

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

Complaint no. : 2855 of 2024
Date of filing : 18.06.2024
Date of decision : 07.04.2026

Mamta Garg

Regd. Address: R/o 837/5, 5A, Patel Nagar,
Gurgaon

Complainant

Versus

M/s Clarika Infra Private Limited

Regd. office: 711/92, Depali, Nehru Place, New
Delhi - 110019

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Prashant Sheoran (Advocate)

None

**Counsel for Complainant
Respondent**

ORDER

1. The present complaint has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations

made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and Project related details:

2. The details of the complaints, reply to status, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount, and relief sought are given in the table below:

S. No.	Heads	Information
1.	Name and location of the project	Bonheur Avenue,
2.	Nature of the project	Affordable Plotted Colony under DDJAY Scheme
3.	Project Location	Sector-35, Village- Dhunela, Sohna Road, Gurugram, Haryana
4.	DTCP license no.	16 of 2022
5.	RERA Registered/ not registered	Registered vide no. 81 of 2022 dated 12.09.2022
6.	Allotment letter	03.11.2022 (page no. 22 of complaint)
7.	Date of agreement for sale	03.11.2022 and the same was registered on 24.01.2023 (page no. 26 of complaint)
8.	Plot no.	Aster-18 (page no. 23 & 29 of complaint)
9.	Plot Area	167 sq. yds. (page no. 23 & 29 of complaint)
10.	Possession clause	7. Schedule for possession of the said plot: <i>The Promoter agrees and understands that timely delivery of possession i.e., September 2024 + 6 months of the Plot to the Allottee(s) and the common areas to the association of allottees at the competent authority, as the case may be, as provided under Rule 2(1) (f) of Rules, 2017, is the essence of the Agreement.</i> <i>[emphasis supplied]</i>

11.	Due date of possession	March 2025 (as per possession clause)
12.	Total sale consideration	Rs.1,64,76,220/- (as per page no. 23 of complaint)
13.	Amount paid by the complainant	Rs. 90,60,273/- (at page no. 6 of complaint)
14.	Completion certificate	18.06.2024 as confirmed from DTCP site
15.	Offer of possession	Not offered
16.	Payment Plan changes	Letter dated 04.04.2023 (40:60 i.e. 60% was to be demanded on offer of possession) E-mail dated 12.04.2023, the payment plan upgraded to 40:60 i.e. 40% current i.e. 55% on application of OC i.e. 5% on possession 26.06.2023 another payment plan by respondent.
17.	Cancellation letter	06.04.2024 (at page no. 109 of complaint)

B. Facts of the complaint: -

3. The complainants have made the following submissions: -

- a. That the complainant had applied for the allotment of a plot in the project known as "Bonheur Avenue" being developed pursuant to license no 16 of 2022 at sector 35, Village Dhunela, Sohna Road, Gurgaon. That the complainant made an initial payment of Rs.16,31,757/- towards the sale consideration of the plot, against two receipts of Rs.10,00,000/- and Rs.6,31,757/-.
- b. That the complainant had been allotted a plot no. Aster 18, having an area of 139.27 sq. mtr. in vide allotment letter dated 03.11.2022. After execution of the allotment letter an agreement for the sale of the plot

- was executed between parties on 03.11.2022 which was duly registered before the joint Sub- registrar Sohna vide vasika no. 10949 dated 24.01.2023.
- c. That the total price for the said Unit was agreed as Rs.1,64,76,220/- excluding GST, and taxes. The complainant had booked the unit directly through the respondent and had opted for a payment plan annexed with the agreement to sell as Schedule -C. The complainant paid an amount of Rs.90,60,273/- till date.
- d. That the demands issued by the respondent were illegal as respondent cannot raise any demand without getting buyers agreement registered as per section 13 of RERA. That as total sale consideration of plot was only Rs.1,64,76,220/- and as per rules of RERA respondent cannot demand more than 10% of sale consideration prior to execution and registration of buyer's agreement and admittedly in the present case agreement was got registered on 24.01.2023. Thus, prior to said date respondent has no right to raise any demand. Yet on 30.11.2022 respondent has raised a demand of Rs.33,11,109 with due date of 20.12.2022, which is apparently illegal and clear violation in terms of section 13 of the Act. That complaint naturally objected the same and met respondent officials in this regard. That thereupon officials of respondent apprises that these demand letters were generated in routine manner and they will make sure that no new demand letter will be issued without getting agreement registered. Thus, the demand raised in said demand letter is illegal and said amount cannot be termed as due under any circumstances.
- e. That the respondent assured that it will not raise any further demand without getting agreement registered yet on 19.01.2023 the respondent

raised a demand letter wherein it was mentioned that an amount of Rs.66,23,755/-. There was no valid demand thus there was no question of previous outstanding yet to avoid any complication complainant paid an amount of Rs.24,71,433/- on 01.03.2023. The agreement was got registered on 24.01.2023, thus any demand raised prior to registration of agreement cannot be termed as valid. However, respondent mischievously raised another demand dated 17.03.2023 demanding an amount of Rs.66,23,755/- wherein an amount of Rs.41,52,322/- was again shown as previous dues and a demand letter dated 22.03.2023 for an amount of Rs.90,95,188/- wherein an amount of Rs.66,23,755/- was again shown as previous dues asked to pay the same by 10-04-2023. That subsequent to receiving of same complainant again met the officials of respondent apprise about their commitment and requested to withdraw said demand.

- f. That thereafter officials of respondent asked to send a request letter to change payment plan, so that a new demand letter can be issued. Accordingly, complainant and the respondent agreed to change the payment plan and a letter dated 04.04.2023 along with a cheque of Rs.32,60,440/- was submitted by the complainant to the respondent with a request to change the payment plan from earlier agreed plan to a new plan of payments to be made in proportions of 40:60, wherein 60% was to be demanded on offer of possession only. Further request was made to waive off interest on delayed payment (if any).
- g. That the request was accepted by the respondent vide email dated 12.04.2023 and the respondent confirmed that payment plan will be as 40:55:5 wherein 55% will be demanded on valid application of occupation certificate/completion certificate and remaining 5% will be

demanded on offer of possession. That other than that condition, the other requests as mentioned in letter dated 04.04.2023, were duly admitted by the respondent, as the respondent never objected to/ modified or countered the other requests which were made by the complainant in the letter dated 04.04.2023. That along with letter dated respondent accepted a cheque of Rs.32,60,440/-. That thereafter respondent on 17.40.2023 accepted new payment plan and accordingly encashed cheque of Rs.32,60,440/-. The complainant had already paid more than 40% of the sale consideration and it was assured by the respondent that it will not charge any interest. That since payment plan was mutually modified by parties thus thereafter respondent has no right to charge interest on the basis of earlier agreed payment plan.

- h. That vide e-mail dated 12.04.2023, respondent agreed to new payment plan of 40:55:5 yet, mischievously on 17.10.2023 respondent issued a demand letter demanding an amount of Rs.86,71,973/- wherein previous dues were shown as Rs.57,74,225/- and interest of Rs.4,26,315/- was levied by respondent.
- i. That when a new payment plan was agreed upon between the parties then, in that case respondent was not left with any right to claim any amount due, towards interest or otherwise, prior to 12.04.2023 under any circumstances and no future demands could be made either till the application of a valid completion certificate. Furthermore, the respondent had already agreed for waiver of hundred percent of the interest, if any. Thus, the demand letter was, clearly, untenable in the eyes of law.
- j. That even otherwise no such demand letters can be raised by respondent as no such work was done at the spot as mentioned in the

demand letter, thus even otherwise the respondent could not have demanded such amount. The respondent vide official emails kept on updating the work progress.

- k. That the respondent has failed to achieve the landmark for the demand as mentioned in earlier payment plan and for this reason, the complainant and the respondent had mutually agreed to change the payment plan. That even as per agreed plan the respondent could have raised 55% of the balance amount only upon a valid application for OC/CC after completion of all the pending work in the plotted colony. That in order to apply for the completion certificate before DTCP, a proper procedure has been prescribed and as per procedure, the developer has to fulfil requirements as provided by the DTCP. That without fulfilling those requirements as mentioned in the checklist, no developer can apply before DTCP for granting of a completion certificate and if any developer does apply for OC/CC but without fulfilling prerequisite of application of completion certificate then, legally, it cannot be termed as a valid application for grant of CC.
- l. That the respondent has failed to achieve milestone, wherein it can apply for completion certificate is further proved from the architect certificate of respondent itself, submitted before RERA on 31.12.2023, wherein the respondent itself admits the fact that the project is far from completion and several basic yet important services/facilities are yet to be completed. That few services are no even started as certificate itself says 0% and most of the services/infrastructures are not even near to completion. That such malpractice on the part of respondent in itself proves the fact that illegal request of completion certificate was just a hoax and method to extort money from allottees illegally.

- m. That in order to cheat the allottees of the project and in order to extort money from them, the respondent on 21st of June 2023 sent a letter to the Director Town & Country planning Haryana, requesting him to issue completion certificate for the project in question. As per the directions of the DTCP, the respondent failed to file a valid application for obtaining completion certificate and thereafter raised an illegal demand letter dated 17.10.2023 to the complainant demanding an amount of Rs.86,71,973/-.
- n. That the respondent has no right to demand amount from the complainant without fulfilling its part to complete the infrastructure and services at the project and without applying for completion certificate as per requirements of DTCP. That merely because the respondent has issued a letter to the DTCP asking for a completion certificate, the same does not in itself or ipso facto, fulfils the condition of valid application for granting of CC.
- o. That vide email dated 08.04.2024, complainant through her husband Sh. Atul Garg again raised objection qua illegal demand letter qua unit in question along with other units of complainant and requested to withdraw its demand on application for CC, however respondent instead of acting bonfidelly, respondent illegally cancelled the allotment of the complainant, and sent a cancelation letter dated 16-04-2024 and cheques of 14.03.2024.
- p. That complainant is and has always been ready and willing to perform his part of the agreement by making payment of property in question but subjected to condition that respondent first performs its part and applies for certificate qua completion; validly before DTCP after making all the necessary compliances as required mandatorily by DTCP.

- q. That respondents have absolutely no authority or right to unilaterally cancel the allotment of complainant without there being any fault of complainant.

C. Relief sought by the complainant:

4. The complainants have sought following relief:
- To direct the respondent to handover possession of plot after obtaining Completion Certificate.
 - Set-aside illegal demand letter demanding Rs.86,71,973/-.
 - Restraining the respondent for claiming/issuing further demands till the respondent applies for valid completion certificate after 100% of work at the project.
 - Setting aside illegal cancellation letter dated 06.04.2024.
 - Restraining respondent from creating any sort of right title or interest in the unit in question in the meantime i.e. during pending of complaint.

D. Reply filed by the respondent:

5. That sufficient opportunity vide orders dated 05.03.2025 & 21.05.2025 given to respondents to file reply. On 05.03.2025, the respondents are directed to file reply within 2 weeks in the registry with cost of Rs.7,000/- to be paid to the complainants subject to last opportunity. In case reply is not filed within the time allowed, the defence of the respondent may be struck off. On 21.05.2025, it was recorded that final opportunity have been granted to the respondent to file reply. In view of the above, the defence of the respondent is struck off vide order dated 21.05.2025. However, on 21.05.2025 in the interest of justice, an opportunity is given to the parties to file written submissions within a period of 2 weeks. Further on 16.10.2025, the counsel for respondent requests to allow file reply to the

complaint, and after considering the request of the respondent, the respondent is directed to file reply to the complaint subject to cost of Rs.10,000/- to be paid to the complainant within a period of 15 days failing which the reply shall not be taken on record. On 13.01.2026, the defence of respondent was struck off as reply has not been filed by the respondent. Written Arguments on behalf of respondent was filed on 04.02.2026.

E. Written Submissions filed by the respondent:

6. The respondent has contested the complaint on the following grounds:
 - a. That the present complaint is frivolous, vexatious and abuse of process of law. The complainant has deliberately concealed material facts and approached this Authority with unclean hands, thereby disentiing herself from any equitable relief.
 - b. That the rights and obligations of the parties are governed by the duly executed and registered agreement to sell dated 03.11.2022, wherein it is specifically agreed that timely payment is the essence of the contract.
 - c. That the complainant has failed to comply with her contractual obligations, and therefore cannot seek protection under the provisions of the Real Estate (Regulation and Development) Act, 2016 while herself being in continuous default.
 - d. That complaint is further liable to be dismissed as the complainant has failed to quantify any legally sustainable relief and has not produced any credible evidence to substantiate her allegations.
 - e. That the complainant booked Plot No. Aster-18 admeasuring 167 sq. yards for a total sale consideration of Rs.1,64,76,220/- and executed a registered agreement to sell on 03.11.2022.

- f. That booking of the unit was made through the real estate agent in name and style of T and T Realty Private Limited which is evident from the allotment letter issued by the respondent.
- g. That as per clause 7 of the agreement, possession was contractually agreed to be offered by September 2024 with a grace period of six months towards force majeure events.
- h. As per the payment plan opted by the complainant an amount of Rs.66,23,755/- became due, till February 2023. The respondent vide correspondences dated 16.02.2023, 24.03.2023, reminded the complainant of her liability towards the respondent in order to secure timely possession of the unit. However, complainant under her high headedness ignored the same and miserably failed to make the payment. The respondent left with no other option but to issue a final termination notice dated 31.03.2023.
- i. That upon receipt of the final termination notice dated 31.03.2023, Complainant made part payment of Rs. 65,88,840/- and sent request vide letter dated 04.04.2023, for change of payment plan owing to the financial difficulties faced by her. The respondent company showcasing its customer-oriented point of view accepted the same changed the payment plan of the complainant to 40:55:5. It was specifically agreed that after payment of 40% of the total sale consideration another 55% was to be paid at the time of the application of OC/CC and rest 5% was to be paid at the time of possession. The respondent filed an application for grant of OC/CC to the DTCP, Haryana on 23.06.2023.
- j. That since, milestone of Application of OC/CC was achieved by the respondent in a time bound manner, respondent issued demand letters and reminder notices to the complainant for making payment of due

- instalment of 55% of the total sale consideration as per the subsequent payment plan opted by the complainant. However, complainant under her high headedness miserably failed to make the payment of the due amount, which was to be paid at the time of the application for OC/CC.
- k. That despite this concession, the Complainant again failed to pay the mandatory 55% instalment due at the stage of OC/CC application, in blatant violation of contractual terms. Moreover, multiple demand notices and reminders dated 23.11.2023 and 14.12.2023 were ignored, forcing the Respondent to issue a final termination notice dated 28.12.2023 and eventual cancellation on 06.04.2024.
- l. That as per clause 9.3 of the agreement expressly empowers the respondent to cancel allotment in case of default of two consecutive instalments beyond the stipulated notice period. The complainant remained in default far beyond the prescribed period. Therefore, the cancellation of allotment was carried out strictly in accordance with contractual terms and applicable law, after granting repeated opportunities and adequate notices. Moreover, the respondent has acted in a fair and bona fide manner, whereas the complainant has consistently breached contractual obligations.
- m. That the allegations raised by the complainant regarding non-application of OC/CC and alleged infrastructural defects are completely false and misleading. Moreover, the respondent applied for OC/CC on 23.06.2023 and departmental inspections were conducted on 11.01.2024 confirming completion of services the Completion Certificate was ultimately granted on 18.06.2024.
- n. Further, this Authority had already upheld the cancellation of the Unit in another complaint bearing no. RERA-GRG-2855-2024, titled as "*Mamta*

Garg -versus- Clarika Infra Pvt. Ltd.”, filed by the complainant herein for another Unit/Plot booked by the complainant herein in the Project. Further, this Authority in Complaint bearing no. RERA-GRG-1211-2024, titled as *“Karan Khanna -versus- Clarika Infra Pvt. Ltd.”* again upheld the cancellation of the Unit in the same Project.

- o. That the complaint lacks cause of action and is based on afterthoughts aimed at pressurizing the Respondent into granting unlawful concessions.
7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

F. Jurisdiction of the Authority

8. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

F.I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

F. II Subject matter jurisdiction

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

"Section 11(4)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

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

11. So, in view of the provisions of the Act of 2016 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.

G. Findings regarding relief sought by the complainant.

- G.I. To direct the respondent to handover possession of plot after obtaining Completion Certificate.**
- G.II. Set-aside illegal demand letter demanding Rs.86,71,973/-.**
- G.III. Restrict the respondent for terminate complainant's allotment/booking of the unit and stay the termination of allotment/booking of the shop.**
- G.IV. Setting aside illegal cancellation letter dated 06.04.2024.**
- G.V. Restraining respondent from creating any sort of right title or interest in the unit in question in the meantime i.e. during pending of complaint.**

12. The above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other reliefs. Thus, the same being interconnected.

- 13.** In the present matter the complainant purchased a plot bearing no. Aster-18, admeasuring 167 sq. yds. in the project Bonheur Avenue, Sector 35, Gurugram. The complainant paid an amount of Rs.90,60,273/- against the total sale consideration of Rs. 1,64,76,220/-. An agreement for sale was executed between the complainant and the respondent on 03.11.2022 & same was duly registered on 21.01.2023 and according to clause 7 of the agreement for sale the respondent was obligated to complete the construction of the project and hand over the possession of the subject unit by 03.03.2025. The Completion certificate for the project has been obtained on 18.06.2024 from the competent Authority.
- 14.** The Authority observes that the present complaint is filed on behalf of complainant to set aside cancellation letter dated 06.04.2024 sent by the respondent.
- 15.** On bare perusal of the documents placed on record by complainant and respondent, the payment plan changed by the respondent from time to time.
- 16.** That initially complainant and respondent agreed to payment plan mentioned in Schedule C of the agreement for sale dated 03.11.2022. Further, the respondent vide letter dated 04.04.2023 revised payment plan of 40:60 when 60% to be demanded on offer of possession. Furthermore, the respondent vide email dated 12.04.2023 again change the payment plan, that clearly mentioned payment plan upgraded to 40:60 i.e. 40% current, 55% on application of OC & 5% on possession. After email dated 12.04.2023, the respondent again sent letter dated 26.06.2023 and again changed the payment plan & revised the due date

of payment i.e. 'Rs.24,71,433/- will be due on application of OC demand' and 'Rs.83,06,181/- will be due on application of OC demand'.

17. That the respondent sent cancellation letter dated 06.04.2024 to the complainant and request the complainant to clear outstanding amount of Rs.82,45,658/- as per the terms and conditions of agreement for sale dated 03.11.2022. Consequently, as per the terms of the agreement for sale, a sum of Rs.23,47,245/- paid by the complainant towards booking amount stands forfeited by the respondent company.
18. It is evident from the documents placed on record that the respondent vide letter dated 04.04.2023 & email dated 12.04.2023 & 26.02.2023 changed payment plan as per their convenience. Subsequent to that, the respondent promoter issued Cancellation letter dated 06.04.2024.
19. The Authority observes that the "payment plan" is not merely a commercial understanding but a statutory requirement under RERA Act. The payment plan is a core contractual obligation. Once an allottee has accepted a specific plan, then a promoter-builder cannot unilaterally change the payment plan.
20. The Authority is of view that there is delay of more than 1 years in offer of possession on part of respondent as due date of handing over of possession as per clause 7 of agreement dated 03.11.2022 is 03.03.2025 and admittedly the possession was not offered by the respondent. The respondent cancelled the unit vide cancellation letter dated 06.04.2024. The Authority is of view that the cancellation is bad in eyes of law and is hereby set aside.

21. In light of these observations, the respondent is directed to reinstate the unit and offer possession to the complainant as per the agreed terms of the subject agreement and handover its physical possession.
22. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the provisions of section 18(1) of the Act which 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"
23. Clause 7 of the agreement for sale is reproduced below: -
- 7. Schedule for possession of the said plot:***
The Promoter agrees and understands that timely delivery of possession i.e., **September 2024 + 6 months** of the Plot to the Allottee(s) and the common areas to the association of allottees at the competent authority, as the case may be, as provided under Rule 2(1) (f) of Rules, 2017, is the essence of the Agreement....."
- (Emphasis supplied)*
24. **Due date of possession:** As per clause 7 of the BBA, the possession of the allotted unit was supposed to be offered within a stipulated timeframe i.e. by **September 2024**. As far as grace period of 6 months is concerned the same is allowed being unqualified. Accordingly, the due date of possession comes out to be 03.03.2025. The Completion Certificate for the project has been obtained on 18.06.2024 from the competent Authority.
25. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to Section 18 provides that where an allottee does not

intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

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

(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."

26. 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;"

27. 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., 07.04.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
28. **Rate of interest to be paid by complainant/allottee for delay in making payments:** The definition of term 'interest' as defined under section 2(z a) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.
29. 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 of the agreement, the possession of the subject unit was to be delivered within stipulated time i.e., by 03.03.2025. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the allotted unit to the complainant as per the terms and conditions of the agreement executed between the parties. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.
30. 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 complainant is entitled to delay possession charges at prescribed rate of the interest @ 10.80% p.a. w.e.f. 03.03.2025

till date of valid offer of possession plus 2 months or actual handing over of possession, whichever is earlier 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.

31. The respondent shall not charge anything from the complainant which is not the part of the agreement.

G.VI. Execute Conveyance Deed

32. The Authority observes that the conveyance has been subjected to all kinds of terms and conditions of agreement and the complainants not being in default under any provisions of agreement and compliance with all provisions, formalities and documentation as prescribed by the promoters. A reference to the provisions of sec. 17 (1) and proviso is also must and which 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."

33. The respondent is under an obligation as per section 17 of Act to get the conveyance deed executed in favour of the complainant. The respondent is directed to execute the conveyance deed within one months after obtaining Occupation certificate from the competent Authority.

H.Directions of the Authority

34. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- a. Cancellation letter dated 06.04.2024 is bad in eyes of law and hence set-aside and the respondent is directed to reinstate the unit of the complainant within 30 days of the order.
- b. The respondent is directed to pay the interest at the prescribed rate i.e. 10.80 % per annum for every month of delay on the amount paid by the complainant from the due date of possession i.e., 03.03.2025 till the date of valid offer of possession plus 2 months or actual handing over of possession, whichever is earlier, as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- c. The respondent is directed to hand over the actual physical possession of the unit to the complainant.
- d. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed.
- e. The respondent is directed to executed conveyance deed of the allotted unit after obtaining occupation certificate in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question.
- f. The respondent shall not charge anything from the complainant which is not the part of the agreement.

g. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.

35. Complaint stands disposed of.

36. File be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 07.04.2026

HARERA
GURUGRAM