreement dated 26.02.2021. The details of the unit of the complainant are as follows:

Unit No. : T-06/0602

Type: Residential Floor, 2BHK, 2 Toilet, 3 Balcony

Floor: 6th

Super Area: 1099 sq. ft.

Total consideration: Rs. 75,61,075 (excluding taxes)

- d) That the agreement drawn by the respondent was unfair, arbitrary and one-sided agreement with all the provisions favouring the developer and provided nothing for the complainant in the eventuality of delay in the delivery of the unit. In the agreement, the complainant was denied fair scope of compensation, in case of delay of possession, and were supposed to pay heavy penalty in case of delay in payment of instalments.
- e) As per Clause 7.1 of the BBA dated 26.02.2021; the possession of the space was to be delivered latest by 31.12.2024. However, the respondent has miserably failed to complete the construction and development of the project till date and offer legal possession of the unit.
- f) That no Force Majeure Circumstances have been communicated by the respondent to the complainant till date, which lead to the delay in the completion and development of the project. That no such circumstances have occurred which could justify the delay in the completion of the present project, rather, the delay is on account of the deliberate inaction, negligence and unfair practices on the part of the respondent.



- g) That the complainant has already paid a total sum of Rs.76,21,069.00/- against the unit which is the majority of the total consideration. The entire amount has been collected by the respondent but it has till date failed to deliver the possession of the unit.
- h) That the respondent was contractually obligated to deliver possession by 31.12.2024, but it miserably failed and there is a delay of almost 8 months now. The complainant kept his end of the bargain and paid the instalments as and when fallen due or demanded by the respondent (in fact, the entire amount was collected by the respondent). Such acts of the respondent clearly fall under the definition of restrictive and unfair trade practice, as defined under the Act.
- i) It is settled law that the developer cannot expect the buyers to wait endlessly for the possession and that the developers need to complete the contract within a reasonable time period. The delay of 8 months is no way reasonable. The Hon'ble Apex Court in "**Fortune Infrastructure and Ors versus Trevor D'Lima and Ors**" had held that a time period of 3 years is a reasonable time to complete a contract.
- j) That with the enforcement of Real Estate (Regulation and Development) Act, 2016 on 01.05.2017, the developers (respondents herein) have been made liable to compensate the buyers (complainant herein) in case there is a delay in offering possession and in case the buyers wish to retain the allotment. It is submitted that the Section 18 of the Real Estate (Regulation and Development) Act, 2016 states that if the developers fail to complete the project and is unable to give possession to the buyers within the prescribed time period and in case the allottees/buyers wishes to continue with their allotment, then developer is liable to pay compensation for such delay in handing over the possession to the allottees.



- k) The actual date for offering possession was 31.12.2024; however, there is a delay of almost 8 months in delivering the possession. That for these months, the respondent has not paid any delayed compensation to the complainant. Thus, in the present the circumstances, the complainant is left with no other option than to file the present complaint for directing the respondent to deliver immediate peaceful possession of the unit/space, complete in all aspects to the complainant and with all the amenities and facilities as promised and charged for and also pay compensation for delay.
- l) That the complainant herein post lapse on the part of the respondent has been continuously writing to them to seek clarification regarding the actual possession date, state of the project, withdrawal of the illegal demands, and payment of the prescribed rate of interest. The following email exchanges are relevant in this regard: -
- a) Email dated 27.03.2025, from the complainant to the respondent seeking payment of the delay possession charges.
 - b) Email dated 13.04.2025 from the complainant to the respondent- Stating that the pointed query has not been answered regarding handover possession dated and compensation
 - c) Email dated 15.04.2025- From the respondent to the complainant- Stating that the application for OC has been made by the respondent.
 - d) Email dated 20.04.2025- From the complainant to the respondent- regarding delay in possession and payment of delay possession charges.
 - e) Email dated 21.04.2025- From the respondent to the complainant- Stating new proposed date for possession i.e., August 2025, *which has also lapsed.*
 - f) Email dated 26.06.2025- From the claimant to the respondent- Pointing out the inhabitable condition of the apartment.
 - g) Email dated 06.07.2025- From the claimant to the respondent- Demanding withdrawal of the delay charges, payment of the DPC charges, and



possession of the unit.

- h) Email dated 06.07.2025- From the respondent to the claimant- Refusing to withdraw the penal interest charges and failing to provide concrete date for the delivery of the unit.
- i) Email dated 18.07.2025- From the respondent to the complainant refusing to comply with their contractual obligations and raising exorbitant and illegal demand for the sum of INR 34,34,124.34. It is submitted that the complainant cannot be expected to continue making payments to the builder when the possession of the unit is not in sight. It is submitted that the respondent has been seeking multiple extensions for delivering the unit to the complainant. Firstly, it was promised that the possession of the unit shall be handed over in December 2024, then it was June 2025 and now it was August 2025. All of those timelines have been lapsed.
- m) That the respondent has levied delay charges upon the complainant although the complainant has never delayed in making any payment. It is thus prayed that any delay charges levied upon by the respondent upon the complainant be quashed, set aside, and waived.
- n) That the complainant reserves his right to seek appropriate compensation from the Learned Adjudicating Officer/ Appropriate Forum and nothing in this complaint shall be deemed as the relinquishment of such legal right of the complainant on account of the mental harassment and agony suffered.

C. Relief sought by the complainant:

- 4. The complainant has sought the following relief(s):
 - 1. Pass an order directing the respondent to pay compensation for delay in the delivery of possession of the unit (as mentioned above) in the form of interest at prescribed rate, on the amount already paid by the complainant from the promised date of delivery i.e., 31.12.2024 till the actual/physical delivery of the possession of the unit to the complainant post receipt of the completion certificate/occupancy certificate.



- II. Direct the respondent company not to demand/raise from the complainant any other charges, penalties, rates, monies, etc. whatsoever which do not form part of the Buyers Agreement dated 26.02.2021, are illegal or beyond its scope, and any such demand previously levied be set aside, quashed and waived.
- III. Pass an order directing the respondent to deliver immediate possession to the complainant, of the unit bearing no. T-06/0602 admeasuring 1099 sq. ft. situated/located in the project of the respondent company, namely, "Hero Homes", at 6th Floor, on the land situated in Sector 104 Dwarka Expressway, Gurugram, Haryana, along with all the amenities, promises and facilities as mentioned in the Buyers' Agreement dated 26.02.2021, as executed by and between the parties, and upon receipt of the completion certificate/occupancy certificate, as the case maybe, and complete in all respects and manner, and also in adherence to the other representations made by the respondent company, including but not limited to allotment letters, brochures, emails and letters, etc. to the satisfaction of the complainant.
- IV. Pass an order directing the respondent to execute the conveyance deed/sale deed with the respect of the unit bearing no. T-06/0602 admeasuring 1099 sq. ft. situated/located in the project of the respondent company, namely, "Hero Homes" 6th Floor, on the land situated in Sector-104 Dwarka Expressway, Gurugram, Haryana in favour of the complainant.
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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

6. The respondent has contested the complaint on the following grounds:



- a) The captioned complaint has been preferred by the complainant on purported grounds against the respondent, seeking inter-alia delay interest from the due date of possession till actual handing over of possession. The captioned complaint pertains to the apartment no. 602, admeasuring 683.83 sq. ft. in Tower-T-06, on 6th Floor, along with basement parking no. B1-243, in project "Hero Homes" located in Sector - 104, Gurugram, Haryana, for which an application for grant of Occupation Certificate has been made on 03.03.2025 and the Occupation Certificate has been granted by Director Town and Country Planning ("DTCP") vide office Memo no. ZP-968-Loose Vol.-I/SD(RD)2026/660 dated 07.01.2026. Immediately after, the possession in respect of the apartment in question has been offered by the respondent to the complainant vide Offer of Possession letter dated 09.01.2026.
- b) That as a matter of fact, the contents of Occupation Certificate and the endorsements clearly indicate that the project was completed well in time. The project had received Fire NOC from Director General, Fire Service, Haryana on 08.01.2025. District Town Planner had given his endorsement on application for grant of OC on 27.05.2025, Senior Town Planner on 30.05.2025 and Chief Engineer- I, HSVP on 02.05.2025, thereby clearly indicating the project, despite being complete, was stuck in bureaucratic paperwork. Accordingly, after completion of all departmental endorsements and scrutiny, the Occupation Certificate was finally issued/granted by DTCP on 07.01.2026.
- c) That under Section 32 of the HRERA Act, the Ld. Authority has an obligation to balance the ends of justice and to protect the interest of the genuine allottees, promoter and real estate agents.
- d) That the complainant has neither any cause of action nor any locus standi to maintain the present complaint against the respondent. The



complainant is now seeking the complete amendment/ modification/ re-writing of the terms and conditions of the agreement/understanding between the parties as per their own whims and fancies while nit-picking facts and laws as per her convenience and blowing hot and cold in the same breath. This is evident from the pugnacious averments as well as the prayers sought in the complaint which are merely an afterthought, and never did the complainant raised any objection to any term and conditions of the mutual agreement and the stage of construction of the Project and neither at the time of taking of possession.

- e) The complainant vide Agreement for Sale executed on 27.02.2021 (registered on 22.03.2021) (hereinafter referred to as the "AFS"), whereby the complainant agreed to the explicit terms of the sale. Further, complainant has constantly been updated of the stages of construction/development of the Project vide various emails sent by the Respondent. Hence, complainant has filed this complaint on an absolutely unjustified ground of delay in delivery of possession, which even to the knowledge of the complainant is false.
- f) That clause 7.1 of the AFS categorically provides that the liability of the promoter was only till the completion of development. The date of submission of application with the competent authority for obtaining completion/occupancy/part-occupancy certificate is to be reckoned as date of completion of development/possession of the tower/ Apartment. In the present case, the application for grant of Occupation Certificate for Tower 5 to 7 nursery school, part basement and convenient shopping 1 and 2 was applied on 03.03.2025, clearly indicating that the construction in respect of the Tower 5 to 7, part of basement as well as the convenient shopping 1 and 2 of the project were complete. Further, Hon'ble NCDRC in consumer case no. 3872 of 2017 titled "Avinash Bhalla versus Mapsko



Builders Private Limited" drew a presumption that application of occupancy certificate indicates completion of construction, as the developer is obligated to apply for grant of occupancy certificate only upon completion of construction. Therefore, the present complaint is not legally tenable.

- g) The complaint is barred by law of estoppel. The sale of subject unit is strictly subject to the terms of the AFS which the complainant had agreed to. The complainant are well-acquainted that clause 7.1 of the AFS unequivocally encapsulates the principle that the complainant cannot claim delay possession charges in the event of force majeure circumstances mentioned of the AFS. These unforeseen events, entirely beyond the control of the respondent company, had significantly disrupted and delayed the originally projected timeline for completion. The clause underscores the acknowledgment of such extraordinary occurrences as legitimate grounds for the delay, absolving the respondent of liability for associated delays while maintaining the complainant's obligations under the agreement.
- h) In terms of the AFS, the respondent is entitled to extension of time for the period the authorities take for providing the occupancy/part-occupancy/completion certificate and no claim of damages or compensation can be made out by the allottee against the Promoter in case of delay in handing over possession on account of the said reason. The time taken by the competent authorities in grant of Occupation Certificate is beyond the control of the respondent.
- i) That further without prejudice to the rights of the respondent, it is submitted that the respondent suffered, a lot of setbacks due to reasons beyond its control yet displaying professional conduct and utmost commitment to its customers, executed and completed the Project in



terms of the AFS. The various Government Orders and Court Orders, received and pronounced, resulted in change in timelines of the project. Given the same, the Respondent, for the assistance of this I.d. Authority to arrive at just and proper conclusion while adjudicating the captioned complaint submits that there were certain intervening circumstances causing delay in timelines, which were beyond the control of the respondent.

j) That said, the construction of the Project commenced as per schedule, however, in the intervening period when the construction and development was under progress there were various instances and scenarios when the development and construction work had to be put on hold due to reasons beyond the control of the respondent/developer. It is submitted that the parties have agreed that if the delay is on account of force majeure conditions, the developer/respondent shall not be liable for performing its obligations. It is submitted that the Project got delayed and proposed possession timelines were shifted within the framework of the AFS as agreed on account of following reasons among others as stated below:

a. That over last few years Delhi-NCR has faced unprecedented levels of severe air pollution, especially during winter months, primarily due to construction dust, vehicular emissions, and industrial activities. As a measure to curb arrest the dangerous levels of air pollution and to improve the air quality, various governmental authorities including DPCC, GRAP Sub-Committee, etc. as well as judiciary including Hon'ble Supreme Court of India and National Green Tribunal imposed restrictions on construction activities to combat the worsening air quality in Delhi-NCR. The notifications and orders specifically target the reduction of dust pollution from construction sites. Throughout



from 2019 onwards, the governmental authorities and judiciary continued to impose restrictions on construction activities during peak pollution periods. Whilst, the Respondent has been taking all measures to comply with the directions issued by the governmental authorities and judiciary in its effort to combat further deterioration of air quality and curtail this crisis situation, these bans had have severely impacted the pace of construction at Project site. It is imperative to note that even after revoking the ban on construction activities, the resumption of construction activities takes time on account of mobilization of work force and other resources at Project site. That such stay orders are passed every year either by Hon'ble Supreme Court, NGT or/and other pollution boards, competent courts, Environment Pollution (Prevention & Control) Authority established under Bhure Lal Committee, which in turn affect the project.

- b. Adding to the woes of the developers, COVID-19 had a profound impact on the real estate sector, affecting construction activities in several significant ways. Many construction sites were temporarily shut down due to lockdowns and restrictions imposed to control the spread of the virus. This led to delays in project timelines and halted ongoing work. Social distancing measures and health concerns led to a significant reduction in the availability of construction labour. Restrictions on movement and quarantine protocols further limited workforce availability. The pandemic disrupted global supply chains, leading to shortages of construction materials and delays in procurement. Transportation restrictions and factory closures contributed to these shortages. Supply chain disruptions led to increased costs for construction materials. Prices for many materials surged due to scarcity and higher transportation costs. Health and safety measures,



while necessary, sometimes led to reduced productivity. Social distancing and safety protocols slowed down work processes and affected the efficiency of construction activities. Many projects were delayed or cancelled due to the economic uncertainty caused by the pandemic. Financial challenges, including reduced cash flow and increased costs, led to re-evaluation of ongoing and planned projects. That said, I.d. Authority considering the grave and unprecedented situation had granted extension of 6 months' and thereafter 3 months' grace period to all developers, vide its notifications dated 26.05.2020 and 02.08.2021, respectively.

- c. That development of every residential Project mandatorily requires proportionate development of EWS housing. That on account of change of location for development of EWS housing at the behest of the landowners, which is beyond the control of the Respondent Company, the development of proportionate EWS housing for Respondent's project got delayed by approximately 24 months which was otherwise planned simultaneously with the development of the Project. That after continuous and consistent follow up with the landowners, the landowners have confirmed the site for the development of the EWS housing for the Project along with the proportionate EWS housing for their part of the development. The said delay in allocation of site to the respondent company, despite best efforts of the Respondent could not be avoided and has resulted in some delay in delivery schedule, which is beyond the control of the respondent company.
- k) That under the given circumstances and in light of the details of the supervening circumstances mentioned above, the Authority assuming the role of the regulator, promoter and enabler of the real estate sector shall take a considerate view, as otherwise any adverse order or any order of



awarding delay interest to the complainant, would be a double whammy for the respondent herein, whose financial position is already stressed due to various factors, obvious to this Authority,

E. 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.

E.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 the entire Gurugram District for all purposes 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.

E.II Subject-matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(a)

Be responsible for all obligations, responsibilities, and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.

10. Hence, given 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 relief sought by the complainant:

F.I Pass an order directing the respondent to pay compensation for delay in the delivery of possession of the unit (as mentioned above) in the form of interest at prescribed rate, on the amount already paid by the complainant from the promised date of delivery i.e., 31.12.2024 till the actual/physical delivery of the possession of the unit to the complainant post receipt of the completion certificate/occupancy certificate.

11. The factual matrix of case reveals that the complainant applied for allotment in a group housing project i.e., "Hero Homes" located in Sector-104, Gurugram being developed by the respondent i.e., "Vikas Park Private Limited". The respondent issued an allotment letter dated 20.02.2021 in favour of the complainant and thereby intimated about the allotment of unit no. 602, 6th floor, tower-06 with basement parking no. B1-243 in the project of the respondent. Thereafter, the agreement for sale was executed between the parties on 26.02.2021 (registered on 22.03.2021) against the basic consideration of Rs.64,89,551/-. The complainant has paid a sum of Rs.76,21,069/- towards the subject unit. As per documents available on record, the respondent has offered the possession of the allotted unit on 09.01.2026 i.e., after obtaining of occupation certificate from competent authority on 07.01.2026.

12. In the present complaint, the complainant intend to continue with the project and is 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

"(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."



13. Due date of handing over possession: In terms of clause 7.1 of the Agreement for sale executed between the parties, the promoter has proposed to handover the possession on 31.12.2024. Further, quoting HARERA notification no. 9/3-2020 dated 26.05.2020, the respondent requested for an extension of 6 months in lieu of Covid-19. However, it is observed by the Authority that the allotment letter had been issued by the respondent in favour of the complainant on 20.02.2021 and buyer's agreement was executed between the parties on 26.02.2021, which is after the effect of Covid and hence, no further grace period is allowed to the respondent.

14. Admissibility of delay possession charges at prescribed rate of interest: The complainant is continuing with the project and seeking delay possession charges. 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]

(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.

15. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules *ibid*, 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.



16. 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., 23.04.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
17. 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;"
18. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.80% (marginal cost of lending rate +2%) by the respondent/promoter which the same as is being granted her in case of delayed possession charges.
19. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, 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. By virtue of clause 7.1 of the agreement for sale dated 26.02.2021, and the due date comes out to be 31.12.2024. Occupation certificate was granted by the concerned authority on 07.01.2026. Copies of the same have

been placed on record. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the agreement for sale dated 26.02.2021 to hand over the physical possession within the stipulated period.

20. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 07.01.2026. The respondent offered the possession of the unit in question to the complainants only on 09.01.2026, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.

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 allottee shall be paid by the promoter interest for every month of delay from the due date of possession i.e., 31.12.2024 till the date of valid offer of possession (09.01.2026) plus 2 months after obtaining occupation certificate from the competent authority i.e., till 09.03.2026 at prescribed rate i.e., 10.80% p.a. as per proviso to section 18(1) of the Act read with Rule 15 of the Rules, *ibid.*



F.II Pass an order directing the respondent to deliver immediate possession to the complainant, of the unit bearing no. T-06/0602 admeasuring 1099 sq. ft. situated/located in the project of the respondent company, namely, "Hero Homes", at 6th Floor, on the land situated in Sector 104 Dwarka Expressway, Gurugram, Haryana, along with all the amenities, promises and facilities as mentioned in the Buyers' Agreement dated 26.02.2021, as executed by and between the parties, and upon receipt of the completion certificate/occupancy certificate, as the case maybe, and complete in all respects and manner, and also in adherence to the other representations made by the respondent company, including but not limited to allotment letters, brochures, emails and letters, etc. to the satisfaction of the complainant.

22. In the present complaint, the grievance of the complainant is that the physical possession has not been handed over by the respondent to the complainant.
23. The Authority observes that the respondent-promoter has obtained occupation certificate of the said project from the competent authority on 07.01.2026. Subsequently, the respondent offered possession of the subject unit to the complainant-allottee on 09.01.2026.
24. Pursuant to Section 17(1) of the Real Estate (Regulation and Development) Act, 2016, the respondent-promoter is mandated to deliver physical possession of the subject unit to the complainant, complete in all respects, in accordance with the specifications set out in the buyer's agreement. Thereafter, under Section 19(10) of the Act, the complainant-allottee is required to accept possession within a period of two months.
25. In view of the above, the respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the occupation certificate for the project has already been obtained by it from the competent authority.

F.III Direct the respondent company not to demand/raise from the complainant any other charges, penalties, rates, monies, etc. whatsoever which do not form part of the Buyers Agreement dated 26.02.2021, are

illegal or beyond its scope, and any such demand previously levied be set aside, quashed and waived.

26. The complainant has failed to specifically mention as to what charges have been charged by the respondent which do not form part of the buyer's agreement.

27. The authority vide order dated 09.12.2022, passed in case bearing no. **4147 of 2021** titled as "**Vineet Choubey V/s Pareena Infrastructure Private Limited**" and also in the complaint bearing no. **4031 of 2019** titled as "**Varun Gupta V/s Emaar MGF Land Limited**", has already decided that the promoter cannot charge anything which is not part of the buyer's agreement subject to the condition that the same are in accordance with the prevailing law. Therefore, the respondent shall not charge anything from the complainant which is not the part of the buyer's agreement and is directed to charge the demands relying on the above said orders.

F.IV Pass an order directing the respondent to execute the conveyance deed/sale deed with the respect of the unit bearing no. T-06/0602 admeasuring 1099 sq. ft. situated/located in the project of the respondent company, namely, "Hero Homes" 6th Floor, on the land situated in Sector-104 Dwarka Expressway, Gurugram, Haryana in favour of the complainant.

28. The complainant is seeking the relief of execution of conveyance deed. A reference to the provisions of Section 17 (1) of the Act is also must and it provides as under:

"Section 17: - Transfer of title

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees

or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.

29. The respondent is under an obligation as per Section 17 of Act to get the conveyance deed executed in favor of the complainant. As delineated hereinabove, the occupation certificate in respect of the said project was granted on 07.01.2026 by the competent authority. Thus, the respondent is directed to execute the conveyance deed upon payment of outstanding dues and requisite stamp duty by the complainants as per norms of the state government as per Section 17 of the Act failing which, the complainant may approach the adjudicating officer for execution of order.

G. Directions issued by the Authority:

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

- I. The respondent is directed to pay delay possession charges at the prescribed rate of interest @ 10.80% per annum from the due date of possession i.e., 31.12.2024 till the date of valid offer of possession (09.01.2026) plus 2 months after obtaining occupation certificate from the competent authority i.e., till 09.03.2026, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*.
- II. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.



- III. The respondent is directed to pay arrears of interest accrued within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*.
- IV. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainant is directed to pay outstanding dues if any remain, after adjustment of delay possession charges within a period of next 30 days.
- V. The respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the occupation certificate for the project has already been obtained by it from the competent authority.
- VI. The respondent is directed to execute the conveyance deed upon payment of outstanding dues and requisite stamp duty by the complainants as per norms of the state government as per Section 17 of the Act within 3 months from the date of this order failing which, the complainant may approach the adjudicating officer for execution of order.
- VII. The respondent shall not charge anything from the complainant which is not a part of the buyer's agreement executed between them. The respondent is also not entitled to claim holding charges from the complainant/allottees at any point of time even after being part of the builder buyer



agreement as per law settled by Hon'ble Supreme Court in
Civil Appeal nos. 3864-3889/2020 decided on 14.12.2020.

31. Complaint stands disposed of.
32. File be consigned to the Registry.



(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 23.04.2026



HARERA
GURUGRAM