

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

Complaint no. : 3075 of 2025
Date of complaint : 01.07.2025
Date of order : 08.01.2026

Abhishek Dwivedi

Resident of: H. 1206, 12th Floor, Maple Heights,
Block-C, Sushant Lok Phase-1, Gurugram-122022.

Complainant

Versus

1. M/s YB Builders Private Limited

Registered office at: 48, Basant Lok, Vasant Vihar,
New Delhi-110057.

Corporate office at: Nimai House, SCO No.304, 2nd
Floor, Sector-29, Gurugram-122002.

Respondent No.1

2. M/s Nimai Developers Private Limited

Registered office at: 48, Basant Lok, Vasant Vihar,
New Delhi-110057.

Respondent No.2

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Vijesh Vohra, Advocate

Complainant

Shri Sushil Yadav, Advocate

Respondents

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



A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, 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	"Nimai Place" Sector - 114, Gurugram
2.	Project area	3.0125 Acres
3.	Nature of project	Commercial complex
4.	DTPC License no.	126 of 2012 dated 20.12.2012 Valid up to 19.12.2022
5.	Name of licensee	M/s YB Builders Private Limited
6.	RERA registered/not registered	Registered vide no. 07 of 2018 dated 13.07.2018
7.	Extension no. 07 of 2019 dated: 18.11.2019	Registration no. 07 of 2018 dated 13.07.2018 valid up to 30.09.2019 Further extended vide extension no. 07 of 2019 valid up to 30.09.2020 + six months covid-19 extension i.e., 31.03.2021.
8.	Project continuation-RC/REP/HARERA/GGM/07 of 2018/7(3)/2022/09 dated 28.09.2022	The registration of this project shall be valid for the period commencing from 01.04.2021 and ending on 31.03.2023 (completion date as declared by the promoter in REP-II).
9.	Unit no.	030 Ground Floor (Commercial Unit) (As mentioned in Clause 1.2 of BBA at page no.42 of the complaint.)
10.	Unit measuring	549 sq. ft. (As mentioned in Clause 1.2 of BBA at page no.42 of the complaint.)
11.	Revised unit area	561 sq. ft. (increased by 2.18%) (As per SoA dated 31.10.2025 at page no. 42 - 45 of the reply)
12.	Application form	09.12.2020 (Page no. 26 - 29 of the complaint)
13.	Date of execution of flat buyer's agreement	19.03.2021 (As on that date the agreement to sell was registered before the sub-registrar Gurugram.)



		(As per page no. 39 of the complaint)
14.	Possession clause	7. Possession of the commercial unit: 7.1 Schedule for possession of the said unit [Commercial unit]: <i>The promoter agrees and understands that timely delivery of possession of the [commercial unit] to the allottee and the common areas to the association of allottees or the competent authority, as the case may be, is the essence of the agreement. <u>The promoter assures to handover possession of the commercial unit along with ready complete common area with all specifications, amenities and facilities of the project in place on 03rd quarter of 2021</u> unless there is delay or failure due to war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure") ...</i> <p style="text-align: right;">[Emphasis Supplied]</p> (As per page 52 of complaint)
15.	Due date of possession	31.03.2022 [30.09.2021 + 6 months] [As mentioned in possession clause of BBA Plus Grace period of 6 months allowed as per HARERA notification no. 9/3-2020 dated 26.05.2020.]
16.	Basic sale consideration	Rs.76,86,000/- (As mentioned in Clause 1.2 of BBA at page no.42 of the complaint.)
17.	Total sale consideration [BSP + IFMS + Car Parking + EDC/IDC + FFC/EEC]	Rs.98,79,529/- (As per SoA dated 31.10.2025 at page no. 42 - 45 of the reply)
18.	Total amount paid by the complainant	Rs.73,95,800/- (As per SoA dated 31.10.2025 at page no. 42 - 45 of the reply)
19.	Occupation certificate	10.02.2023 [In principle OC, as per document uploaded at HARERA website]

		12.04.2023 [For Ground + 9 Floors] (As per document uploaded at HARERA website)
20.	Offer of possession	01.04.2023 (As per page no.41 of the reply)

B. Facts of the complaint:

3. The complainant has made the following submissions: -
- I. That the complainant is the original buyer, and customer of the respondent's project "Nimai Place".
 - II. That the respondent works under the name and style of M/s Y.B. Builders Pvt. Ltd., the real estate developer responsible for the project "Nimai Place" located in Gurgaon, Haryana.
 - III. That the complainant entered into a builder buyer agreement with the respondent on 19.03.2021 for purchasing property in the "Nimai Place" project unit no.30.
 - IV. That the respondent has failed to deliver possession of the property as per the terms of the BBA, which clearly stated that possession, was due in the 3rd quarter of 2021. There has been a delay of over 3 years, and as of March 2025, possession has not been granted.
 - V. That the complainant is entitled to compensation as per Section 18 of the RERA Act due to the significant delay in possession.
 - VI. That the respondent has sent a demand letter on 01.04.2023 and another one on 22.05.2024, seeking unjustified interest amounts and penalties. The amounts demanded are as follows: Rs.3,05,105/- (Demand dated 01.04.2023) & Rs.6,30,595/- (Demand dated 22.05.2024)
 - VII. However, the complainant asserts that the only amount due for payment, as per the BBA, is Rs.12,32,376/-, after adjusting for the payments already made.



- VIII. That the respondent has failed to deliver possession as per the BBA, and has also failed to honour written assurances given by the Respondent in the email dated 02.02.2022, where the respondent promised to reimburse the interest paid by the complainant.
- IX. That the respondent had agreed to lease out the commercial shop on behalf of the complainant, but despite multiple reminders, the leasing rights have not been honoured, and the builder has not taken any action in this regard.
- X. That as per Section 18 of the RERA Act, the complainant is entitled to compensation for the delay in possession. The total amount of compensation calculated for delayed possession (including the interest at 16%) is Rs.38,95,608.8/-.

C. Relief sought by the complainant:

4. The complainant has sought following relief:
- Direct the respondents to provide immediate possession of the property, along with the payment of delayed possession penalty as per Section 18 of RERA, totalling Rs.38,58,846/- without any further delay;
 - To reimburse the interest paid by the complainant as per the assurance made by the respondent in the email dated 02.02.2022, amounting to Rs.4,16,050/-;
 - To take action against the unjustified demands for penalties and interest as mentioned in the letters dated 01.04.2023 and 22.05.2024, as these are not in accordance with the terms of the BBA or the provisions of the RERA Act;
 - That the respondent be directed to honour the commitment to lease out the shop, or provide an alternative resolution to the breach of agreement regarding leasing rights.
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)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondents.

6. The respondents have contested the complaint by filing reply on the following grounds: -



- I. That in the present case builder buyer agreement was executed on 09.12.2017 and as per clause 3.1 it is specifically agreed that " the Developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building in which the said Flat is to be located within three years of the start of construction or execution of this agreement whichever is later" that even in the clause 13 of the application form which was duly filled and signed by the allottee it is specifically agreed by that the proposed date of delivery shall be calculated form date of signing of buyer agreement subject to timely payment by the Applicants the present complaint is liable to be dismissed as the complainant is not eligible for any delayed possession compensation. The complainant is merely attempting to recover unwarranted sums from the respondent without any legal basis. The complaint is an afterthought and a misuse of the forum, and it deserves to be rejected at the threshold.
- II. The respondent/ developers had conceived and planned a commercial project under the name and style of Nimai Place various facilities and amenities on land situated in Sector 114 Gurugram, Haryana (subject matter of the present complaint). That the respondent has obtained License No. 33 of 2011 dated 16.04.2011 from the DGTCP/DTCP under the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 and the rules made there under for using the Land for construction and development of the commercial project thereon in a planned and phased manner over a period of time by obtaining necessary sanctions, permissions and approvals from the concerned authorities for the development of the commercial project.
- III. That the complainant after conducting his own due diligence applied for booking of shop in the said project vide application form. The complainant had also duly signed and understood the indicative terms and conditions





- of the allotment along with the application form. All the terms and conditions including the cost of the shop, size/super area of the shop, timeline for possession etc. The complainant paid only an amount of Rs.73,95,800/- towards the unit in question.
- IV. That the complainant was allotted unit no. 030 on Ground Floor having area of 549 sq. ft. and the same was further increased to 561 sq. ft. Builder buyer agreement was execution on 19.03.2021 between the complainant and the respondent.
- V. That the total sales consideration of the unit is Rs.98,79,529/- and the total amount paid by the complainant is Rs.73,95,800/- of the said unit. It is pertinent to mention that the payment plan for the said unit was construction link plan and the complainant have deliberately and intentionally failed to make the payment according to the plan.
- VI. That from the month of February 2022 complainant fails to make the payment of instalment of the unit in question to the respondent. The respondents have also sent the demand notice to the complainant and requested to make the payment of instalment but even then the complainant failed to make the payments of instalments timely.
- VII. That the complainant has failed to make timely payment and at every instalment the respondent herein had to request the complainant to provide the same. That despite serving several reminders the complainant failed to make time payment for the respective unit. And, on account of not receiving payment from the respondent bound to issue payment reminders.
- VIII. That respondent after making all the efforts to communicate with the complainant and also requested complainant to make payment but complainant put all the request of respondent to their deaf ears and fails to make payment and even to communicate with the respondent.

- IX. That the respondent was committed to complete the project in time therefore, the respondent herein applied for the occupation certificate before the Department of Town and Country Planning Haryana (herein referred to DTCP). However, the DTCP vide letter dated 10.02.2023, granted the occupation certificate to the respondent. The major amount of time was taken by the DTCP in issuing the occupation certificate for the said project which was purely beyond the control of the respondent.
- X. That after receiving the occupation certificate from the competent authority, respondent sent the offer of possession dated 01.04.2023 to the complainant. It is pertinent to mention that complainant even fails to take the possession of the unit and clearing all the dues and instalment of unit in question.
- XI. That at the time of booking of the unit complainant promised to pay all the instalments of the unit as per the demand of respondent but complainant failed to do the same. That due to the delay payment on the part of complainant, respondent had to take loan to complete the project.
- XII. That due to the impact of COVID-19, the continuation of progress of the project was significantly impacted, necessitating the implementation of Force Majeure. Consequently, the respondent encountered difficulties in obtaining timely approvals, permissions, and NOGs from the relevant Authorities within the Town and Country Planning Department, Haryana.
- XIII. That the business of construction is labour intensive and shortage of labour and material due to Covid and reasons beyond the control of the respondent had led to slowdown of construction, thereby affecting the pace and schedule of construction of the project and thereby its expected handover dates. In this regard, reliance is also placed on the persuasive value of the judgment of Hon'ble UP REAT (Appellate) in "Central Government Employees Welfare Housing Org. Vs Rajender Mohan Saxena"





Appeal No. 197/2023, in which the Hon'ble Appellate Tribunal has granted a benefit of zero period to the developer for both the waves of covid-19 (i.e., First and Second Wave). The Hon'ble Appellate Court granted approximately one and a half year (exactly 20 months and 28 days) to the project situated in NCR Region keeping in mind the devastating effect of both the waves of covid 19. The argument of second wave is captured in paragraph no. 7 of the said judgement.

- XIV. That it is relevant to mention that the respondent has already spent enormous amount of money towards the due construction and development for which occupation certificate has been granted including the tower in which the unit of the complainant is situated and the same being ready for occupation. The complainant has severely committed defaults in making payment of the consideration amount in accordance with the agreed payment plan. Therefore, it is the respondent who after having spent enormous sums of money (including funds borrowed from banks and financial institutions and other entities) and the legitimate dues of the respondent have been withheld by the complainant and therefore, on account of such breaches and defaults of the complainant it is the respondent who is entitled to claim compensation from the complainant.
- XV. That under Section 19 (7) of the Real Estate (Regulation and Development) Act, 2016 in order to seek the delayed interest as prescribed under the Act.
- XVI. That in the present case, possession of the unit has already been offered by the respondent. Thus, complainant is liable to pay the outstanding dues along with the interest on the payments due. It is stated that the complainant has defaulted in taking timely possession of the Unit are thus also liable to pay holding charges.

- XVII. That the complainant has failed to fulfil their obligations as an allottee as enshrined under the Real Estate (Regulation and Development) Act, 2016
- XVIII. That the complainant has breached their obligations and have also breached the obligation cast upon him in terms of Section 19(10) of the Act, whereby the complainant was under obligation to take the possession within the prescribed period upon receipt of the notice of offer of possession or as per BBA. It is submitted that the complainant however, have failed to clear their dues and take the physical possession of the unit and also complete all the formalities for the due conveyance, transfer and grant of rights, title and interest in the said unit in their favour.
- XIX. That the respondent is also equally entitled to the interest on the payments due, which have been delayed by the complainant as per the provisions of the Real Estate (Regulation and Development) Act, 2016.
- XX. That considering the above facts, the complainant has defaulted in the obligation cast upon him and thus the respondent is entitled to seek the remedy as provided under the Act.
- XXI. That the Hon'ble High Court of Bombay in the matter titled Neelkamal Realtors Suburban Pvt. Ltd. and Anr vs. Union of India has already held that RERA strikes the balance between the promoter and allottees, the relevant paragraph is reproduced herein below:
- XXII. In the case of Cellular Operators Association of India and ors. vs. Telecom Regulatory Authority of India and ors. (Supra), the Supreme Court held that there cannot be any dispute in respect of settled principles governing provisions of Articles 14, 19(1)(g) read with Article 19(6). But a proper balance between the freedom guaranteed and the social control permitted by Article 19(6) must be struck in all cases. We find that RERA strikes balance between rights and obligations of promoter and allottees. It is a

beneficial legislation in the larger public interest occupying the field of regulatory nature which was absent in this country so far.

7. All other averments made in the complaint are denied in toto.
8. 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 those undisputed documents and oral as well as written submissions made by the parties.

E. Jurisdiction of the Authority:

9. 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

10. 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 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.

E.II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.

12. So, in view of 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 complainant at a later stage.

F. Finding on the objections raised by the respondents:

F.I Objection regarding force majeure circumstances.

13. The respondent-promoter raised the contention that the construction of the project was delayed due to force majeure conditions such as orders/restrictions of the NGT in NCR as well as competent authorities account of the environmental conditions, ban on construction by the order of courts and adverse effects of covid etc. and others force majeure circumstances and non-payment of instalment by different allottees of the project but all the pleas advanced in this regard are devoid of merit. Firstly, the events taking place such as orders of NGT in NCR region on account of the environmental conditions are for short duration which does not make a huge impact on project which can cause and justify inordinate delay of 1 year. Secondly, the respondent is claiming benefit of lockdown in lieu of Covid-19, which came into effect on 23.03.2020, due to Covid-19 there may be a delay but the same has been set off by the government as well as authority while granting extension in registration of the projects, the validity which expired from March, 2020 for a period of six (6) months. The due date of possession in the present case as per clause 7.1 is come to 30.09.2021, which is after March, 2020. Therefore, an extension of six months is to be given over and above the due date of handing over of possession in view of HARERA Notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic. Accordingly, the due date for handing over



of possession is comes out to 31.03.2022. Thus, no period over and above grace period of 6 months can be given to the respondent-builder. Thus, the respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of its own wrong.

G. Finding on the reliefs sought by the complainant.

- G.I Direct the respondents to provide immediate possession of the property, along with the payment of delayed possession penalty as per Section 18 of RERA, totalling Rs.38,58,846/- without any further delay;
- G.II To take action against the unjustified demands for penalties and interest as mentioned in the letters dated 01.04.2023 and 22.05.2024, as these are not in accordance with the terms of the BBA or the provisions of the RERA Act;
14. 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 relief and the same being interconnected.
15. In the present complaint the complainant 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."*

16. Clause 7.1 of the buyer's agreement dated 19.03.2021 provides the time period of handing over possession and the same is reproduced below:

7.1 Schedule for possession of the said unit [Commercial unit]: *The promoter agrees and understands that timely delivery of possession of the [commercial unit] to the allottee and the common areas to the association of allottees or the competent authority, as the case may be, is the essence of the agreement. The promoter assures to handover possession of the commercial unit along with ready complete common area with all specifications, amenities and facilities of the project in place on 03rd quarter of 2021 unless there is delay or failure due to war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure") ...*

(Emphasis Supplied)



17. **Due date of handing over of possession:** As per possession clause 7.1 of the buyer's agreement dated 19.03.2021, the promoter assures to handover possession of the commercial unit on 03rd quarter of 2021. Therefore, the due date of possession of the unit comes out to be 30.09.2021. Further, as per HARERA Notification no.9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 30.09.2021 i.e., after 25.03.2020. As far as grace period of 6 months as is concerned, the same is allowed. Therefore, the due date of possession comes out to be 31.03.2022 (including grace period).

18. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. However, proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, she shall be paid, by the promoters, 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 sub-Section (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.

19. 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.



20. 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., 08.01.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
21. 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;"*
22. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to her in case of delayed possession charges.
23. On consideration of the circumstances, the evidence and other record and submissions made by the parties, the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of buyer's agreement executed between the parties, the promoter assures to handover possession of the commercial unit on 03rd quarter of 2021. Therefore, the due date of possession of the unit comes out to be 30.09.2021. Further, as per HARERA Notification no.9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020. The completion date of the aforesaid project in which

the subject unit is being allotted to the complainant is 30.09.2021 i.e., after 25.03.2020. As far as grace period of 6 months as is concerned, the same is allowed. Therefore, the due date of possession comes out to be 31.03.2022 (including grace period). The in-principal occupation certificate was granted to the promoter by the competent authority on 10.02.2023 and the occupation certificate for project was granted by the competent authority on 12.04.2023 and the possession of the subject unit was offered to the complainant on 01.04.2023. 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 the possession of the subject unit to the complainant-allottee and there is failure on part of the respondent-promoter to fulfil its obligation and responsibilities as per the buyer's agreement 19.03.2021 to handover the possession within the stipulated period.

24. 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 in-principal occupation certificate was granted to the promoter by the competent authority on 10.02.2023 and the occupation certificate for project was granted by the competent authority on 12.04.2023. The respondent offered the possession of the unit in question to the complainant only on 01.04.2023, 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 complainant should be given 2 month's time from the date of offer of possession. These two 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 of possession is in habitable



- condition. It is further clarified that the delay possession charges shall be payable from the due date of possession till the expiry of 2 months from the date of offer of possession (01.04.2023) which comes out to be 01.06.2023.
25. The Authority observes that in the present complaint, it is evident that M/s YB Builders Private Limited (R1) executed the agreement with the complainant on 19.03.2021 and received consideration towards the same, for which receipts have been issued. In addition, as per the agreement for sale dated 19.03.2021, M/s Nimai Developers Private Limited (R2) is the project management & marketing agency. In view thereof, M/s Nimai Developers Private Limited (R2) cannot be held liable for the obligations of the promoter and therefore, M/s YB Builders Private Limited (R1) is only liable for the obligation which needs to be fulfilled as promoter as per the buyer's agreement dated 19.03.2021 as well as Act of 2016.
26. 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 no.1-promoter is established. As such the complainant is entitled to delayed possession at prescribed rate of interest i.e.,10.80% p.a. w.e.f. 31.03.2022 till the expiry of 2 months from the date of offer of possession (01.04.2023) which comes out to be 01.06.2023 or actual handing over, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 and Section 19(10) of the Act, 2016, *ibid*.
27. Further, as per Section 19(10) of the Act of 2016, the allottees are under an obligation to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. The complainant is directed to take the possession of the allotted unit after making payment of outstanding dues, if any within a period of 2 months. Also, the respondent no.1-promoter shall handover the possession of the allotted unit as per specifications of the buyer's agreement entered into between the parties.



28. The respondent no.1-promoter is further directed not to charge anything from the complainant which is not the part of the buyer's agreement dated 19.03.2021.

G.III To reimburse the interest paid by the complainant as per the assurance made by the respondent vide email dated 02.02.2022, amounting to Rs.4,16,050/-.

G.IV That the respondent be directed to honour the commitment to lease out the shop, or provide an alternative resolution to the breach of agreement regarding leasing rights.

29. The Authority cannot deliberate its findings on the above-mentioned reliefs sought by the complainant, as there is no written document on record which has been executed between the parties with regard to substantiate the claim for putting the subject unit on lease and payment of interest/ EMI's on behalf of complainant-allottee by the promoter. Thus, the said reliefs become redundant and no directions for the same.

H. Directions of the Authority:

30. 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 no.1-promoter is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.80% per annum for every month of delay from the due date of possession i.e., 31.03.2022 till the date of offer of possession (01.04.2023) plus two months i.e., 01.06.2023 or actual handing over, whichever is earlier, as per Section 18(1)(a) of the Act read with Rule 15 of the Rules, *ibid*. The arrears of the interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per Rule 16(2) of the Rules, *ibid*.
- ii. The rate of interest chargeable from the allottee 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 no.1-promoter 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 remains, after adjustment of delay possession charges within a period of next 30 days.
 - iv. The respondent no.1-promoter is directed to handover the physical possession of the allotted unit to the complainant complete in all aspect of buyer's agreement.
 - v. The respondent no.1-promoter shall not charge anything from the complainant which is not the part of buyer's agreement.
31. Complaint as well as application, if any, stands disposed of accordingly.
32. File be consigned to registry.

Dated:08.01.2026



(Phool Singh Saini)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram