

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

Complaint no.	5848 of 2024
Date of filing	06.12.2024
Date of first hearing	20.03.2025
Order pronounced on	27.01.2026

Mr. Pankaj Vats

Pooja Vats

Both are R/o: Flat no. 0102, tower 1, India Bulls
Enigma Society, Sector 110, Dwarka Express Way,
Gurgaon-122017

Complainants

Versus

M/s SS Group Private Limited

Registered office: Plot no. 77, SS House, Sector 44,
Gurgaon 122003, Haryana

Respondent

CORAM:

Shri Arun Kumar

Shri Phool Singh Saini

Chairman

Member

APPEARANCE:

Shri Vipin Raina & Ms. Rekha Yadav (Advocates)

Shri Gunjan Kumar (Advocate)

Complainants

Respondent

ORDER

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

provisions of the Act or the Rules and regulations made 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. No.	Particulars	Details
1.	Name of the project	"SS Linden", Sector 84-85, Gurugram
2.	Nature of the project	Residential Floors
3.	Project area	26.793 acres
4.	DTCP License number	105 of 2013 dated 11.12.2013 Valid up to 10.12.2017 41 of 2023 dated 21.02.2023 Valid up to 20.02.2028
5.	Name of licensee	Matrix Buildwell Pvt. Ltd. and 9 others
6.	RERA Registered or not	Registered vide no. 32 of 2022 dated 02.05.2022 Valid up to 29.02.2024 phase- SS Linden Floors 61 of 2022 dated 04.07.2022 Valid up to 14.06.2025 phase- SS Linden Floors- II 117 of 2022 dated 13.12.2022 Valid up to 31.10.2025 for phase- SS Linden Floors- III
7.	Unit no.	B-12/F2, 2 nd floor, Block B(Page no. 63 of complaint)
8.	Unit area admeasuring	1980 sq. ft.(Page no. 63 of complaint)
9.	Allotment letter	11.05.2024(Page no. 45 of complaint)
10.	Date of execution of builder buyer agreement	02.07.2024(Page no. 58 of complaint)
11.	Possession clause	7. POSSESSION OF THE UNIT/INDEPENDENT FLOOR FOR RESIDENTIAL USAGE: 7.1 Schedule for possession of the said Unit for Residential usage: The Promoter agrees and understands that timely delivery of possession of the unit for Residential usage along with



		<p>parking (if applicable) to the allottee and the common areas to the association of allottees or the competent authority, as the case may be, as provide under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement.</p> <p><i>The Promoter assures to hand over possession of the Unit for Residential usage along with parking (if applicable) as per agreed terms and conditions within 24 months from the date of this agreement provided the Allottee(s) is not in breach of the terms of this Agreement or unless there is delay due to "force majeure", Court orders, Government policy/guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Unit. It is further agreed that the time period for handing over possession of the 'said Unit' can also be extended as per the mutual agreement between the parties</i></p>
12.	Due date of delivery of possession	02.07.2026(Note:- Due date of possession calculated from the date of execution of buyer's agreement i.e., 02.07.2024)
13.	Total sale consideration	Rs.3,50,54,250/- (As per payment plan at page no. 91 of complaint)
14.	Total amount paid by the complainants	Rs.1,75,27,122/- (As per receipt information at page 102 to 105 of complaint)
15.	Occupation Certificate	08.11.2024 (As per annexure-C/7, at page 107 of complaint)
16.	Offer of possession	07.11.2024 (As per annexure-C/8, at page 106 of complaint)
17.	Reminder/demand letters for	21.11.2024, 04.12.2024, 07.12.2024, 18.12.2024, 10.01.2025, 06.02.2025, (Page no. 62 to 67 of reply)

B. Facts of the complaint

3. The complainants have made following submissions in the complaint:
- i. That the complainants have booked a unit bearing no. B-12/F2, 2nd floor, Block B, admeasuring 1980 sq.ft. An allotment letter was issued by the respondent on 11.05.2024. Thereafter, a builder buyer agreement was executed between the parties on 02.07.2024. The total sale consideration of the unit is Rs. 3,50,54,250/- against which the complainant has paid an amount of Rs. 1,75,27,122/-.
 - ii. That the respondent sent 2 demand letters dated 17.06.2024 totalling Rs. 1,40,34,295/- which is 50% of the total consideration value. The aforementioned demand letters were sent prior to signing the agreement for sale in violation of section 13(1) of RERA Act, and the final demand letter was sent on 08.11.2024. The respondent reluctantly executed the agreement for sale on 02.07.2024. The respondent deliberately drafted the terms of the agreement for sale in a manner that disproportionately favoured their interests. Specifically, while the respondent outlined various penalties for default on the part of the complainant, they deliberately omitted any provisions for financial penalties in the event of the respondent's own default or breach of any terms of the agreement.
 - iii. The complainants made a total payment of Rs. 1,75,27,122/- which is 50% against the total consideration of Rs. 3, 50, 54,250/- for unit B-12/F2 in "SS Linden" including applicable GST cost.
 - iv. The complainants have met all financial obligations and expects the respondent to fulfill their contractual duties before further payments are made. The demand for the remaining consideration, made under such circumstances, is not only unjustified but also in violation of the terms of the agreement for sale.

- v. That the respondent received the Occupation Certificate under memo number CPS-401 dated 08.11.2024, whereas the offer of possession was issued to the complainants on 07.11.2024, despite the unit not being made habitable and the promised amenities and facilities not being completed.
- vi. That the complainants, along with their family, are currently residing in a rented accommodation, paying a monthly rent of Rs.72,000/-. In addition, the complainants are burdened with an EMI of Rs. 1,25,161/-, which corresponds to the initial home loan of Rs. 99, 65,343/- disbursed to the respondent by HDFC Bank on 31.08.2024. As a result, the complainants are facing a total monthly financial burden of Rs. 1, 97,161/- due to the non-delivery of a habitable unit, despite the respondent issuing an offer of possession.
- vii. That under agreement for sale, clause 9.1(i) (Events of Default and Consequences) provides that "Ready to move in possession shall mean that the unit for the residential usage shall be in a habitable condition which is complete in all respect including the provision of all specifications, amenities and facilities". The complainants have duly complied with all the terms and conditions outlined in the aforementioned agreement for sale and have remitted the 50% payment for the unit, as specified in schedule-E, on page 33 of the agreement. Despite receiving the notice of offer of possession and the demand letter for the remaining payment, the respondent specifically declined to complete the necessary formalities and documentation required for the peaceful handover of the habitable unit, numbered 12/F2, along with all the promised amenities and facilities within the gated community. As a result, the respondent failed to adhere to the proper procedure following the issuance of the offer of possession.

- viii. That the complainants paid more than 10% (Rs. 3,540,075) of the total consideration as a booking amount on 01.05.2024 to the respondent. However, on 17.06.2024, the respondent demanded an additional Rs. 1,40,34,295/-, bringing the total demand to over 50% of the sale price as a deposit required to execute the agreement for sale. This deposit amount sought by the respondent was far beyond the permissible limit of 10%. Despite the complainants raising concerns, the respondent continued to pressurise and harassed them to pay 50% of the sale value. It was only after the complainants took a firm stand that the respondent agreed to formally register the agreement for sale on 02.07.2024 for unit B-12/F2.
- ix. That clause 2 of Annexure 2 (Standard Terms and Conditions) of agreement for sale provide that "Terms & Conditions provided in Agreement for Sale" shall be final and binding on both parties subject to any condition in the Allotment Letter. However, the respondent has, at its discretion, breached the terms and conditions of the agreement for sale between the parties. Under the present agreement, the respondent has a paramount legal and moral obligation to deliver a habitable residential unit to the complainants, complete with all requisite amenities and facilities. The annexure 2, clause 6 of agreement for sale specify that "the total price includes taxes (GST etc. which may be levied, in connection with the development/construction of the project paid/payable by the promoter up to the date of handing over the possession of the residential floor along with, membership & club and one car parking'.
- x. That the respondent, on the day of receiving the Occupancy Certificate, issued a demand letter dated 08.11.2024 to the complainants, demanding a sum of Rs. 1,79,85,936/-. This amount included an unjustified interest charge of Rs. 4,58,812/-, despite the fact that the unit had not been made

habitable, nor had the amenities and facilities specified in schedule G, page 35 of the agreement for sale, been provided as promised to the complainants. Additionally, the associated facilities that are part of the gated community remained incomplete.

- xi. That the promoter failed to issue any notice or communicate with the complainants regarding the aforementioned interest charges. These charges were applied based on the 60-day milestone from the booking date. The agreement for sale was executed on 02.07.2024, and the respondent was obligated to provide the complainant with a copy of the agreement for Sale, along with payment receipts totalling Rs.75,61,779/- to HDFC Bank for the disbursement of funds. However, the respondent did not supply the necessary documents either to the complainants or directly to HDFC Bank, which caused a delay in the bank's disbursement of the funds. The respondent only provided the copy of the agreement for sale on 02.08.2024 & copy of payment receipts paid by the complainants on 27.08.2024, and the HDFC Bank then released the payment of Rs. 99,65,343/- on 31.08.2024. Despite this, the respondent, through dishonest and corrupt business practices, proceeded to charge the complainants for the interest.
- xii. That the respondent issued a demand letter on 08.11.2024 without fulfilling their obligations under Section 11 of the RERA Act and in direct violation of clause 9.1(i) of the agreement for sale. When the complainants raised concerns regarding the non-completion of the habitable unit, along with the promised amenities and facilities, the respondent, in an attempt to force payment and intimidate the complainants, sent an email dated 21.11.2024. In this email, the respondent threatened that if the balance payment was not made within 15 days, the unit B-12/F would be cancelled.

This constitutes an additional violation of clause 9.1(i) of the agreement for sale.

- xiii. That the respondent has violated terms of the agreement for sale, made false assurances, and engaged in unfair trade practices, along with providing deficient services. This suggests potential breaches of the Real Estate (Regulation and Development) Act, 2016. As per RERA, affected parties have rights and remedies, including filing complaints with the RERA authority, seeking compensation and pursuing legal action against the respondent.
- xiv. That the respondent has consistently taken in payments well beyond the level of work completed on the construction site. This, coupled with misleading promises regarding construction and possession timelines for the units, has resulted in the complainant facing unethical and unjust trade practices, as well as harassment.

C. Relief sought by the complainants

4. The complainants have sought the following relief(s):
- i. Direct the respondent not to cancel the allotment or create a third-party interest in the unit at any time during the pendency of the present complaint.
 - ii. Direct the respondent to set aside the offer of possession on grounds of it being unjust and illegal, and direct the respondent to issue a fresh offer of possession in keeping with the terms of agreement for sale duly registered between the parties on 02.07.2024.
 - iii. Direct the respondent to cancel/set off the entire unjustified, illegal amount of interest charged to the complainants.
 - iv. Direct the respondent to handover the physical possession of unit B-12/F2, in habitable condition.
 - v. Direct the respondent to duly execute the conveyance deed of unit B-12/F2 in favor of the complainants herein.
 - vi. Direct the respondent to provide the details required to be disclosed by the promoter under Rule 4(1)(a) of the HARERA Rules 2017.

- vii. Direct the respondent to pay a compensation of Rs.10,00,000/- towards the mental pain and agony, and unlawful caused to the complainant by the respondent.
 - viii. Direct the respondent to produce the complete books of accounts and the complete records so the complainant goods office could validate and get same audited/investigated by an independent agency to verify and ensure that the entire consideration paid/payable by the buyers of the project is used solely for the construction and development of the project in compliance with the provisions of Rule 4 of the Rules 2017.
 - ix. Direct the respondent to deposit entire EDC amount payable to DTCP into the detailed development account designated under RERA regulations so that the timely payment of the installment to DTCP could be ensured under the provisions of the Haryana Development and Regulation of Urban Area Rules, 1976 read with section 11(4)(g) of the Act, 2016.
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 respondent**
6. The respondent is contesting the complaint on the following grounds:
- i. That at the outset, it is relevant to state that respondent is a real estate company engaged in the business of the development and construction of real estate projects and is one of the reputed names in the real estate sector in the National Capital Region (NCR) and largely recognized in the real estate sector for its successful projects.
 - ii. That vide booking application dated 28.04.2024, a unit bearing no. B-12, 2nd floor, block – B, in the Project “SS Linden” the complainants expressed their desire to book a residential unit in the project of the respondent. Considering the request of the complainants the subject unit was allotted to the complainants *vide* allotment letter 11.05.2024.

- iii. Thereafter, on 13.05.2024 an agreement for sale was prepared to be executed between the parties and registered before the concerned sub-registrar.
- iv. That post preparation of the AFS, the respondent requested the complainants to collect the AFS for signature post which the same was to be registered before the concerned sub-registrar.
- v. That the complainants *vide* email dated 22.05.2024 authorized Mr. Ashutosh Katiyar to collect the AFS and the allotment letter on their behalf. Accordingly, the AFS and the allotment letter was handed over to the authorised person of the complainants. Thereafter, the respondent *vide* email dated 26.06.2024 requested the complainants to come forward to register the AFS before the concerned Sub-registrar. However, the complainants themselves stated that it would not be possible for them to execute the AFS on the said date therefore the complainants purposely delayed the registration of the AFS.
- vi. That after a delay of approximately 51 days, the complainants came forward, and the AFS was registered before the Sub-Registrar, Manesar (Gurgaon) on 02.07.2024. As per Clause 7.1 of the AFS the due date of possession was 02.07.2026.
- vii. That post completion of the unit, the respondent applied for issuance of the Occupation Certificate and the same was issued on 08.11.2024. After receiving the Occupation Certificate on 08.11.2024, the respondent on the very same date offered possession of the unit to the complainants. Due to an inadvertent typographical mistake, the date on the offer of possession letter was mentioned as 07.11.2024.

- viii. That instead of taking possession of the unit and paying the outstanding dues, the complainants have filed the present complaint on false and frivolous grounds.
- ix. That the present complaint has been preferred by the complainants on frivolous and unsustainable grounds and the complainants have not approached the Authority with clean hands and is trying to suppress material facts relevant to the matter. The complainants are making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and sole purpose of extracting unlawful gains from the respondent. The instant complaint is not maintainable in the eyes of the law and is devoid of merit, therefore is fit to be dismissed *in limine*.
- x. That the respondent being a responsible developer has registered the instant project with the Authority, and accordingly a registration certificate bearing no. 117 of 2022 dated 13.12.2022 was granted to the respondent. The registration of the instant project is valid up to 31.10.2025. The respondent post completion of the subject unit had applied for the issuance of the Occupation Certificate and the same was issued on 08.11.2024.
- xi. That as per clause 7.1 of the AFS, the possession of the unit was to be handed over for residential usage as per the agreed terms and conditions of the AFS within 24 months from the date of execution of the AFS subject to stern compliance of the terms and conditions of the AFS.
- xii. That as per clause 7.1 of the AFS, the due date of possession is 02.07.2026. However, it is reiterated herein that the Occupation Certificate for the subject unit was issued on 08.11.2024. Thereafter,

the respondent on the very same date i.e., 08.11.2024 sent the offer of possession of the unit to the complainants along with Occupation Certificate and a demand letter dated 08.11.2024 which was received by the complainants on 12.11.2024. However, it is further reiterated herein that due to an inadvertent typographical mistake, the date on the offer of possession letter was mentioned as 07.11.2024.

- xiii. That the total sale consideration of the subject unit is Rs. 3,50,54,250/-. Till date the complainants have paid only an amount of Rs. 1,75,27,122/-. As on date an amount of Rs. 1,88,33,000/- including interest for late payment is due and payable by the complainants.
- xiv. That the complainants despite agreeing to make the timely payments failed to pay the instalments as per the payment schedule. The respondent was constrained to issue email dated 21.11.2024 and multiple reminder letters dated 04.12.2024, 07.12.2024, 18.12.2024, 10.01.2025, 06.02.2025 requesting the complainants to make payments of the outstanding dues. However, despite receiving the said reminders the complainants paid no heed to the requests of the complainants.
- xv. That the complainants have been in blatant violation of Section 19(6) of the RERA Act, 2016 as they have failed to pay the due instalments on time against the sale consideration payable towards the unit. The complainants have opted for a specific payment plan and the respondent accordingly has raised demands as per the said payment plan. However, the complainant has failed to make timely payments.
- xvi. That under clause 7.2 and 7.3 of the AFS, the complainants were obligated to take possession of the subject unit post receipt of the offer of possession.

- xvii. That the complainants vide the present complaint allege that the respondent has demanded more than 10% of the sale consideration before execution of the AFS. From a mere perusal of the payment plan, it is evident that a specific payment plan was agreed between the parties, wherein the complainants had to pay the instalments as per the agreed date.
- xviii. That the complainants were obligated to make a payment of Rs. 35,05,425/- at the time of booking i.e., 28.04.2024, however, the said amount was paid by the complainants on 01.05.2024. Thereafter the respondent on 13.05.2024 prepared the AFS and requested the complainants to collect the same for their signatures post which the same was be registered before the concerned sub-registrar.
- xix. That the complainants *vide* email dated 22.05.2024 authorized Mr. Ashutosh Katiyar to collect the AFS and the allotment letter on their behalf. Accordingly, the AFS and the allotment letter were handed over to the authorised person of the complainants and the same was signed by the complainants. Thereafter, the respondent sent a statement of accounts dated 06.06.2024 to the complainants wherein the outstanding of Rs. 52,58,136/- which was payable by the complainants within 30 days of the booking as per the agreed payment plan was reflected and the complainants was obligated to pay the said amount. However, it is pertinent to mention herein that the complainants despite being obligated to pay the said amount failed to pay a single penny towards outstanding dues.
- xx. That on 06.07.2024, the respondent once again sent a statement of account to the complainants wherein the outstanding dues Rs. 87,63,562/- which was payable by the complainants within 60 days

of the booking was mentioned and the complainants were obligated to pay the said amount. However, the complainants once again failed to pay the outstanding. Since, the complainants despite knowing their obligation of making payment of the outstanding dues, failed to make the payments therefore, the respondent was constrained to issue demand letters dated 17.06.2024 wherein the respondent requested the complainants to pay the outstanding which was to be paid within 30 days and 60 days of booking.

- xxi. That the complainants being a habitual defaulter once again failed to pay a single penny towards the outstanding dues towards the sale consideration of the subject unit.
- xxii. That from a mere perusal of the aforementioned facts it is evident that it is the complainants who had wilfully made a default in making payment towards the sale consideration of the unit and now at this stage with a *malafide* intention of hiding their own defaults are putting forth wrong allegations that the respondent has demanded payment of more than 10% without executing the AFS, whereas, the fact of the matter is that the respondent being responsible developer has shared the AFS with the complainants after the allotment of the Unit, and the same was signed by the complainants. However, the registration of the said AFS was delayed due to the default of the complainants and the complainants' taking benefits of their own wrongdoing is trying to mislead the Authority that the execution of the AFS was delayed and the demands were raised prior to execution, which, on the face of the record is entirely absurd. Therefore, considering the facts and circumstances mentioned herein, it is

evident that the allegations put forth by the complainants are devoid of merits.

- xxiii. That an Occupation Certificate for a building, unit or part of the building is issued only when the same is in habitable condition. Since, the subject Unit was meeting all the parameters set by the competent authority for occupation of a building therefore, an Occupation Certificate dated 08.11.2024 was issued for the subject unit, whereby permission for occupation of the unit was granted.
- xxiv. That the afore-referred demand was due payable on the offer of possession and since the Occupation Certificate was issued on 08.11.2024 and the unit was ready for possession, therefore the respondent on the very same date offered the possession of the unit and raised the demand of Rs. Rs. 1,79,85,936/-.
- xxv. That the complainants in the present complaint are alleging that the offer of possession is pre-mature and is not valid since the same was issued without obtaining the Occupation Certificate. The Occupation Certificate for the subject unit was issued on 08.11.2024. Thereafter, the respondent, on the very same date i.e., 08.11.2024 offered the possession of the unit to the complainants and a letter offer of possession along with an Occupation Certificate and a demand letter dated 08.11.2024 was dispatched to the address of the complainants which was received by the complainants on 11.11.2024. However, it is further reiterated herein that due to an inadvertent typographical mistake, the date on the offer of possession letter was mentioned as 07.11.2024.
- xxvi. That the offer of possession was issued on 08.11.2024, which can be verified from the fact that the said letter was sent to the complainants

via DTDC courier bearing consignment no. Z50570900 on 08.11.2024 and the same was delivered on 12.11.2024 to the complainants. The fact that a copy of the Occupation Certificate and demand letter dated 08.11.2024 was sent along with the offer of possession is sufficient to suffice the fact that the offer of possession was issued on 08.11.2024 however, due to some inadvertent typographical error the date on the offer of possession letter is mentioned as 07.11.2024.

- xxvii. That the respondent has levied an interest of Rs. 5,79,821/- on the complainants. The complainants despite agreeing to make timely payments have defaulted in making payments of the outstanding dues. The complainants were obligated to make a payment of Rs. 52,58,138/- within 30 days of booking, and an amount of Rs. 87,63,563/- within 60 days of booking however, the said demands which were payable in June and July 2024 respectively were paid by the complainants in August 2024. Furthermore, the complainants were obligated to make a final payment on the offer of possession however, till date the complainants have failed to pay a single penny to the respondent. Therefore, the respondent was constrained to exercise its rights under the AFS and the RERA Act, 2016 and levied a delayed payment interest.
- xxviii. That under clause 9.3 (i) of the AFS, the complainants themselves have agreed that in case the complainants make a default in payment of the sale consideration then the complainants shall be liable to pay the interest on the delayed payment.
- xxix. That the complainants are habitual defaulters and have failed to make timely payments. Therefore, the respondent has sent an email dated 21.11.2024 to the complainants wherein the respondent requested

the complainants to take possession of the unit and make the payment of the outstanding dues.

xxx. That the complainants themselves in clause 9.3 of the AFS have agreed that the complainants shall be considered as defaulters if they fail to pay the outstanding dues and in case of continuous defaults of the complainants, the respondent shall be entitled to cancel the allotment of the complainants.

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

E. Jurisdiction of the authority

8. 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

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

E.II Subject matter jurisdiction

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

"Section 11

.....

(4) 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."

11. 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 complainants at a later stage.

F. Findings on the relief sought by the complainants

F.I Direct the respondent not to cancel the allotment or create a third-party interest in the unit at any time during the pendency of the present complaint.

12. The factual matrix of the case reveals that the complainants were allotted unit no. B-12/F2, 2nd floor, block B, area admeasuring 1980 sq.ft., in the respondent's project at sale price of Rs. 3,50,54,250/- against which the complainants paid a sum of Rs. 1,75,27,122/-. An allotment letter was issued on 11.05.2024 and thereafter a buyer's agreement was executed between the parties on 02.07.2024.
13. During the proceeding dated 27.01.2026, the counsel for the complainants' state that the they have made a total payment of Rs. 1,75,27,122/- which is 50% against the total consideration of Rs. 3,50,54,250/- for the subject unit. The respondent received the OC on 08.11.2024 whereas the offer of possession was issued to the complainant on 07.11.2024, despite the unit not being completed. The respondent issued demand letters without

fulfilling their obligation and in direct violation of clause 9.1 (i) of the agreement for sale. When the complainants raised concerns regarding the non-completion of the habitable unit, along with the promised amenities and facilities, the respondent, in an attempt to force payment and intimidate the complainants, sent an email dated 21.11.2024 and threatened that if the balance payment was not made within 15 days, the unit would be cancelled. On the contrary, the respondent stated that after receiving the OC on 08.11.2024, the respondent on the very same date offers possession of the unit to the complainants. Due to an inadvertent typographical mistake, the date on the offer of possession letter was mentioned as 07.11.2024. The fact that offer of possession was issued subsequent to the receipt of OC is evident from the offer of possession letter itself, wherein the copy of OC had been annexed as annexure 1 and the demand letter dated 08.11.2024 had been annexed as annexure 2. Instead of taking possession of the unit and paying the outstanding dues, the complainants have filed the present complaint on false ground.

14. The complainants re seeking a direction to restrain the respondent from cancelling the allotted unit and from creating any third-party charges over the same. Reminder letters were sent by the respondent on 21.11.2024, 04.12.2024, 07.12.2024, 18.12.2024, 10.01.2025, and 06.02.2025. However, no document has been placed on record to show that the respondent has issued any cancellation letter to the complainants.
15. The Authority observes that, as per the payment plan, the complainants were required to pay an amount of Rs. 33,38,500/- at the time of booking. Thereafter, within 30 days from the date of booking, the complainants were required to pay Rs. 50,07,750/-, and within 60 days from the date of booking, a further sum of Rs. 83,46,250/-. The complainants have paid

50% of the sale consideration, i.e., Rs. 1,75,27,125/-. The remaining 50% of the sale consideration is payable at the time of offer of possession.

16. The Occupation Certificate was obtained by the respondent on 08.11.2024, and possession was thereafter offered to the complainants. Subsequently, on various dates, the respondent issued demand notices, however, the complainants did not make any further payment and instead sent an email to the respondent stating that possession had been offered without full development of the project, particularly with respect to roads, lift staircase railings, clubhouse, and other amenities. It is pertinent to note that the respondent only sent reminders to the complainants and never issued any cancellation notice. As per Clause 9.3(ii) of the Buyer's Agreement, the promoter is required to intimate the allottee about such termination at least thirty days prior to the proposed termination. The relevant clause is reproduced hereunder:

9.3 The Allottee shall be considered under a condition of default, on the occurrence of the following events:

(ii) In case of default by allottee under the condition listed above continues for a period beyond ninety days, the promoter may cancel the allotment of the unit for residential usage along with parking in favour of the Allottee and refund the money paid to him by the allottee by forfeiting the booking amount paid for the allotment, taxes paid by the allottee and interest component on delayed payment (payable by the customer for breach of agreement and non-payment of any due payable to the promoter). The rate of interest payable by the allottee to the promoter shall be the State Bank of India highest marginal cost of lending rate plus two percent. The balance amount of money paid by the allottee shall be returned by the promoter to the allottee within ninety days of such cancellation. On such default, the agreement and any liability of the promoter arising out of the same shall thereupon, stand terminated.

Provided that, the promoter shall intimate the allottee about such termination at least thirty days prior to such termination.

17. In the present case, also the respondent-promoter was obligated to intimate the allottees about the termination at least thirty days prior to

such termination. However, the respondent-promoter only sent reminders for making payment, and no termination letter was issued by the respondent. Therefore, in accordance with Clause 9.3, the condition for termination was not fulfilled by the respondent. Therefore, no direction to this effect.

18. Furthermore, the Authority cannot overlook the fact that the complainants have paid only 50% of the sale consideration, and the remaining amount is payable at the time of offer of possession. As per the record, the respondent obtained the Occupation Certificate on 08.11.2024 and thereafter offered possession to the complainants. Therefore, the complainants are directed to make the requisite payment for the subject unit in accordance with the provisions of Sections 19(6) and 19(7) of the Act of 2016 within a period of 60 days from the date of this order, failing which the respondent-promoter shall be at liberty to proceed with the cancellation of the subject unit allotted to the complainants in accordance with Regulation 11(5) of the Haryana Real Estate Regulatory Authority, Gurugram (Forfeiture of Earnest Money by the Builder) Regulations, 2018.

F.II Direct the respondent to set aside the offer of possession on grounds of it being unjust and illegal, and direct the respondent to issue a fresh offer of possession in keeping with the terms of Agreement for sale duly registered between the parties on 02.07.2024.

F.III Direct the respondent to cancel/set off the entire unjustified, illegal amount of interest charged to the complainant.

19. The respondent is directed not to charge any amount which is not part of the buyer's agreement executed between the parties on 02.07..2024. All charges shall be levied strictly in accordance with the terms of the buyer's agreement. The respondent is also duty-bound to provide proper justification for the demands raised by it.

F.IV Direct the respondent to handover the physical possession of unit B-12/F2, in habitable condition.

F.V Direct the respondent to duly execute the conveyance deed of unit B-12/F2 in favour of the complainants herein

20. In the present complaint, the grievance of the complainant is that the physical possession has not been handed over by the respondent to the complainants.
21. The Authority observes that the respondent-promoter has obtained occupation certificate of the said project from the competent authority on 08.11.2024. Further, Section 17(1) of the Act of 2016 obligates the respondent-promoter to handover the physical possession of the subject unit to the complainants complete in all respect as per specifications mentioned in BBA and thereafter, the complainant-allottees are obligated to take the possession within 2 months as per provisions of Section 19(10) of the Act, 2016.
22. In view of the above, the respondent is directed to handover the possession of allotted unit to the complainant complete in all respect as per specifications of buyer's agreement within a period of one month from date of this order after payment of outstanding dues, if any, as the Occupation Certificate for the project has already been obtained by it from the competent Authority.
23. Further, the respondent promoter is contractually and legally obligated to execute the conveyance deed upon receipt of the Occupation Certificate/ Completion Certificate from the competent authority. Whereas as per Section 19(11) of the Act of 2016, the allottees are also obligated to participate towards registration of the conveyance deed of the unit in question. In view of above, the respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the

complainants as per norms of the state government as per Section 17 of the Act, failing which the complainants may approach the adjudicating officer for execution of order.

F.VI Direct the respondent to provide the details required to be disclosed by the promoter under Rule 4(1)(a) of the HARERA Rules 2017.

24. The respondent-promoter is directed to provide complete details of the total amount collected from the allottees, the amount spent on the development of the project, and the balance/unspent amount lying with the promoter.

F.VII Direct the respondent to pay a compensation of Rs.10,00,000/- towards the mental pain and agony, and unlawful caused to the complainant by the respondent.

25. The complainants are seeking above mentioned relief w.r.t. compensation.

The Hon'ble Supreme Court of India in case titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. 2021-2022(1) RCR (C), 357 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.

G. Directions of the Authority

26. 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 complainants are directed to pay outstanding amount to the respondent and respondent shall charge equitable rate of interest i.e., 10.80% per annum and take the possession of the subject plot as per

the provisions of Section 19(6), (7) and (10) of the Act within a period of 60 days of this order, failing which the respondent-promoter shall be free to proceed with the cancellation of the subject unit allotted to the complainants as per the Haryana Real Estate Regulatory Authority, Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018.

- II. The respondent shall execute the conveyance deed of the allotted unit within a period of 3 months from date of this order, upon payment of outstanding dues and requisite stamp duty by the complainants as per norms of the state government as per Section 17 of the Act, failing which the complainants may approach the adjudicating officer for execution of order.
 - III. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement.
27. The complaint stands disposed of.
28. File be consigned to the registry.



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram
27.01.2026



(Arun Kumar)
Chairman