

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

Complaint no.: 4284 of 2025
Date of filing complaint: 10.09.2025
Date of first hearing 30.10.2025
Date of decision: 05.02.2026

Mr. Vijay Ahuja

R/o: - 298/8, Salara Mohalla, Rohtak Haryana- 124001

Also, at: - Flat No. 1108, Tower-6, The Millennia,
Sector- 37, Gurugram- 122006

Complainant

Versus

Signature Global (India) Private Limited

Registered office: 1304, 13th floor, Dr. Gopal Das
Bhawan, 28 Barakhamba Road, Connaught Place, New
Delhi - 110001

Also, at: - 1302, 13th Floor, Tower-A, Signature Tower,
South City- 1, Gurugram Haryana- 122001

Respondent

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Satish Tanwar (Advocate)

Complainant

Shri Venket Rao (Advocate)

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. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	"The Millennia, Sector 37 D Gurugram
2.	Nature of project	Affordable group housing
3.	RERA Registered/Not registered	Registered 03 of 2017 dated 20.06.2017
4.	Allotment letter	01.11.2017 (Page no. 61 of complaint)
5.	Unit no.	6-1108, tower - 6, 11 th floor [Page no. 26 of complaint]
	Area admeasuring	519.229 Sq. ft. (carpet area) 79.653 Sq. ft. (balcony area) (Page no. 26 of complaint)
6.	Date of flat buyer agreement	26.03.2018 (Page no. 24 of complaint)
7.	Possession clause	5. Possession 5.1 Within 60 (sixty) days from the date of issuance of Occupancy Certificate, the Developer shall offer the possession of the Said Flat to the Allottee(s). Subject to Force Majeure circumstances, receipt of Occupancy Certificate and Allottee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of installments as per the Payment Plan, stamp duty and registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.



<i>(Page no. 36 of the complaint)</i>		
8.	Date of building plan approval	08.06.2017 (taken from another case CR/5675/2022 decided on 21.09.2023 of the same project)
9.	Date of environmental clearance	21.08.2017 (taken from another case CR/5675/2022 decided on 21.09.2023 of the same project)
10.	Due date of possession	21.02.2022 (Calculated from the date of grant of EC being later including grace period of 6 months in lieu of Covid-19)
11.	Total cost	Rs.23,84,689/- (As per customer ledger dated 19.09.2025 at page no. 111 of reply)
12.	Total amount paid by the complainant	Rs.25,98,073/- (As alleged by the complainant at page 13 of complaint) OR Rs.23,83,332/- (As per customer ledger dated 19.09.2025 at page no. 111 of reply)
13.	Occupation certificate	25.01.2023 (Page no. 68 of reply)
14.	Offer of possession	28.03.2023 (Page no. 71 of complaint)
15.	Conveyance deed	07.06.2023 (Page no. 75 of reply)
16.	Possession letter	15.10.2023 (Page no. 106 of reply)

B. Facts of the complaint:

3. The complainant has made the following submissions: -

- a) That after visiting various places in Gurugram in search of a good residential property, the complainant came into contact with the respondent company through publication and its officials by the sales/marketing agent of the respondent, where it was informed to the complainant that the respondent's company is s developing a project



- "THE MILLENIA"** affordable group housing society situated at Sector-37D, Gurugram and ongoing through the attractive Brochure, the payment plan and assurance given by the officials of the respondent's company regarding constructing of various projects in Gurugram and other Districts of Haryana within the stipulated period. It was intimated, the rates of the properties would soar to the great high's and by the reputation of the respondent's company, the complainant decided to have a residential unit in the respondent's company project.
- b) That the complainant duly believed the statement of the representative of respondent and applied with application no. 14200 dated 14.08.2017 and thereafter the draw of lots held on dated 27.10.2017 as per rule of DTCP/DC Gurugram a unit bearing no. 6-1108 was allotted in Tower-6 having the carpet area of 519.229 sq. ft. and balcony area 79.653 sq. ft. along with two wheeler open parking site and the pro rata share in the common areas on 11th Floor in the project namely "The Millenia" in affordable group housing scheme situated at Sector-37D, Gurugram with total sale consideration of Rs.2116743/- including all other charges. The complainant duly paid the total consideration of Rs.25,98,073/-.
- c) That the complainant without making any kind of delay always deposited the amount required as per the payment plan/schedule opted by the complainant immediately on receipt of letters from the respondent company which has also been admitted and acknowledged by the respondent's company officials. The stamp duty plus registration charges & administrative charges as mentioned in the payment plan is liable to be payable by the complainant and that too at the time of offer of possession.

- d) That apart from issuing a payment receipts on different dates, the respondent company also issued an allotment letter dated 01.11.2017 carrying the details of unit allotted and also the details of amount to be deposited by the complainant time to time as per payment plan opted by the complainant as per Annexure.
- e) That the complainant deposited the required amount as per the payment plan opted by the complainant according to the builder buyer agreement, which was executed between the parties herein on 26.03.2018 following carrying all the details of terms and conditions of the said BBA were compiled by the complainant time to time as well as the respondent company from all the time as and when it was required. After several requests finally the respondent agreed to execute the builder buyer agreement with the complainant and ultimately it was executed on 26.03.2018 vide Vasika No.6496 dated 26.03.2018 registered in the office of Sub Registrar, Kadipur, Gurugram, showing the total sale consideration of Rs.23,83,543/- including of fixtures & fittings, electricity connection charges and other charges and again the respondent assured the complainant that they have taken all necessary sanctions for the completion of aforesaid project.
- f) That as per one of the terms and conditions of the said buyer's agreement dated, 26.03.2018 in para no.5.1 it is clearly mentioned that regarding the possession of the said unit it was agreed and settled that the possession of the said unit/flat shall be handed over to the complainant within a stipulated period of 4 (four) years from the date of approval of building plan or grant of environment clearance (hereinafter referred to as the "Commencement Date" whichever is later). Hence, from the above said clause as mentioned in Buyer Agreement, the respondent company was duly bound to handover the



- physical possession of the above said Unit/flat to the complainant positively up to 26.03.2022 and it was told by the authorized person of respondent that till date they have never delayed the completion of any project they have in their hand.
- g) That on account of not constructing the above said unit within the stipulated period of 4 years, the complainant kept on requesting the respondent company's officials to complete the construction of the said unit/flat as early as possible and handover the peaceful possession of the above said unit/flat. All the times the respondent kept on misguiding and putting forth the complainant on one reason or the others and could not adhere to the terms and conditions as settled and agreed upon between the respondent and the complainant, and that so much so the respondent company failed to handed over the physical possession of the above said unit to the complainant till date.
- h) That, till date the complainant is running from pillar to post to get the physical possession of their unit/flat from the respondent till date but futile as the respondent had failed to complete the said project on the assured time. From the above said acts and misdeeds of the Respondent, it is crystal clear that despite of request of the complainant to give him physical possession of the unit flat, thereby misappropriating the huge hard-earned money of the complainant.
- i) That on account of not completing the construction of the above said unit/flat allotted to the complainant within the stipulated period of 4 years, the complainant has suffered a huge monetary loss besides having sleepless night for the past more than 1 year. The complainant had been burdened by the respondent by paying penal rate of interest to the bank, and the complainant has also suffered with great mental

harassment and humiliation. The act and conduct of the respondent have also snatched the mental peace of the complainant.

- j) That as the respondent failed to discharge to complete and handover the possession of the allotted unit/flat to the complainant within the stipulated time and thus they have cheated the complainant to invest their hard earn money on believing upon their false assurances. The respondent in a master minded and scripted way succeeded to their ulterior motive and cause wrongful losses to the complainant and wrongful gains to themselves. Thus, the respondent has not only breached the trust of the complainant but also in a planned and thoughtful way cheated/defrauded the complainant. The complainant due to their said illegal acts, conduct and misdeeds, suffered mental agony, sorrow, trauma and apathy. The respondent involved in the swindling and embezzlement of funds of not only of the complainant but similarly situated innocent people at large. That due to illegal acts and conducts of the respondent, the complainant had suffered to great mental agony, physical harassment, financial loss, humiliation, hence the respondent is liable to pay the delay possession charges on paid amount to the complainant as per Section 18 of the Act, 2016.

C. Relief sought by the complainant:

4. The complainant has sought following relief(s):
- Direct the respondent to pay the delay possession charges/Interest on paid amount to the complainant;
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 contested the complaint on the following grounds:



- i. That the present complaint, filed by the complainant, is nothing but an afterthought attempt of the complainant to attain undue monetary advantages at the cost of the respondent and a bundle of lies and hence liable to be dismissed as it is filed without any cause of action. It is a pertinent to mention that the present complaint has been filed by the complainant post execution of the conveyance deed way back on 07.06.2023, after more than 2 years.
- ii. That the complainant herein in the year 2017, being in search of an apartment learned about the affordable housing project titled as '**The Millenia**' at Sector 37D, Gurugram being developed by the respondent in terms of the affordable housing policy, 2013. On 14.08.2017, the complainant applied for allotment of a unit in the project of the respondent vide application for allotment, draw of lots held on 27.10.2017 in presence of the officials of DGTPC/DC Gurugram and a unit was allotted vide allotment letter dated 01.11.2017, to the complainant bearing unit no. 6-1108 in Tower/Block-6, having carpet area of 519.229 sq. ft. & balcony area of 79.653 sq. ft. along with the two wheeler parking site and pro-rata share in the common areas.
- iii. That on 26.03.2018, a builder buyer's agreement, was executed for the said unit having a sale price of Rs.21,16,743/- excluding all other charges, taxes etc. as mentioned and agreed by the complainant under the agreement. It is to note, that the said agreement was signed by the complainant voluntarily with free will and consent without any demur. That the complainant had applied for the unit only after the due diligence, verification had been done and after being fully satisfied with the project.
- iv. That as per the provision of Clause 5.1 of the Agreement, the possession of the unit was proposed to be offered by Aug 2021 unless there is a delay or failure due to force majeure events. As per clause 5.1 of the said agreement



the respondent is entitled for an extension of timeline affected due to *force majeure* circumstances.

- v. That the committed date of possession fall at the time of Covid-19 when the entire nation was under lockdown and considering the same the Ministry of Finance (MOF) vide office Memorandum No. F.18/4/2020-PPD, dated 13.05.2020, had considered the period of covid-19 lockdown as force-majeure circumstance and had allowed the parties to the contract with an extension of 6 (six) months period for fulfilling the contractual obligations. Further, the Ministry of Housing and Urban Affairs vide office Memorandum no. O-17024/230/2018-Housing-UD/EFS-9056405, dated 13.05.2020, had considered the said covid-19 situation as force majeure for real estate projects and advised the regulatory authorities to extend the registration date, completion date, revised completion date and extended completion date automatically by 6 (six) months due to outbreak of covid 19.
- vi. Further, the Haryana Real Estate Regulatory Authority at Panchkula upon considering the obstructions/challenges faced by various real estate developers due to second wave of Covid-19, had allowed special extension of 3 months from 01.04.2021 to 30.06.2021, considering the same as force majeure event. Thus, the respondent is entitled for 3 months extension for completion of the project.
- vii. Subsequently, upon removal of the Covid-19 restrictions it took time for the workforce to commute back from their villages, which led to slow progress of the completion of project. Despite, facing shortage in workforce, materials and transportation, the respondent managed to continue with the construction work and completed the project. That the respondent also has to carry out the work of repair in the already constructed building and fixtures as the construction was left abandoned during the period of Covid-19 lockdown.



- viii. That in addition to the abovementioned circumstances, it is also pertinent to mention here that construction of real estate projects in Delhi NCR region was put on halt on various occasions by the various Courts, Authorities etc., to mitigate the adverse effects of the pollution. Due to such ban on construction, the promoter was constrained to halt the development work in compliance of various order which effected the timely completion of the project. The said delay was completely beyond the control of the respondent and thus, the respondent is entitled for extension for such period of delay.
- ix. That Hon'ble Supreme Court vide its order dated 04.11.2019 in the W.P. (Civil) No. 13029/1985 had directed that no demolition and construction activities to take place in Delhi and NCR region. On account of passing of aforesaid order, no construction activity could have been legally carried on by the respondent. Accordingly, construction activity had been completely stopped during this period between **04.11.2019 to 14.02.2020. (Days affected- 55 days)**.
- x. Further, Commission for air quality management (NCR and Adjoining Areas) vide its order dated 16.11.2021 had directed to stop construction and demolition activities in NCR till 21st November, 2021. In compliance with the above-mentioned order, no construction activity could have been legally carried on by the respondent. Accordingly, construction activity had been completely stopped during this period. **Period of Restriction/Prohibition: - 16.11.2021 to 21.11.2021. (Days Affected: - 6)**.
- xi. That due to above unforeseen circumstances and causes beyond the control of the respondent, the development of the project got decelerated. Such delay was neither intentional nor deliberate. It is also submitted that the respondent was bound to adhere with the order and notifications of the Courts and the Government. Also, it is not out of the place to mention here



that the Hon'ble Supreme Court in '**Supertech Ltd. vs. Rajni Goyal, Civil Appeal No. 6649-50 of 2018**', keeping in view the Bans imposed by NGT and other Government Authorities etc., allowed the Promoter for the grace period for completion of construction.

xii. The details of force majeure circumstances and reasons beyond the control of the respondent are highlighted in the table below: -

S. No.	AUTHORITIES/DATE OF ORDER	TITLE	DURATION OF BAN
1.	Environment Pollution (Prevention and Control Authority) order dated 07.11.2017		90 days
2.	Haryana State Pollution Control Board order dated 29.10.2018		01.11.2018 - 10.11.2018 (10 days)
3.	Directions vide Notification DPCC/PA to MS/2018/7919-7945 dated 24.12.2018		3 days
4.	Commissioner, Municipal Corporation, Gurugram order dated 11.10.2019		11.10.2019 - 31.12.2019 81 days
5.	Environment Pollution (Prevention and Control Authority) for NCR order dated 01.11.2019		01.11.2019 - 05.11.2019 5 days
6.	Supreme Court - 04.11.2019 - 14.02.2020	M. C. Mehta Vs. UOI WPC 13029/1985	(55 days)
7.	Covid-19 extension (First Wave)- HRERA, Gurugram / 26.05.2020	Order dated 26.05.2020	6 Months extension
8.	Covid-19 extension (Second Wave) HRERA, Panchkula / 02.08.2021	Extract of the Resolution passed in the meeting dated 02.08.2021,	3 months extension
9.	Commission for Air Quality Management (NCR and Adjoining Areas)/16.11.2021	Order dated 16.11.2021	16.11.2021 to 21.11.2021 (6 days)
10.	a) The Hon'ble Supreme Court vide order dated 24.11.2021 in WP(Civil)/1135/2020 titled as " Aditya Dubey (Minor) & Anr. v. Union of India & Ors. " re-imposed ban on construction activities in NCR until further orders. b) The Hon'ble Supreme Court vide order dated 16.12.2021 in WP(Civil)/1135/2020 titled as " Aditya Dubey (Minor) & Anr. v. Union of India & Ors. " Observed that the Commission for Air Quality Management in NCR and Adjoining	Order dated 24.11.2021 and Order dated 16.12.2021	24.11.2021 to 20.12.2021 (26 days)

R



	Areas shall take the decision on construction ban. Pursuant to which on 20.12.2021, the Commission for Air Quality Management in NCR and Adjoining Areas issued a mandate no. vide F.No. A-110018/01/2021-CAQM/ 5283-2302 permitting the construction activities to resume with immediate effect.		
	a) Commission for Air Quality Management in NCR passed order dated 29.10.2022 under Stage-III of GRAP (Graded Response Action Plan) - 'Severe Air Quality' and stopped all Construction and Demolition activities. b) Vide order dated 14.11.2022 revoked the actions under Stage-IV of GRAP (Graded Response Action Plan) - 'Severe Air Quality' after considering improvement in air quality of Delhi.	Order dated 29.10.2022 and Order dated 14.11.2022	29.10.2022-14.11.2022 (16 Days)
	a) Commission for Air Quality Management in NCR passed order dated 04.12.2022 under Stage-III of GRAP (Graded Response Action Plan) - 'Severe Air Quality' and stopped all Construction and Demolition activities. b) Vide order dated 07.12.2022 revoked the actions under GRAP (Graded Response Action Plan) - 'Severe Air Quality' after considering improvement in air quality of Delhi.	04.12.2022 & 7.12.2022	3 days
	a) Commission for Air Quality Management in NCR passed order dated 30.12.2022 under Stage-III of GRAP (Graded Response Action Plan) - 'Severe Air Quality' and stopped all Construction and Demolition activities. b) Vide order dated 04.01.2023 revoked the actions under of GRAP (Graded Response Action Plan) - 'Severe Air Quality' after considering improvement in air quality of Delhi.	30.12.2022 and 04.01.2023	5 days
	a) Commission for Air Quality Management in NCR passed order dated 06.01.2023 under Stage-III of GRAP (Graded Response Action Plan) - 'Severe Air Quality' and stopped all Construction and	06.01.2023 and 15.01.2023	9 days



	Demolition activities. b) Vide order dated 15.01.2023 revoked the actions under Stage-IV of GRAP (Graded Response Action Plan) - 'Severe Air Quality' after considering improvement in air quality of Delhi.		
TOTAL		1.6 yrs. (approx.)	

- xiii. That the delay caused due to unforeseen circumstances as mentioned above, shall be considered and exempted while determination of the due date to offer possession. That the respondent had carried out its obligations in agreement with utmost diligence. The complaint is not maintainable as the complaint has been filed after taking the peaceful possession.
- xiv. Further, after the completion of the project and receiving the occupancy certificate on 25.01.2023, the possession was offered to the complainant vide offer of possession letter dated 28.03.2023. Thereafter, conveyance deed has been executed on 07.06.2023 and the possession has been taken over by the complainant vide possession letter dated 07.06.2023. Furthermore, in the possession certificate, the complainant has voluntarily waived off his right by himself being satisfied of all the terms and conditions of the agreement.
- xv. That the complainant in total has paid an amount of Rs.23,84,689/- including credit note of Rs. 1,357/-. Further, it is apposite to mention that the complainant has only paid an amount of Rs. 23,05,895/- till the offer of possession. Therefore, the delayed possession charges (if any), be calculated on the amount paid till the offer of possession and the same is evident from the customer ledger.
- xvi. That the project in question has already been completed, occupation certificate was obtained on 25.01.2023, the possession was offered on 28.03.2023, conveyance deed was executed on 07.06.2023 and possession certificate dated 07.06.2023 was issued. Therefore, the project was completed. Moreover, the delay so caused was due to reasons beyond



control and therefore, the respondent shall not be liable for the period wherein construction/development activity affected due to force majeure circumstances or order/direction of the court or State.

7. All other averments made in the complaint were denied in toto.
8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written submissions made by the parties.

E. Jurisdiction of the Authority

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

E. I Territorial jurisdiction

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

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

"Section 11.....

(4) The promoter shall-

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

or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder."

12. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the objections raised by the respondent.

F.1 Objection regarding force majeure conditions.

13. The respondent-promoter raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by the Haryana State Pollution Control Board from 01.11.2018 to 10.11.2018, lockdown due to outbreak of Covid-19 pandemic which further led to shortage of labor, orders passed by National Green Tribunal and other statutory Authorities.
14. The Authority, after careful consideration, finds that in the present case, the project falls under the Affordable Housing Policy, 2013, which contains specific stipulations regarding the completion of the project. As per Clause 1(iv) of the said Policy:

"All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the 'date of commencement of project' for the purpose of this policy. The licenses shall not be renewed beyond the said 4-year period from the date of commencement of project."

15. The respondent/promoter, having applied for the license under the Affordable Housing Policy, was fully aware of these terms and is bound by them. The Authority notes that the construction ban cited by the respondent, was of a short duration and is a recurring annual event, usually implemented by the National Green Tribunal (NGT) in November. These are

known occurring events, and the respondent being a promoter, should have accounted for it during project planning. Hence, all the pleas advanced in this regard are devoid of merits. Further, the respondent has not demonstrated whether it extended any equivalent relief to the allottees during the period of the construction ban. If the respondent did not relax the payment schedules for the allottees, its plea for relief due to delays caused by the construction ban appears unjustified.

16. In accordance with the said policy the respondent was obligated to handover the possession of the allotted unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. In the present case, the date of approval of the building plan is 08.06.2017 and environment clearance is 21.08.2017 as taken from the project details. The due date is calculated from the date of environment clearance being later, so, the due date of subject unit comes out to be 21.08.2021. Further *as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion/due date on or after 25.03.2020*. The completion date of the aforesaid project in which the subject unit is being allotted to the complainant is 21.08.2021 i.e., after 25.03.2020. Therefore, an extension of 6 months is to be given over and above the due date for handing over possession *in view of notification no. 9/3-2020 dated 26.05.2020*, on account of force majeure conditions due to the outbreak of Covid-19 pandemic. So, in such a case the due date for handing over of possession comes out to 21.02.2022. Granting any other additional relaxation would undermine the objectives of the said policy. Further no interest shall be charged from complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

G. Findings on the relief sought by the complainant.





G. I Direct the respondent to pay the delay possession charges/Interest on paid amount to the complainant.

17. In the present complaint, the complainant intends to continue with the project and is 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."

18. Clause 5.1 of the buyer's agreement (in short, the agreement) provides the time period for handing over possession and the same is reproduced below:

"5.1 Within 60 (sixty) days from the date of issuance of Occupation Certificate, the Developer shall offer the possession of the Said Flat to the Allottee(s). Subject to force majeure circumstances, receipt of Occupation Certificate and Allottee(s) having timely complied with all its obligations, formalities or documentation, as prescribed by the Developer in terms of the Agreement and not being in default under any part hereof including but not limited to the timely payment of instalments as per the Payment Plan, stamp duty and registration charges, the Developer shall offer possession of the Said Flat to the Allottee(s) within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later."

19. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement, and the complainant not being in default under any provisions of this agreement and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so heavily loaded in favor of the promoter and against the allottees that even a single default by him in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the

commitment time period for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottees of their right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such one-sided clause in the agreement and the allottees is left with no option but to sign on the dotted lines.

20. **Due date of handing over possession:** As per clause 5.1 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. As detailed hereinabove, the authority in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic has allowed the grace period of 6 months to the promoter. Therefore, the due date of handing over possession comes out to be 21.02.2022.
21. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. As per proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoters, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules, *ibid.* 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.

22. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid* 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.
23. 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., 05.02.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
24. The definition of term 'interest' as defined under Section 2(z a) 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;"
25. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to them in case of delayed possession charges.
26. 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. By virtue of clause 5.1 of the buyer's agreement executed between the parties, the possession of the subject apartment was to be delivered within a period of four years from the date of approval of building plan or from the date of grant of environment clearance, whichever is later. As such the due date of handing over of possession comes out to be 21.02.2022 including grace period of 6 months on account of COVID-19. However, no interest shall be charged from the complainants in case of delayed payment during this 6-month COVID-19 period from 25.03.2020 to 25.09.2020.

27. 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 25.01.2023. The respondent has offered the possession of the subject unit(s) to the respective complainant after obtaining occupation certificate from competent authority. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 months' 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 the fact that the unit being handed over at the time of taking possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 21.02.2022 till the expiry of 2 months from the date of offer of possession, (28.03.2023) plus two months i.e., up to 28.05.2023 or actual handing over of possession, whichever is earlier.

28. Accordingly, it is the failure of the promoter to fulfil its obligations and responsibilities as per the apartment 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 proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 21.02.2022 till offer of possession (28.03.2023) plus two months i.e., up to 28.05.2023 or actual handing over of possession, whichever is earlier, at the prescribed rate i.e., 10.80% p.a. as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*.

H. Directions of the authority

29. 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 delayed possession charges at the prescribed rate of interest i.e., 10.80% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due date of possession 21.02.2022 till offer of possession 28.03.2023 plus two months i.e., up to 28.05.2023 or actual handing over of possession, whichever is earlier, as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, *ibid*. The respondent is directed to pay arrears of interest accrued so far within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*.
- II. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.



Further no interest shall be charged from complainant-allottee for delay if any between 6 months Covid period from 01.03.2020 to 01.09.2020.

III. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement and the provisions of Affordable Group Housing Policy of 2013.

30. Complaint as well as applications, if any, stand disposed off accordingly.

31. File be consigned to registry.

Dated: 05.02.2026




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

HARERA
GURUGRAM