

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

**Complaint no.** : 953 of 2025  
**Date of complaint** : 04.03.2025  
**Date of decision** : 27.01.2026

M/s Shine Buildcone Private Limited  
**Registered Office at:** H-334, GF, New Rajinder  
Nagar, New Delhi

**Complainant**

Versus

Padma Singh and Anr.  
**R/o:** M-164, DLF New Town Heights, Sector-90,  
Gurugram, Haryana-122505

**Respondent**

**CORAM:**

Shri Arun Kumar  
Shri Phool Singh Saini

**Chairman  
Member**

**APPEARANCE**

Shri Akshat Mittal (Advocate)  
Shri U.K. Bhardwaj (Advocate)

**Complainant  
Respondents**

**ORDER**

1. The present complaint has been filed by the complainant-promoter 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 19(10) of the Act wherein it is inter alia prescribed that the allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said unit. Also, the obligation of allottee to make necessary payments in the manner and within time as specified in the agreement for sale under Section

19(6) and to pay interest, at such rate as may be prescribed, for any delay in payments as per Section 19(7) of the Act.

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

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

Sr. No.	Particulars	Details
1.	Name of the project	"70 Grandwalk", Sector 70, Gurugram
2.	Project area	2.893 acres
3.	Nature of the project	Commercial Complex
4.	DTCP license no. and validity status	34 of 2012 dated 15.04.2012 valid upto 14.04.2020
5.	Name of licensee	Shine Buildcon
6.	RERA Registered/ not registered	28 of 2017 dated 28.07.2017 valid upto 30.06.2022
7.	Application Form	27.07.2015(Page no. 23 of complaint)
8.	Allotment Letter	08.12.2015(Page no. 47 of complaint)
9.	Date of execution of BBA	28.01.2016(Page no. 61 of complaint)
10.	Date of approval of building plans	03.05.2013(Taken from another file of same project i.e., 5702 of 2023 titled as "Anisha versus Shine Buildcon Private Limited")
	Date of approval of revised building plans	01.09.2016(Taken from another file of same project i.e., 5702 of 2023 titled as "Anisha versus Shine Buildcon Private Limited")
11.	Unit no.	B-207, 2 <sup>nd</sup> Floor (Service Apartment), 249 Sq. Ft. (Super Area)(Allotment Letter at page no. 47 of complaint)
12.	Possession clause	<b>Clause 13. POSSESSION AND HOLDING CHARGES</b>

		<p>(ii) Subject to Force Majeure, as defined herein and further subject to faithful discharge of obligations by the Allottee under the terms and conditions of this Agreement and not having defaulted under any provision(s) of this Agreement including but not to the timely payment of all dues and charges including the total Sale Consideration, registration charges, stamp duty and other charges and also subject to the Allottee having complied with all formalities or documentation as prescribed by the Company, the Company proposes to offer the possession of the said Shop to the Allottee <b>within a period of 42 months from the date of signing of this agreement or approval of the Building plans, whichever is later</b> ("Commitment Period"). The Allottee further agrees and understands that the Company <b>shall additionally be entitled to a period of 6 (Six month) ("Grace Period"), after the expiry of the said Commitment Period</b> to allow for unforeseen delays beyond the reasonable control of the Company.</p> <p style="text-align: right;"><b>[Emphasis supplied]</b></p> <p>(As per BBA at page no. 83 of complaint)</p>
13.	Due date of possession	28.01.2020(Calculated to be 42 months from date of execution of buyer's agreement, being later plus an unqualified grace period of 6 months)
14.	Payment Plan	Possession Linked Plan (As per Annexure A to Application Form at page no. 26 of complaint)
15.	Sale Consideration	Rs. 21,33,930/- (As per Annexure A to Application Form at page no. 26 of complaint)
16.	Amount paid by the complainants	Rs. 9,87,509/- (As per customer ledger at page 130-131 of complaint)

17.	Occupation Certificate	10.10.2023(Page 135 of complaint)
18.	Offer of Possession	15.10.2023(Page no. 128 of complaint)

**B. Facts of the complaint:**

3. The complainant has made following submissions in the complaint:

- I. That the respondent allottee had expressed interest in the booking of a commercial unit in the said project of the complainant. As such, booking was entered into qua unit bearing no. B-207, second floor measuring 249 sq.ft. super area in the project “&- Grandwalk”.
- II. That vide allotment letter dated 08.12.2015, the allotment of the unit no. B-207 Second floor admeasuring 249 Sq.ft. super area was confirmed in the name of the respondent-allottee. The unit in question was offered for a sale consideration of Rs. 28,07,829/- along with taxes as application. Further, a discount was also given at the time of booking.
- III. That till date, the respondent has made a payment of Rs. 9,87,509/- only to the complainant. Thereafter a BBA was executed between the complainant and the respondent on 28.01.2016. After completing all construction and development work the possession of the unit was offered on 15.10.2023 and the written communication was duly sent to the respondent with the subject “offer of possession”. The respondent did not adhere to the above said offer for possession and did not make the payment of the remaining dues pertaining to the unit. The respondent is yet to pay an amount of Rs. 18,20,320/- apart from interest on delayed payment and holding charges etc.
- IV. That repeated payment reminders were sent by the complainant to the respondent allottee with a request to the letter for making the payment of the aforesaid due instalment along with other charges, but the same

has not be complied with the respondent. The OC had duly been applied for on 07.02.2023, and has since duly been received on 10.10.2023. the site is well developed and completely functional.

- V. That the respondent-allottee is yet to pay the massive balance amount towards total cost of the unit along with interest. The major portion of amount have thus been incurred by the complainant builders on the completion of the unit allotted to the respondent at its own resources/bank finances and the respondent is avoiding the payment of the reaming due amount. The respondent had got this unit allotted only for the purposes of investment for profiteering purposes from the real estate. Now owing to an overall recession in the real estate market, the respondent wishes to avoid the payment of the balance dues and interest.

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

4. The complainant has filed the present complaint for seeking following reliefs:
- i. Direct the respondent-allottee to ay balance amount of Rs.18,20,320.38/- due against the unit in question so booked by the respondent allottee along with interest as prescribed on the amounts from the due dates till actual realization in accordance with rights of the complainant-builder under section 19(6), section 19(7) and section 19(10) of the Act to claim payment of remaining dues from the allottee qua the unit in question along with interest and compensation, read with Rule 15 and 16 of the HARERA Rules.
  - ii. Direct the entitlement of the complainant to cancel the allotment in terms of the agreement for sale, in case the respondent allottee is wilfully avoiding the payment of the remaining dues for the unit.
  - iii. Direct the respondent to pay a sum of Rs.5,00,000/- on account of frustration and grievance caused to the complainant builder by the miserable attitude of the respondent-allottee for causing mental agony to the complainant or its officers/directors along with interest from the date of filing the present complaint till its realization.
  - iv. Direct the respondent to pay litigation expenses of Rs. 1,50,000/-.

**D. Reply by the respondent**

- i. The respondents, at this juncture of life, where time is the essence and all milestones of life are time critical, got entrapped by the aggressive marketing skills of complainant and tall promises of timely delivery of possession. As a result, the respondents decided to invest in the said project. To the surprise of the respondent, the complainant sent across the buyer's agreement to the residence of the respondent for his signatures, the copy of which never returned to him after signatures of the complainant and endorsement of the sub registrar on it, to be called as buyer's copy. The respondent has seen the signed copy of buyer's agreement for the first time now after its execution in 2016, with endorsement of signatures of the complainant and seal of the Sub registrar's office.
- ii. That all the dreams of the respondents got shattered due to an inordinate delay of 44 months in completion of the said project by the complainant which happens to be much beyond the reasonable time of delay. The respondents kept their hopes alive for long time, while the complainant kept on procrastinating the handing over of possession. On account of the inordinate delay, the respondents to their dismay had no option and no idea whether to risk the current invested money in the prospective asset or seek alternate means. Now when most of the water has gone over the head and financial condition not having improved much the respondents are in state of mental fluidity. Subsequently, the respondents could not keep their hopes alive for long time, while the complainant kept on procrastinating the handing over of possession. The respondents while being at Kerala throughout, kept on calling the complainant to terminate their booking and refund

all money because they could not cope with uncertainty knocking their door, with children education being at a critical phase, staying outside NCR all through and delays by the complainant, all at the same time. Numerous attempts of calling the complainant to cancel their allotment were to no avail because all their pleas were answered inconclusively by the complainant and no concrete decision was being taken/given by the complainant by stating that matter has been escalated.

- iii. That the complainants having procrastinated their obligations towards the allottees beyond reasonable limits, have suddenly rose to aggressively pursue levying penalties, interest and cancellations using the legal route. The complainants have been subjecting the respondents to extreme stress, coercion, anxiety by pestering them and offering possession forcibly and making repeated reminders, whereas on the contrary when the respondents had kept on calling the complainant to cancel the unit much before OC was issued, they were not responding with any concrete decision. The respondents who have been desperately calling up the complainant to cancel the allotment much before the OC was issued, but to no avail, because the main intent behind not answering calls with conclusive solution was to never let the respondent seek cancellation and seek appropriate refund. Rather the intent of the complainant was to let the date of OC pass so that it can send offer of possession to thereby precluding any chances of paying full refund to the respondents. The complainant is not justified to do so after having committed the wrong of not respecting the essence of time and obligations towards the allottees which is the cornerstone of the agreement between the complainant and

respondents. Hence, the respondents could not be compelled to take possession of the apartment after such a long delay which the complainant offered after an inordinate delay of 44 months on 15.10.2023.

- iv. That the complainant lured the respondents amongst the other allottees with false promises of high quality, high return, and timely handing over of possession and once the booking amount were secured by the complainant, the "agreement to sale" document was executed as "buyer's agreement" as if it is the buyer itself who has sought such agreement and the provided clauses are only for the buyer to agree. The agreement so called "buyer's agreement" truly vindicates the stand that the complainant wanted to take, wherein the obligations of complainant vis-à-vis the respondents are weighed extremely minimal and biased. The burden of obligations has been loaded unfortunately and unjustly heavily on the allottee. It is in fact an unfair and unreasonable contract, prepared with unfair and unreasonable clauses, executed between parties who are not equal in bargaining power at all, because of the great disparity in the economic strength of the contracting parties herein. The complainant having stronger bargaining power created a situation wherein the respondents had no choice, or rather no meaningful choice, but to give their assent to the contract@ buyer's agreement and signed on the dotted line in a prescribed or standard form, blindly accepting to a set of rules as part of the contract, however unfair, unreasonable, and unconscionable a clause in that contract or form or rules may be. The buyer's agreement dated 28.01.2016 reveals such stark incongruities between the remedies available to both the parties viz. the complainant and the

respondents herein. Moreover, to the surprise of the respondent, the complainant sent across the buyer's agreement to the residence of the respondent for his signatures, the copy of which never returned to him after signatures of the complainant and endorsement of the sub registrar on it to be called as buyer's copy. The respondent has seen the signed buyer's agreement for the first time now after its execution in 2016, with endorsement of signatures of the complainant and seal of the sub registrar's office. The allottee's copy never reached the respondents till date. The respondents saw fully signed copy of the agreement only when the complainant forwarded the complaint with buyer's agreement annexed thereof.

- v. That the sanctity of the buyer's agreement is contingent to the obligations that are required to be fulfilled by the complainant by timely offering of possession as agreed. While the respondents fulfilled the obligations by making payments right from the booking stage as per payment plan. The complainant that the respondents had to rethink in remaining in the project invested or not. The inordinate delay by the complainant to complete the project without giving any progress updates to the respondents all through, the complainant breached the trust between the parties. The respondents kept on pursuing cancellation of the unit by calling up the office of the complainant from Kerala but all efforts were to no avail. Now, while the complainant is looking for exoneration from this breach through an easier way by not discussing the delay compensations/interest and covering it by offering a delayed possession thereafter pursuing termination of allotment with penalties, the respondents are being pursued aggressively to honour the agreement and the complainant

- has thus filed this complaint to force and coerce the respondents to accept delayed possession or terminate allotment with penalties.
- vi. That the complainant delayed the project on their own volition beyond considerable time and have therefore failed in their obligations as per the buyer's agreement. After having breached the terms and conditions of the agreement, the complainant now expects exoneration from the obligation whereas it has lost all moral grounds to expect obligations from the respondents as per agreement.
  - vii. That the complainant, despite being fully aware that the Hon'ble Courts have clarified on numerous occasions that the delay due to covid pandemic is catered for by according of grace period of six months, unilaterally deducted one year period from total delay while computing delay compensation as reflected in its annexure C-6 of the instant complaint.
5. 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 those undisputed documents and submissions oral as well as written made by the parties.
- E. Jurisdiction of the Authority:**
6. The Authority observed that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.  
**E.I Territorial jurisdiction**
  7. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the 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 completed territorial jurisdiction to deal with the present complaint.

**E.II Subject matter jurisdiction**

8. The authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter as per provisions of Section 11(4)(a) of the Act and duties of the allottee as per Section 19(6), (7) and (10) of the Act leaving aside compensation, which is to be decided by the adjudicating officer, if pursued by the parties at a later stage.

**F. Findings on the relief sought by the complainant-promoter:**

**F.I Direct the respondent-allottee to pay balance amount of Rs.18,20,320.38/- due against the unit in question so booked by the respondent allottee along with interest as prescribed on the amounts from the due dates till actual realization in accordance with rights of the complainant-builder under section 19(6), section 19(7) and section 19(10) of the Act to claim payment of remaining dues from the allottee qua the unit in question along with interest and compensation, read with Rule 15 and 16 of the HARERA Rules.**

**F.II Direct the entitlement of the complainant to cancel the allotment in terms of the agreement for sale, in case the respondent allottee is wilfully avoiding the payment of the remaining dues for the unit.**

9. In the present complaint, the complainant-promoter intends to give possession of the plot to the respondent-allottee. Therefore, the complainant-promoter has prayed that respondent-allottee be directed to make payment of outstanding dues as per the payment schedule within time as specified in the agreement for sale under Section 19(6) and to pay interest, at such rate as may be described, for any delay payments as per Section 19(7) of the Act.
10. **Due date of possession:** As per clause 13 of the buyer's agreement, the complainant-promoter proposed to hand over possession of the subject unit within a period of 42 months from the date of signing of the agreement or from the date of approval of the building plans, whichever is later. The

allottee further agrees and understands that the company shall additionally be entitled to a period of 6 months as a "Grace Period" after the expiry of the said commitment period. The date of the buyer's agreement is 28.01.2016, whereas the date of approval of the building plan is 03.05.2013. Therefore, the due date of possession is to be calculated from the date of execution of the buyer's agreement, being the later date, along with an unqualified grace period of 6 months. Accordingly, the due date for handing over possession comes to 28.01.2020.

11. The respondent-allottee has made a payment of Rs.9,87,509/- against the total sale consideration of Rs.21,33,930/-. The due date for handing over of possession comes out to be 28.01.2020 as computed above. On perusal of documents on record, it is observed that the Occupation Certificate of the said project was granted by the competent authority on 10.10.2023 and the complainant has offered the possession of the subject allotted unit to the respondent-allottees on 15.10.2023. As per section 19(10) of the Act, the allottees shall take physical possession of the apartment, plot, building as the case may be, within a period of two months of the Occupancy Certificate issued for the said apartment, plot or building as the case may be. Section 19(10) reads as under:

**"19. Right and duties of allottees. -**

.....  
(10) Every allottee shall take physical possession of the apartment, plot or building as the case may be, within a period of two months of the occupancy certificate issued for the said apartment, plot or building, as the case may be."

12. The respondent-allottee has failed to abide by the terms of the buyer's agreement by not making the payments in a timely manner as per the payment plan opted by the respondent-allottee. Also, the respondent-allottee is not taking possession of the unit in question as per the terms and

conditions of the buyer's agreement. Further, despite repeated follow-ups by the complainant and the complainant having performed their contractual obligations, the respondent-allottee refrained from carrying out their contractual obligations. The respondent-allottee shall make the requisite payment as per the provision of Section 19(6) of the Act and as per Section 19(7) to pay the interest at such rate as may be prescribed for any delay in payments towards any amount or charges to be paid under sub-section (6). Proviso to Section 19(6) and 19(7) reads as under:

***"19. Right and duties of allottees. -***

.....  
***(6) Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any.***

***(7) The allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6)."***

**13. Rate of interest to be paid by respondent for delay in making payments:** The complainant contended that the respondent-allottee has defaulted in making timely payments of the instalments as per the payment plan, therefore, he is liable to pay interest on the outstanding payments.

**14. The Authority observes that 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 promoters, in 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;"*

15. 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%. Therefore, interest on the delay payments from the respondent-allottees shall be charged at the prescribed rate i.e. 10.80% by promoter.
16. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the Authority is satisfied that the respondent-allottees are in contravention of the Section 19(6), 19(7) and 19(10) of the Act by not taking the possession as per the agreement. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favor of the allottee whereas, as per Section 19(11) of the Act of 2016, the respondent-allottees are also obligated to participate towards registration of the conveyance deed of the unit in question.
17. Keeping in view the aforesaid factual and legal position, the respondent-allottees are directed to make the requisite payments and take possession of the subject unit as per the provisions of Sections 19(6), 19(7) and 19(10) of the Act, within a period of 60 days from the date of this order, failing which the complainant-promoter shall be free to proceed with the

cancellation of the subject unit allotted to the respondent-allottees as per the Haryana Real Estate Regulatory Authority, Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018 and shall not forfeit more than 10% of the sale consideration.

**F.III Direct the respondent to pay a sum of Rs.5,00,000/- on account of frustration and grievance caused to the complainant builder by the miserable attitude of the respondent-allottee for causing mental agony to the complainant or its officers/directors along with interest from the date of filing the present complaint till its realization.**

**F.IV Litigation cost**

18. The complainant is seeking the above-mentioned reliefs w.r.t. compensation & Litigation cost. The Hon'ble Supreme Court of India in *Civil Appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers 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 regards 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.

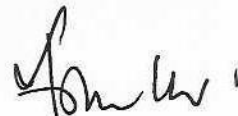
**G. Directions of the Authority:**

19. 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) of the Act:

I. The complainant-promoter is directed to pay interest on the amount paid by the respondent-allottee at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e., 28.01.2020 till

- the offer of possession plus 2 months or actual handing over of possession, whichever is earlier.
- II. The complainant/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 respondent-allottees are directed to pay the outstanding dues to the complainant-promoter with equitable rate of interest, i.e., @10.80% and take the physical possession of the subject unit 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 complainant-promoter shall be free to proceed with the cancellation of the subject unit allotted to the respondent-allottees as per the Haryana Real Estate Regulatory Authority, Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018 and shall not forfeit more than 10% of the sale consideration.
- III. The complainant-promoter shall not charge anything from the respondent-allottees which is not part of the buyer's agreement.
20. Complaint stands disposed of.
21. File be consigned to registry.

  
**(Phool Singh Saini)**  
Member

  
**(Arun Kumar)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram  
27.01.2026