

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

<b>Complaint no.:</b>	<b>5046 of 2024</b>
<b>Date of complaint:</b>	<b>18.10.2024</b>
<b>Date of order:</b>	<b>27.01.2026</b>

Mithlesh Mangla,  
**R/o:** - H.no. 571-C, Sector 16, Part 1, Gurugram-  
122001, Haryana

**Complainant**

Versus

Parsvnath Developers Limited.  
**Having Regd. Office at:** Parsvnath Tower,  
Near Shahdara Metro Station, Shahdara, Delhi-110032.

**Respondent**

**CORAM:**

Sh. Arun Kumar  
Sh. Phool Singh Saini

**Chairman  
Member**

**APPEARANCE:**

Mr. Rishabh Jain (Advocate)  
Ms. Shambhavi (Advocate)

Complainant  
Respondent

**ORDER**

1. The present complaint has been filed by the complainant/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 as provided under the provision of the Act or the Rules and regulations made there under or to the allottee 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 complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

S. No.	Particulars	Details
1.	Name and location of the project	"Parsvnath Exotica" Sector- 53-54, Gurugram
2.	Nature of the project	Group Housing
3.	Project area	23.0815 acres
4.	DTCP license no.	69-74 of 1996 dated 03.05.1996 Valid up to 02.05.2019. 52-57 of 1997 dated 14.11.1997 Valid up to 13.11.2019.
5.	Name of licensee	M/s Florentine Estates of India Ltd. & 5 others
6.	Unit no.	D6-604, 6th floor and Tower/Block-D6 (As per clause 1 of BBA at page no. 46 of the complaint)
7.	Unit area admeasuring	2810 sq. ft. (super area) (As per clause 1 of BBA at page no. 46 of the complaint) 2895 sq. ft. (Revised super area) (As per Revised final SOA at page 71-72 of complaint)
8.	Date of execution of flat buyer's agreement	18.12.2006 (As per page no. 44 of the complaint)
9.	Possession clause	10 (a) <b><i>Construction of the flat is likely to be completed within a period of thirty-six (36) months of commencement of construction of the particular block in which the flat is located, with a grace period of six (6) months, on receipt of sanction of building plans/revised building plans and approvals of all concerned authorities including the Fire Service Deptt., Civil Aviation Deptt., Traffic Deptt., Pollution Control Deptt., as may be required for commencing and carrying on construction subject to force majeure, restraints or restrictions from any courts/authorities, non-availability of</i></b>

		<i>building materials, disputes with contractors/work force etc.</i> (As per page no. 50-51 of the complaint)
10.	Date of commencement of construction	15.04.2006 (taken from another file of the same project, complaint bearing no. 1787-2024, as per annexure-10 at page 78 of complaint read with Annexure-I of BBA at page 58 of complaint)
11.	Due date of possession	15.10.2009  (Calculated as 36 months from the date of commencement of construction i.e. 15.04.2006 + grace period of 6 months is allowed being unqualified)
12.	Total sale consideration	Rs.73,76,250/- (As per clause 2 of BBA at page no. 46 of complaint)
13.	Amount paid by the complainant	Rs.72,07,437/- (As per customer ledger at page no. 68-69 of complaint)
14.	Occupation certificate	30.11.2022 (As per DTCP Website)
15.	Offer for possession	06.01.2023 (As per page no. 70 of complaint)
16.	Special rebate on account of DPC for 25 months (October, 2009 to October, 2011) given by the respondent	Rs.7,02,500/- (As per revised final SOA at page 71-72 of complaint)

## B. Facts of the complaint

3. The complainant has made the following submissions: -

- I. That the complainant was approached by the sale representatives of the respondent, who made tall claims about the project "Parsvanatha Exotica" as the world class project. The complainant was invited to the sales office and was lavishly entertained and promises were made to her that the possession of the unit would be handed over in time including that of parking, club and other common area.

- II. That the complainant was impressed by their oral statements and representations and ultimately booked a flat in the project "Parsvanatha Exotica" situated at Sector 53, Gurugram, Haryana by paying her hard-earned money amounting Rs. 3,25,000/- as booking amount to the respondent.
- III. That the flat buyer agreement was executed on 18.12.2006 between the respondent and the complainant for purchase of unit no. D6-604 at 6<sup>th</sup> floor in block D6 measuring 2810 sq.ft. of super area in the project "Parsvnath Exotica" at Sector 53, Gurugram, Haryana. The basic sale consideration of the flat is Rs. 73,76,250/- calculated at the rate of Rs.2,625/- per sq.ft. as per clause 2(a), page 3 of the agreement. The complainant opted for construction linked payment plan. Till that time, the complainant had already paid a sum of Rs. 12,00,000/- to the respondent as acknowledged by the respondent in clause 4(a), page 5 of the agreement.
- IV. That the complainant took a housing loan Rs. 15,00,000/- from can fine homes limited for making payment of the sale consideration of the allotted flat. Can Fin Homes Limited approved and sanctioned the said housing loan via letter dated 05.01.2008. Can Fin Homes Limited disburse a total sum of Rs. 14,50,000/- out of the sanctioned loan amount to the respondent till 6<sup>th</sup> May, 2008.
- V. That as per clause 10(a) of the agreement, the respondent promised to complete the construction of the flat within a period of thirty-six (36) months from the commencement of construction of the block in which the flat is located and offer possession to the original allottee. As per the construction linked payment schedule given at page 15 of the agreement, the start of construction is considered as the date of start of



foundation. Before the start of foundation, as per the payment schedule, the respondent had demanded and collected twenty five percent (25%) of the sale consideration plus car parking charges from the complainant and collected a sum of Rs. 17,00,000/- upto 30.11.2005, i.e., 3,25,000/- on 3<sup>rd</sup> October 2004, Rs. 3,50,000/- on 11<sup>th</sup> October 2004, Rs. 1,50,000/- on 22.03.2005, Rs. 3,75,000/- on 26.04.2005 and Rs. 5,00,000/- on 30.11.2005. The receipt of Rs.12,00,000/- out of Rs. 17,00,000/- was also acknowledged by the respondent in clause 4(a) of the agreement. Thereafter, the respondent raised a demand Rs.5,16,337/- (7% of sale consideration) on 15.04.2006 at the time of start of foundation as per the payment schedule, which was paid by the complainant.

- VI. That the complainant always abided by the payment schedule and made payments as and when demanded by the respondent in timely manner. The complainant, in total, paid a sum of Rs. 72,02,437/- till August 2008 towards sale consideration of the flat to the respondent, as and when the demand was raised. The respondent failed to complete the construction of the flat within timeline as per the agreement. The complainants, time and again, enquired about the status of the flat from the respondent but to no avail. the construction activities at the project site were going on at snail's speed.
- VII. That the respondent failed to fulfil its obligations as per the agreement to completely develop the flat and handover the possession to the complainant on time. The respondent provided a list of specifications in annexure II at page 16 & 17 of the agreement about the finishing and interior works to be completed by the respondent in the flat before handing over the possession to the complainant. Even after a lapse of more than thirteen years from the due date of possession till 2022, the

complainant was shocked to see that the respondent had not obtained occupation certificate ever after causing inordinate delay in delivery of possession and the flat was also incomplete that too without finishing and interior works.

VIII. That however, the respondent claimed that it has obtained occupation certificate of the tower in which the flat of the complainant is located from the competent authorities in 2022 and offered the possession of the flat no. D-6,604 to the complainant on 06.01.2023 and issued final statement of accounts to the complainant. In the final statement of accounts issued along with the offer of possession, the respondent demanded additional amount of Rs. 2,23,125/- from the complainant on account of increase in area of the flat of Rs. 3,01,550/- on account of interest on delayed payment up-to 16.12.2022, Rs. 36,200/- for registration fee & computer fee, Rs.20,000/- for professional/incidental expenses for registration of flat ZRs. 3,20,100/- for stamp duty charges and offered rebate of Rs. 6,95,000/- on account of final finishing cost for the flat and special rebate of Rs.7,02,500/- for delay possession compensation for the period of 25 months from October 2009 to October 2011, to the complainant. The respondent also charges GST in the final statement of account even though the due date of possession of the unit was in 2009.

IX. That the respondent increased the area of the unit without prior approval or intimation to the complainant and demanded additional amount of Rs. 2,23,125/- from the complainant in the final statement of account without providing any justification. The respondent also charges Rs. 3,01,550/- as interest on delayed payments upto 16.12.2022 at illegal rate from the complainant in the final statement of account,

even though no payments were delayed by the complainant. The respondent also raised demand of Rs. 20,000/- for professional/incidental expenses towards registration of unit in the final statement of account, which is highly illegal and unlawful as it is more than the maximum prescribed limit of Rs.15,000/- plus GST.

- X. That the respondent even after causing inordinate delay of more than thirteen years, had miserably failed to complete the finishing and interior works in the unit as per the agreement till January, 2023 when the illegal offer of possession was issued. However, in the final statement of accounts, the respondent offered rebate amounting ₹6,95,000/- on account of cost involved for final finishing work in the flat as the respondent failed to provide a furnished flat. The cost includes flooring, air conditioner, AC piping, all sanitary fitting (China ware, CP fittings, jacuzzi in master bedroom), modular kitchen and plaster, electric work (wire, switches and MCB), internal paintings and other internal works. This clearly depicts that the respondent has breached the terms of the agreement as the flat offered by the respondent is not in liveable condition and the amount of rebate (₹6,95,000/-) offered by the respondent is unjustified, as the list of finishing works mentioned above could not be completed in such insignificant amount. Also, special rebate amounting ₹7,02,500/- offered by the respondent in the final statement of accounts for delay possession compensation as per clause 10(c) of the agreement *i.e.*, at the rate of Rs.10/- per square feet of super area of the flat per month for the period of 25 months from October, 2009 to October, 2011 is wrong, incorrect and less than the actual amount of delay possession interest payable by the respondent to the complainant. As per the Real Estate (Regulation and Development) Act,

2016, the respondent is bound to pay delay possession interest for the inordinate delay at the prescribed rate from the due date of possession till the actual handover of possession to the complainant.

- XI. That the complainant being aggrieved, requested to respondent on various occasions to complete the development works of her flat and then issue a valid and legal offer of possession of the fully furnished flat as promised in the agreement. The respondent did not respond to the requisitions made by the complainant.
- XII. That the complainant has been time and again approaching the respondent for completion of the project in all respect as per the agreement and handover the possession to the complainant at the earliest. The respondent has also failed to get the conveyance deed executed in favour of the complainant till date.
- XIII. That the respondent has miserably failed to submit any justified response to various letters, emails, telephone calls, seeking information about completion of the project and handover of possession of her allotted
- XIV. That the respondent has, in an unfair manner siphoned of funds meant for the project and utilised same for their own benefit for no cost. The respondent being builder, promoter, colonizer and developer whenever in need of funds from bankers or investors ordinarily has to pay a heavy interest per annum. However, in the present scenario, the respondent utilised funds collected from the complainant and other buyers for its own good and utilised it in other projects, being developed by the respondent.
- XV. That the complainant has lost confidence and in fact have got no trust left in the respondent, as the respondent has deliberately and wilfully

indulged in undue enrichment, by cheating the complainant beside being guilty of indulging in unfair trade practices and deficiency in services in not delivering the possession of the unit in time and getting the conveyance deed executed, and then remaining non-responsive to the requisitions of the complainant.

- XVI. That the complainant does not intend to withdraw from the project. As per the obligations on the respondent/promoter under Section 18 of the Act, 2016 read with Rules 15 and 16 of the Rules, 2017, the promoter has an obligation to pay interest on the delayed possession on the amount deposited by the complainant at the rate prescribed. The respondent/promoter has neglected its part of obligations by failing to offer a legitimate and rightful possession of the unit in time. The complainant reserves her right to seek compensation from the promoter for which the complainant may make a separate application to the Adjudicating Officer, in case it is required.
- XVII. That the respondent is habitual of making false promises and has deceptive behaviour. The respondent has earned enough monies by duping the innocent complainant and other such buyers through unfair trade practices and deficiencies in services and has caused the complainant enough pain, mental torture, agony, harassment, stress, anxiety, financial loss and injury.
- XVIII. That the complainant hereby seeks to redress the various forms of legal omissions and illegal commissions perpetuated by the respondent, which amounts to unfair trade practices, breach of contract and are actionable under the Act, 2016. In the present circumstances, the complainant has been left with no other option but approach and seek justice at the Authority.

- XIX. That the respondent, despite promising that the unit would be delivered by 15.04.2009 as per the buyer agreement, has failed to complete the development of the project in all respect and obtain completion certificate till date even after a delay of more than fifteen years till date. Thus, it constitutes unfair trade practices & deficiencies in service and cheating.
- XX. That, by delaying possession, the respondent has unjustly enriched themselves by taking complete payable amount and additional charges from the complainant and thereafter utilizing that huge money on other projects and left the complainant high and dry at her own fate. This conduct and behaviour of the respondent is deplorable and constitute unfair trade practices & deficiency in services and cheating.
- XXI. That, the respondent, having collected huge amount from the complainant and other such buyers, has not utilised said funds for the development of the project on time as promised by the respondent at the time of booking of the unit in 2004. This constitutes unfair trade practice. The respondent has not yet handed over the physical possession of the unit and executed the lawful and rightful conveyance deed of the unit in favour of the complainant. The respondent has wilfully cheated the complainant by demanding and collecting money, all the payments and yet did not handover the physical possession and execute conveyance deed in her favour till date. Thus, it constitutes unfair trade practice.

**C. Relief sought by the complainant:**

4. The complainant has sought following reliefs:
- a. Direct the respondent to complete the development of the said unit no. D6-604 including all finishing and interior works as per the

- agreement immediately, and provide all facilities and amenities like water, electricity, roads, green belt, etc. in the project.
- b. Direct the respondent to handover the legal and rightful physical possession of the unit to the complainant immediately, after receiving all required approvals from the competent authorities.
  - c. Direct the respondent to pay interest for every month of delay in offering the possession of the unit since 15.04.2009 to the complainant, on the amount taken from the complainant towards sale consideration for the aforesaid unit, with interest at the prescribed rate as per the Act, 2016, till the respondent hands over the legal and rightful possession of the unit to the complainant.
  - d. Direct the respondent to provide the copy of the Occupation Certificate obtained by the respondent for the tower in which the unit of the complainant is located i.e. tower/block no. D6.
  - e. Direct the respondent to revoke/cancel/ withdraw the illegal, unlawful and invalid offer of possession dated 06.01.2023 issued by the respondent, as the unit is incomplete, un-finished and not in liveable condition till date.
  - f. Direct the respondent to issue fresh and legal offer of possession to the complainant after completing the development and all finishing and interior works in the unit as specified in the agreement.
  - g. Direct the respondent to revoke/cancel/ withdraw the additional demand of Rs.2,23,125/- raised by the respondent for increase in area of the unit in the final statement of accounts dated 06.01.2023.
  - h. Direct the respondent to revoke/cancel/ withdraw the illegal demand of Rs. 3,01,550/- of interest on delayed payments by the complainant up-to 16.12.2022 in the final statement of accounts dated 06.01.2023, as no payments were delayed by the complainant.
  - i. Direct the respondent to not charge anything which is not mentioned in the flat buyer agreement.
  - j. Direct the respondent to execute conveyance deed in favour of the complainant.
  - k. Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainant along with other charges.

5. The respondent/promoter put in appearance through its counsel and marked attendance on 06.02.2025, 15.05.2025, 03.07.2025, 07.08.2025, 09.10.2025, 13.11.2025 and 27.01.2026. Despite giving specific directions to file reply, it has failed to comply with the orders of the authority. It shows that the respondent is intentionally avoiding filing of the written reply. Therefore, vide proceeding dated 27.01.2026, the defence of the respondent was ordered to be struck off for not filing reply.
6. Copies of all the documents have been filed and placed on record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents as well as submissions made by the parties.

**D. Jurisdiction of the Authority**

7. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**D.I. Territorial jurisdiction**

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be 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.

**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. 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.

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

**E.I. Direct the respondent to pay interest for every month of delay in offering the possession of the unit since 15.04.2009 to the complainant, on the amount taken from the complainant towards sale consideration for the aforesaid unit, with interest at the prescribed rate as per the Act, 2016, till the respondent hands over the legal and rightful possession of the unit to the complainant.**

11. 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.”*

12. Clause 10(a) of the apartment buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below:

*"10(a). Construction of the flat is likely to be completed within a period of thirty six (36) months of commencement of construction of the particular block in which the flat is located, with a grace period of 6 months, on receipt of sanction of building plans/revised building plans and approvals of all concerned authorities including the Fire Service Department, Civil Aviation Department, Traffic Department, Pollution Control Department as may be required for commencing and carrying on construction subject to force majeure.....".*

**13. Due date of possession and admissibility of grace period:** As per Clause 10(a) of the agreement dated 18.12.2006, possession of the allotted unit was to be offered within a stipulated period of 36 months from the commencement of construction of the particular block in which the flat is located, along with a grace period of 6 months. However, the date of commencement of construction is not provided in the present file. Therefore, to calculate the due date, the date of commencement of construction has been taken from another file of the same project, i.e., complaint no. 1787 of 2024, wherein the date is recorded as 15.04.2006. Given the fact that grace period was unqualified, the same is allowed. Accordingly, in the present case, the due date of possession is determined as 15.10.2009.

**14. Payment of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the 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.*

15. 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.
16. Consequently, as per website of the State Bank of India i.e., <https://sbi.co.in>, the marginal cost of lending rate (in short, MCLR) as on date i.e., 27.01.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.
17. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:
- "(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
- Explanation. —For the purpose of this clause—*
- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*
18. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., **10.80%** by the

respondent/promoter which is the same as is being granted to them in case of delay possession charges.

19. On consideration of the documents available on record and submissions made regarding contravention of 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.
20. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. 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 the prescribed rate of interest i.e., @ 10.80% p.a. w.e.f. 15.10.2009 till the valid offer of possession plus 2 months or actual handing over of possession, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

**E.II Direct the respondent to revoke/cancel/ withdraw the illegal demand of Rs. 3,01,550/- of interest on delayed payments by the complainant up-to 16.12.2022 in the final statement of accounts dated 06.01.2023, as no payments were delayed by the complainant.**

21. The complainant in the present case has paid an amount of Rs. 72,07,437/- out of the total sale consideration of Rs. 73,76,250/-. However if any payment were delayed by the complainant the rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.

**E.II Direct the respondent to handover actual physical possession of the booked unit.**

**E.III. Direct the respondent to revoke/cancel/ withdraw the illegal, unlawful and invalid offer of possession dated 06.01.2023 issued by the respondent, as the unit is incomplete, un-finished and not in liveable condition till date.**

**E.IV. Direct the respondent to issue fresh and legal offer of possession to the complainant after completing the development and all finishing and interior works in the unit as specified in the agreement.**

22. The above-sought relief(s) by the complainant is taken together being inter connected.
23. In the present complaint, the grievance of the complainant is that the physical possession has not been handed over by the respondent to the complainant.
24. The Authority observes that the respondent-promoter has obtained Occupation Certificate of the said project from the competent authority on 30.11.2022 and the possession was offered on 06.01.2023. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of Occupation Certificate. In the present complaint, the Occupation Certificate was granted by the competent authority on 30.11.2022. However, the respondent offered the possession of the unit in question to the complainant only on 06.01.2023. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely

finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.

**E.V Direct the respondent to execute conveyance deed in favour of the complainant**

25. The Authority observes that the conveyance deed has been subjected to all kinds of terms and conditions of agreement and the complainant 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."*

26. 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 after making payment of stamp duty/registration charges and administration charges by the complainant within three months from the date of this order.

**E.VI Direct the respondent to provide the copy of the Occupation Certificate obtained by the respondent for the tower in which the flat of the complainant is located i.e. Tower/Block No. D6.**

27. The Authority finds that the respondent has obtained the Occupation Certificate for the said project on 30.11.2022. As per Section 11(4)(b) of Act of 2016, the respondent is under an obligation to supply a copy of the Occupation Certificate/completion certificate or both to the complainant-allottee. The relevant part of section 11 of the Act of 2016 is reproduced as hereunder: -

*"11(4) ... (b) The promoter shall be responsible to **obtain the completion certificate or the occupancy certificate, or both**, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to **make it available to the allottees individually or to the association of allottees, as the case may be**".*

28. Even otherwise, it being a public document, the allottee can have access to the it from the website of DTCP, Haryana.

**E.VII Direct the Respondent to revoke/cancel/ withdraw the additional demand of Rs.2,23,125/- raised by the Respondent for increase in area of the Flat in the Final Statement of Accounts dated 6<sup>th</sup> January, 2023.**

29. The Authority holds that the demand for additional payment on account of an increase in the super area by the respondent-promoter from the allottee(s) is legal, subject to the condition that, before raising such a demand, detailed information must be provided to the allottee(s). In the absence of proper justification for the increase in the super area, any demand raised in this regard is liable to be quashed. Moreover, the size of the area may be altered in terms of the buyer's agreement dated 18.12.2006.

**E. VIII. Direct the respondent to pay litigation charges.**


30. The complainants are seeking above mentioned 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.* has held that an allottee is entitled to claim compensation and litigation charges 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 and litigation expense 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 and legal expenses. Therefore, the complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

**F. Directions of the Authority**

31. 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 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., 15.10.2009 till valid offer of possession i.e., 06.01.2023 plus two months, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*.
  - ii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.
  - iii. The respondent is directed to pay arrears of interest accrued within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*

- iv. The respondent is directed to handover the possession of the allotted unit to the complainant as per the specifications of buyer's agreement executed between the parties within the next 60 days of this order failing which the respondent shall pay the delay possession charges on the amount paid by the complainant till the date of handover.
- v. The respondent is directed to execute conveyance deed 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 after handing over possession to the complainant.
- vi. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainant/allottees at any point of time even after being part of the builder buyer agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
32. Complaint stands disposed of.
33. File be consigned to registry.

  
**(Phool Singh Saini)**  
Member

Haryana Real Estate Regulatory Authority, Gurugram

  
**(Arun Kumar)**  
Chairman

Dated: 27.01.2026