

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

**Complaint no.:** 1022 of 2025  
**Date of complaint:** 24.02.2025  
**Date of Decision:** 30.01.2026

1. Nagendra Singh
2. Sunita Singh

**R/o:** Block-267-A, Punggol Field #12-109,  
Singapore - 821267

**Complainants**

Versus

M/s Neo Developers Pvt. Ltd.  
**Regd. Office at:** - 32B, Pusa Road, Karol Bagh, New  
Delhi-110005

**Respondent**

**CORAM:**  
Shri Arun Kumar

**Chairman**

**APPEARANCE:**  
Shri Bhrigu Dhama (Advocate)  
Ms. Anjalika Sharma

Complainants  
Respondent

**ORDER**

1. This complaint has been filed by the complainants/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 provision of the Act or the Rules and regulations made

thereunder or to the allottee as per the agreement for sale executed *inter se*.

**A. Project and unit related details.**

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

S. N.	Particulars	Details
1.	Name of the project	Neo Square, Sector-109, Gurugram
2.	Project area	2.71 acres
3.	Nature of the project	Commercial colony
4.	Unit no.	Shop no. 69, Ground Floor, 378 sq.ft. (super area) (as page no. 34 of complaint)
5.	Date of MoU	14.11.2016 (page 55 of complaint)
6.	Date of execution of apartment buyer's agreement	14.11.2016 (As on page no. 31 of complaint)
7.	Assured Return Clause	<i>8. That the responsibility of paying of assured returns to be paid by the Company shall cease on Notice of Possession.</i>  <i>18. The Company shall pay a monthly return of Rs. 48,006/- on the total amount deposited till the signing of this MOU, with effect from 14 November 2016. Service Tax if to be deposited same shall be paid extra by the company. .</i>
8.	Possession clause	<i>12. "The company shall complete the construction of the said building/complex within which the said space is located within 48 months from the date of execution of</i>

		<p><i>this agreement or from the start of construction whichever is later and apply for grant of completion/occupancy certificate. The company on grant of occupancy/completion certificate shall issue final letters to the allottee who shall within 30 days, thereof remit all dues."</i></p> <p><i>(As on page no. 58 of complaint)</i></p>
9.	Date of start of construction	The Authority has decided the date of start of construction as 15.12.2015 which was agreed to be taken as date of start of construction for the same project in other matters. In CR/1329/2019 it was admitted by the respondent in his reply that the construction was started in the month of December 2015.
10.	Due date of possession	14.05.2021 (Calculated from date of agreement being later + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
11.	Basic sale consideration	Rs. 64,68,644/- (as per payment plan at page 49 of complaint) Rs.83,94,349/- (As per SOA at page 76 of reply)
12.	Amount paid by the complainants	Rs. 64,56,467/- (As per SOA at page 76 of reply)
13.	Occupation certificate	14.08.2024 (as per DTCP website)
14.	Offer of possession	03.12.2024 (page 74 of complaint)

### B. Facts of the complaint

3. The complainants have made the following submissions in the complaint: -
  - I. That the complainants had invested their hard earned money and booked one commercial unit being "shop no. 69" having covered area of 189 sq. ft.

and corresponding super area admeasuring 378 sq. ft. on the ground floor of the neo square complex in the project of the respondent based on the representation and assurances of the respondent which have later on proved to be false.

- II. That in furtherance of the said allotment the parties executed the buyers agreement dated 14.11.2016 wherein the complainants were allotted the said unit against the total cost of Rs. 59,37,246/-.
- III. That along with the buyer's agreement, the parties also executed an MoU of the same date, i.e. 14.11.2016. As per clause "3" the Allottee(s) has opted for the 'Investment Return Plan' and has agreed that the basic consideration for allotment of the premises is to be determined at Rs.15,707/- per sq. ft. taking into consideration a return of Rs.127/- Per sq. ft. per month subject to the terms of this MOU.
- IV. That clause 18 duly records that, "That against the total basic sale consideration of Rs.59,37,246/- determined as per clause 3 above, the Allottee(s) has paid unto company upon and/ or prior to the execution of this MOU, an amount of Rs.63,83,594/-.
- V. That the company shall pay a monthly return of Rs. 48,006/- on the total amount deposited till the signing of this MOU with effect from 14.11.2016.
- VI. That the respondent has paid the said assured return charges only till June, 2019 and despite repeated follow-ups, personal meetings and reminders over E-Mail's and call the respondent till date has wilfully neglected to make any payment towards the same after June, 2019.
- VII. That the respondent vide payment request letter dated 30.03.2017 had raised a fresh demand on the complainants for an amount of Rs. 3,05,821/.

- VIII. That the respondent thereafter raised another payment request dated 22.01.2020 for an amount of Rs. 4,68,955/- towards VAT charges. The complainants had raised several issues and had sought clarifications with respect to the new demand being raised as all payments as per the own calculation of the respondent company were duly made earlier. The said Letter duly records the payment of an amount of Rs. 3,05,821/- paid towards the earlier VAT demand.
- IX. That the complainants vide his E-Mail 17.06.2020 had requested to the respondent to release the outstanding assured return amounts. The complainants had also raised the issue of non-payment of the said assured returns from July, 2019 onwards.
- X. That the complainants vide their E-Mail dated 18.06.2020 had raised the issues/ objections to the wrongful demands raised by the respondent towards VAT charges. It was duly conveyed to the respondent that the amount towards VAT charges was already paid in terms of the demand letter dated 30.03.2017. That the complainants on 03.02.2020 had reached out to the respondent's staff on call and raised the said issue, and the respondent's staff had confirmed that they would look into the same and confirm of any outstanding. However, there was no reply from the respondent's side. The arbitrary demand towards VAT charges, without any explanation towards its calculation nor providing any explanation towards the same on call has greatly prejudiced the complainant's investment.
- XI. That the complainants vide their E-Mail dated 19.10.2021 had sought to raise issues with the respondent's demand letter dated 15.09.2021 seeking payment of an amount of Rs. 4,33,122.86/- towards VAT against

the subject unit. It was duly pointed out to the respondent that despite follow ups the respondent had wilfully ignored to reply to the complainants e-mail dated 18.06.2020 on the issue of VAT charges. Further, the complainants had also sought clarification and immediate payment of the outstanding assured return amounts.

XII. That the complainants vide their e-mail dated 26.10.2021 had sought clarification and reply to their letter dated 19.10.2021. It was requested that the reply be shared before 30.10.2020 so that arrangement could be made for the payment.

XIII. Thus, the complainants have till date paid an amount of Rs. 66,89,415/- against the total sale consideration of Rs. 64,68,644/- as per the said buyers agreement.

XIV. That the shockingly without replying to any of the queries/ issues raised by the complainants to the illegal demands the respondent vide its demand notice and offer of possession letter dated 03.12.2024 shockingly even after receiving the entire sale consideration has raised another unlawful demand of Rs. 26,09,600/-.

XV. That vide the said demand letter dated 03.12.2024 the complainants for the first time were informed about the arbitrary increase in the area of the said unit and were being forced to pay such hefty amounts. the respondent being the dominant party has sought to coerce the complainants into making payment of such extortion charges.

XVI. That till date the respondent has not given the possession of the said unit after obtaining the requisite OC. Neither paid the assured return amounts which remain outstanding from July, 2019 onwards till the date of actual physical handover of the unit, along with interest on account of non-

payment of the assured return amounts to the complainants and payment of delay penalty charges.

**C. Relief sought by the complainants: -**

4. The complainants have sought following relief(s):

- (i) Direct the respondent to pay monthly assured return amounts from July 2019 till the date of actual physical possession after receipt of OC along with applicable interest till actual realization of said amount.
- (ii) Direct the respondent to handover the possession of the unit.
- (iii) Direct the respondent to pay delay possession charges.
- (iv) Direct the respondent to execute a conveyance deed in favour of complainants.
- (v) Direct the respondent not to charge any amounts over and above the amounts decided in buyer's agreement and MOU dated 14.11.2016.
- (vi) Direct the respondent to pay Rs. 5,00,000/- towards legal costs and expenses incurred by complainants in pursuing legal recourse against the respondent.

5. The present complaint was filed on 24.02.2025. The respondent has not filed the reply in the complaint till date. Despite specific directions on dated 19.03.2025, 09.07.2025, 03.09.2025, 15.10.2025, 19.11.2025, 17.12.2025, 07.01.2026, 30.01.2026, it failed to comply with the orders of the authority. It shows that the respondent was intentionally delaying the procedure of the court by avoiding to file written reply. Therefore, the authority assumes/ observes that the respondent has nothing to say in the present matter and accordingly the authority struck off the defense of the respondent on 09.07.2025.

6. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

#### **D. Jurisdiction of the authority**

7. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

#### **D.I Territorial jurisdiction**

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

#### **D.II Subject-matter jurisdiction**

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

#### **Section 11**

.....

*(4) The promoter shall-*

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

**Section 34-Functions of the Authority:**

*34(f) of the Act provides 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.*

10. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case mentioned above, the authority has the jurisdiction to entertain a complaint seeking assured return.

**E. Findings on the relief sought by the complainants.**

- i. Direct the respondent to pay monthly assured return amounts from JULY 2019 till the date of actual physical possession after receipt of OC along with applicable interest till actual realization of said amount.**
- ii. Direct the respondent to handover the possession of the unit.**
- iii. Direct the respondent to pay delay possession charges.**

**Assured Return**

11. In the instant complaint, the complainants duly booked a unit located on the Ground Floor admeasuring 378 sq. ft. in the respondent's project namely, Neo Square situated at Sector-109, Gurugram. The Memorandum of Understanding (MOU) was executed between the parties dated 14.11.2016 and on the same date the builder buyer agreement was also got executed between the parties.
12. The complainants in the present complaint are seeking relief w.r.t payment of assured return as per the terms of the MoU dated 14.11.2016. The complainants have submitted that as per clause 8 and 18 of the said MoU, it was agreed that the respondent would pay monthly penalty charges of Rs.48,006/- with effect from 14.11.2016 until the notice of possession of the said unit. The complainants are seeking unpaid assured return on monthly basis as per the MoU dated 14.11.2016 at the rates mentioned therein. It is

pleaded by the complainants that the respondent has not complied with the terms and conditions of the said MoU.

13. In the present complaint, the assured return was payable as per clause 8 and 18 of the MoU dated 14.11.2016, which is reproduced below for the ready reference:

*8. That the responsibility of paying of assured returns to be paid by the Company shall cease on Notice of Possession.*

*18. The Company shall pay a monthly return of Rs. 48,006/- on the total amount deposited till the signing of this MOU, with effect from 14 November 2016. Service Tax if to be deposited same shall be paid extra by the company..*

14. Thus, the assured return was payable @Rs.48,006/- per month w.e.f. 14.11.2016, till the notice of possession of the said unit.

15. In light of the reasons mentioned above, the authority is of the view that as per the MoU dated 14.11.2016, it was obligation on part of the respondent to pay the assured return. It is necessary to mention here that the respondent has failed to fulfil its obligation as agreed inter se both the parties in MoU dated 14.11.2016. Further, it is to be noted that on 14.08.2024 the occupation certificate for the unit was received and thereafter the possession of the unit was offered on 03.12.2024. Hence, the respondent/promoter is liable to pay assured return to the complainants at the agreed rate i.e., @Rs.48,006/- per month from the date i.e., 14.11.2016 till the notice of possession of the said unit i.e., 03.12.2024.

**Delay Possession Charges:**

16. In the present complaint, the complainants intends to continue with the project and are 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*

*18(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."*

17. In the present matter, MOU was executed between the parties on 14.11.2016 and the buyer's agreement was also executed on 14.11.2016. As per the clause 12 of the buyer's agreement dated 14.11.2016 the possession of the subject unit was to be handed over within a period of 48 months from the date of execution of agreement or from the start of construction whichever is later. The relevant clause is reproduced hereunder for ready reference:

*12. "The company shall complete the construction of the said building/complex within which the said space is located within 48 months from the date of execution of this agreement or from the start of construction whichever is later and apply for grant of completion/occupancy certificate. The company on grant of occupancy/completion certificate shall issue final letters to the allottee who shall within 30 days, thereof remit all dues."*

18. The date of start of construction is not available on records so, the due date is calculated from the date of execution of agreement. The buyer's agreement was executed on 18.09.2019. Hence, the due date of possession comes out to be 14.11.2020. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 14.05.2021.

19. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking 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.

20. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.
21. 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., 30.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
22. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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;"*

23. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainants in case of delay possession charges.
24. On consideration of documents available on record and submissions made by the complainants and the respondent, the authority is satisfied that the respondent is in contravention of the provisions of the Act. The possession of the subject unit was to be delivered by 14.05.2021. The occupation certificate for the said project was received on 14.08.2024 and subsequently unit was offered for possession on 03.12.2024. The authority is of the considered view that there is delay on the part of the respondent/promoter to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and to hand over the possession within the stipulated period. 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.
25. The authority observes that now, the proposition before the Authority whether an allottee who is getting/entitled for assured return even after expiry of due date of possession, is entitled to both the assured return as well as delayed possession charges?
26. To answer the above proposition, it is worthwhile to consider that the assured return/penalty charges is payable to the allottee on account of a provision in the MoU at the rate at which assured return has been

committed by the promoter i.e., Rs.48,006/- per month. If we compare this assured return with delayed possession charges payable under proviso to section 18 (1) of the Real Estate (Regulation and Development) Act, 2016, the assured return is much better. By way of assured return, the promoter has assured the allottee that he will be entitled for this specific amount from 14.11.2016 till the notice of possession of the said unit i.e., 03.12.2024. Accordingly, the interest of the allottee is protected even after the due date of possession is over. The purpose of delay possession charges after due date of possession is served on payment of assured return after due date of possession as the same is to safeguard the interest of the allottee as his money is continued to be used by the promoter even after the promised due date and in return, he is to be paid either the assured return or delay possession charges whichever is higher.

27. Accordingly, the authority decides that in cases where assured return is reasonable and comparable with the delay possession charges under Section 18 and assured return is payable even after due date of possession, the allottee shall be entitled to assured return or delayed possession charges, whichever is higher without prejudice to any other remedy including compensation.

28. In the present complaint, as per clause 8 and 18 of the MoU dated 14.11.2016, the amount on account of assured return was payable from 14.11.2016 till the notice of possession of the said unit i.e., 03.12.2024. Hence, the respondent/promoter is liable to pay assured return to the complainants at the agreed rate i.e., @Rs.48,006/- per month from the date i.e., 14.11.2016 till the notice of possession of the said unit i.e., 03.12.2024

after deducting the amount, if any already paid on account of assured return to the complainants.

**iv. Direct the respondent to execute a conveyance deed in favour of complainants.**

29. As per Section 11(4)(f) and Section 17(1) of the Act, 2016 the promoter is under obligation to get the conveyance deed executed in favour of the complainants. 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.

30. Since the respondent promoter has obtained occupation certificate on 14.08.2024. The respondent is directed to get the conveyance deed executed within a period of three months from the date of this order.

**v. Direct the respondent not to charge any amounts over and above the amounts decided in buyer's agreement and MOU dated 14.11.2016.**

31. The respondent/promoter shall not charge anything from the complainants which is not the part of the BBA/MoU.

**vi. Direct the respondent to pay Rs. 5,00,000/- towards legal costs and expenses incurred by complainants in pursuing legal recourse against the respondent.**

32. The complainants in the aforesaid relief are seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the

quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainants are advised to approach the adjudicating officer for seeking the relief of compensation.

**F. Directions of the authority**

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

- i. The respondent/promoter is directed to pay assured return to the complainants at the agreed rate i.e., @ Rs.48,006/- per month from the date i.e., 14.11.2016 till the notice of possession of the said unit i.e., 03.12.2024 as per the memorandum of understanding dated 14.11.2016, after deducting the amount, if any already paid on account of assured return to the complainants.
- ii. The respondent/promoter is directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of this order after adjustment of outstanding dues, if any, from the complainants and failing which that amount would be payable with interest @8.80% p.a. till the date of actual realization.
- iii. The respondent/promoter is directed to get the conveyance deed of the allotted apartment executed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable within three months from the date of this order.

- iv. The respondent/promoter shall not charge anything from the complainants which is not the part of the BBA/MoU.
  - v. The complainants are directed to pay outstanding dues, if any, after adjustment of payable assured return.
34. Complaint stands disposed of.
35. File be consigned to registry.

**Dated: 30.01.2026**



**(Arun Kumar)**  
Chairman  
Haryana Real Estate  
Regulatory Authority,  
Gurugram