

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

**Complaint no.:** 3903 of 2025  
**Complaint filed on:** 12.08.2025  
**Date of decision:** 22.01.2026

Mr. Ajay Kumar Dalmia

**Resident of:** - House No. 32, Southern Avenue,  
Kolkata, West Bengal- 700029

**Complainant**

Versus

1. M/s Supertech Limited
2. M/S Sarv Realtors Pvt. Ltd.

**All having Regd. office:** 1114, 11th floor, Hemkunt  
Chambers, 89, Nehru Place, New Delhi-110019

**Respondents**

**CORAM:**

Shri Phool Singh Saini

**Member**

**APPEARANCE:**

Shri Gaurav Bhardwaj (Advocate)  
Shri Bhriagu Dhami (Advocate)  
Shri Dushyant Tewatia (Advocate)

**Complainant**  
**Respondent no. 1**  
**Respondent no. 2**

**ORDER**

1. That the present complaint has been filed by the complainant/allottee under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter se parties.



**A. Project and unit related details**

2. The particulars of the project, the details of 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	"Supertech Hues" Sector-68, Gurugram
2.	Nature of the project	Residential Colony
3.	DTCP license no.	106 and 107 of 2013 dated 26.10.2013 valid up to 25.12.2017 for 13.74 acres 89 of 2014 dated 08.08.2014 valid up to 07.08.2024 for 10.25 acres 134-136 of 2014 dated 26.08.2014 valid up to 25.08.2024 for 4.85 acres
4.	HRERA Registered or not registered	Registered Registration no. 182 of 2017 dated 04.09.2017 valid up to 31.12.2021 [Hues towers A, B, E, F, G, H, M, N, K, T, V, V, W, O, P, C and D]
5.	Unit no.	0302, 3 <sup>rd</sup> floor, in Tower-A/A (Page no. 42 of complaint)
	Area admeasuring	1180 sq. ft. (super area) (Page no. 42 of complaint)
6.	Date of builder buyer agreement	22.12.2017 (Page no. 41 of complaint)
7.	Possession clause	<b><i>E. 23. Possession of Unit</i></b> <b><i>The possession of the Unit shall be given by JUNE, 2019 or extended period as</i></b>

		<p><i>permitted by the agreement. However, the company hereby agrees to compensate the Allottee/s @ Rs.5.00/- (Five rupees Only) per sq. ft. of super area of the unit per month for any delay in handing over possession of the unit beyond the given period plus the grace period of 6 months and up to the Offer Letter of possession or actual physical possession whichever is earlier. ....</i></p> <p style="text-align: right;"><b>(Emphasis supplied)</b></p>
8.	Due date of possession	30.12.2019 (As per possession clause 30.06.2019 + unqualified grace period of 6 months)
9.	Total sale consideration	Rs.11,80,073/- (As per cost of unit mentioned in the BBA at page no. 42 of complaint)
10.	Total amount paid by the complainant	Rs.13,27,629/- (As alleged by the complainant at page 7 of complaint)
11.	Occupation certificate	Not obtained
12.	Offer of possession	Not offered

**B. Facts of the complaint**

3. The complainant has made the following submissions in the complaint: -
- a) That somewhere around 2015-16, the respondent advertised about its new project namely "Supertech HUES", located at Revenue estate, Village Badshahpur, Sector 68, Gurugram, Haryana 122001. The said Respondent painted a rosy picture of the project in their advertisement making tall claims



and representing that the project will be a picture-perfect home located inside its glorious project 'Supertech HUES' and is an abode with excellent amenities in the ethereal vicinity of Gurgaon which shares entertainment center, excellent healthcare facilities and reputed educational institutes. The said project aimed at providing Lush green spaces, Energy efficient living, environmentally friendly living, Sports facilities, designed by Aedas, Singapore, well-connected to Golf Course Extension Road, 30 Minutes from IGI Airport, Luxury club house, Laundromat & Concierge Services, Wi-Fi enabled complex, Iconic towers being planned up-to 55 storey (180M), Grand entry level interiors, High speed elevators and Power back-up etc.

- b) That believing the false assurances and misleading representations of the respondent and relying on the goodwill of the respondent companies, the complainant booked an apartment in the said project of the respondent company by making a payment of Rs.12,00,000/- via instrument bearing no. 006325 dated 01.11.2017 towards said booking.
- c) That thereafter, a builder buyer agreement dated 22.12.2017 was executed between the complainant and respondent wherein a residential apartment/flat (2BHK + 2 Toilet) bearing no. R0380A00302/FLAT #0302 located on 3rd floor and ad-measuring a super area of 1180 sq. ft. was allotted to the complainant. The said agreement entailed all the terms and conditions relevant to the sale.
- d) It is pertinent to mention here that the booking was made under construction linked plan. The complainant made a total payment of Rs.13,27,629/- by paying an amount of Rs.28,848/- vide inst. bearing no. 291785 dated 12.08.2022, Rs.41,300/- vide inst. bearing no. 291784 dated 12.08.2022, Rs.58,481/- vide inst. bearing no. 291783 dated 16.08.2022 as



against the basic sale price of Rs. 11,80,073/- before taking possession of the unit in question.

- e) That to add to the misery of the complainant, when he visited the project site in 2020, he was stunned to see that the project is not even 20% completed and not even a single worker was present at the project site. Rather, the project was still in the initial stage of construction despite almost 2.5 years being elapsed from the date of booking. Upon this, the complainant approached the Respondent but they assured him that construction shall be resumed at full pace soon and the project shall be handed over on time and as per schedule.
- f) That the complainant kept making calls and sending e-mails and also visiting the respondent's office in order to pursue them to deliver the possession of the unit, but the latter kept delaying it on one pretext or the other. The situation got further worsened by snail paced construction work at the project site which was brought to a complete standstill also several times. However, upon approaching the Respondent, its representatives would falsely assure that still time was level for due date to expire and construction would be resumed soon at full pace.
- g) That further, as per the buyer's agreement dated 22.12.2017, the possession was to be handed over by June, 2019 + 6 months grace period, i.e. by December, 2019 but the respondent miserably failed to construct the unit and project in question. The respondent not only betrayed the complainant by not delivering the possession but also failed to construct the unit in question.
- h) That the respondent has been caught in a web of his own lies which is clearly evident from the fact that vide construction progress shared by the



respondent in January' 2022, it was clearly mentioned that the unit in question was in progress and nowhere nearing possession. This shows that the respondent had been befouling the complainant right from day one as the unit was still nowhere nearing completion and without any prejudice to the complainant, even if for the sake of arguments, it is presumed that the unit is completed by the respondent in near future, without a complete project, one cannot be expected to live in a forest with few erected buildings.

- i) That in 2023, the complainant visited the project site to ascertain the construction status of the unit in question and was taken aback to observe that, although the structural construction of the said unit appeared to be completed, the essential and basic amenities, as enumerated in the brochure and agreed upon in the buyer's agreement, were conspicuously absent. Upon noticing this, the complainant, acting in good faith and in reliance upon the representations made by the respondent company, requested that possession of the unit be handed over. Consequently, the respondent company handed over possession of the said unit on 12.03.2023. Thereafter, the complainant has made persistent and earnest efforts to persuade the respondent company to fulfill its obligations by completing the unit in accordance with the terms and conditions stipulated in the BBA and the representations made in the brochure. Despite repeated requests, follow-ups, and assurances, the respondent company has, till date, failed and neglected to provide the basic amenities and complete the unit as promised, thereby causing immense hardship, inconvenience, and mental agony to the complainant.
- j) That the period from booking till execution of BBA and even after that, the complainant showed utmost faith in the respondent company despite a few



lapses and misconduct on the part of latter like incorporating one-sided and unfair clauses in the agreement like stark contrast between the delayed payment to be sought from the buyer and delayed possession charges to be paid by the builder upon delay in handing over possession etc. however the Respondent miserably failed to honor its commitments and fulfill the representations made.

- k) That the complainant has been severely exploited at the hands of the builder/respondent. The aforesaid series of events clearly portray the amount of harassment and mental agony the complainant have gone through right from the date of booking in 2017 till date and also did not honor to its commitments thereby duping the complainant of his hard-earned money and causing him a great mental trauma.
- l) That the complainant and his family have been subjected to great mental trauma owing to the misconduct of the respondent. The complainant had booked the unit in question with great hope that he along with his family will have a safe home of their own. Had the respondent abide by his commitments as per agreement dated 22.12.2017, the complainant would have got possession of his own home in 2019 itself.
- m) That the present complaint has been filed in order to seek delayed possession charges on the principal amount of Rs.13,27,629/- paid by the complainant along with interest at the rate prescribed under the Act, 2016 and the Rules, 2017 from the due date of possession, along with other reliefs mentioned herein below. Hence, this complaint.
- n) The complainant also reserves their right to file separate complaint for compensation as and when required before the appropriate forum/ authority.



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

4. The complainant has sought following relief(s):
  - I. Direct the respondent to pay delayed possession charges to the complainant on the principal amount of Rs.13,27,629/- paid by the complainant, from the due date of possession till the date of actual handing over.
  - II. Direct the respondent to obtain occupation certificate and provide basic amenities.
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 no. 2**

6. The respondent no. 2 has contested the complaint on the following grounds:-
  - a) That the respondent was issued license bearing no's 106 and 107 dated 26.12.2013 and license nos. 135 and 136 of 2014 dated 26.08.2014 for developing the said land. In furtherance of the same, the respondent and M/s. Supertech Ltd. had entered into two joint development agreements dated 25.04.2014 and 26.08.2014 respectively.
  - b) Consequentially, after fully understanding the various contractual stipulations and payment plans for the said unit, the complainant executed the buyer developer agreement dated 22.12.2017 with M/s Supertech Limited only for a unit bearing number 0302, 3<sup>rd</sup> floor, Tower- A, having a super area of 1180 sq. ft. (approx.) for a total consideration of Rs.11,80,073/- exclusive of applicable charges and taxes.
  - c) That the Authority vide order dated 29.11.2019 passed in Suo Moto complaint no 5802/2019 had passed certain directions with respect to the transfer of assets and liabilities in the said projects namely "**Hues & Azalia**",



to the respondent (**M/s SARV Realtors Pvt.) Ltd.** and M/s. DSC Estate Developer Pvt. Ltd. respectively. The Authority had further directed that M/s. Sarv Realtors Pvt. Ltd. and M/s. DSC Estate Developer Pvt. Ltd. be brought on as the promoter in the project instead of M/s. Supertech Ltd. certain important directions as passed by this Hon'ble Authority are as under:

- The registration of the project "Hues" and "Azalia" be rectified and Sarv Realtors Pvt. Ltd./DSC and others, as the case may be, be registered as promoters.
  - All the assets and liabilities including customer receipts and project loans of whatsoever nature, the project HUES and Azalia, in the name of Supertech Ltd. be shifted to Sarv Realtors Pvt. Ltd/ DSC and others. ***However, even after the rectification, Superech Ltd. will continue to remain jointly responsible for the units marketed and sold by it and shall be severally responsible if Sarv Realtors Pvt. Ltd./DSC and others fail to discharge its obligations towards the allottees.***
- d) That in lieu of the said directions passed by the Authority all asset and liabilities have been since transferred in the name of the respondent company. However, in terms of the said order, M/s. Supertech Ltd. still remains jointly and severally liable towards the booking/allotment undertaken by it before the passing of the said Suo Moto order.
- e) That thereafter the said JDA's were cancelled by the consent of both parties vide cancellation agreement dated 03.10.2019 and the respondent from there on took responsibly to develop the project and started marketing and allotting new units under its name.



- f) That in terms of the said cancellation agreement the respondent no. 1 and M/s. Supertech Ltd. had agreed that as M/s. Supertech Ltd. was not able to complete and develop the project as per the timeline given by the Authority and DTCP, therefore the parties had decided to cancel the JDA's vide the said cancellation agreement.
- g) In the interregnum, the pandemic of covid 19 has gripped the entire nation since March of 2020. The Government of India has itself categorized the said event as a 'Force Majeure' condition, which automatically extends the timeline of handing over possession of the apartment to the complainant.
- h) That the present complaint further deems to be prima facie dismissed or adjourned sine die as respondent no.1, i.e., M/s Supertech Ltd. is undergoing corporate insolvency resolution process and thus, all the matters like the present one in which M/s. Supertech Ltd. is a party deem to adjourned sine die or dismissed in lieu of the moratorium imposed upon M/s. Supertech Ltd. under section 14 of the IBC, 2016.
- i) That as M/s. Supertech Ltd. and the respondent no. 2 are jointly and severally liable in terms of the Suo Moto Order passed by this Authority for the project in question, thus the present matter cannot proceed further until the said liability qua the allottees is not bifurcated between the respondent no.2 and M/s. Supertech Ltd. The respondent no. 2 cannot be made wholly liable for allotments undertaken and monies/sale consideration received by M/s. Supertech Ltd.
- j) That the complaint filed by the complainant is not maintainable in the present form and is filed on the false and frivolous grounds. The bare reading of the complaint does not disclose any cause of action in favor of the complainant.



k) Despite the best efforts of the respondent to handover timely possession of the residential unit booked by the complainant herein, the respondent could not do so due to certain limitations, reasons and circumstances beyond the control of the respondent. Apart from the defaults on the part of the allottees, like the complainant herein, the delay in completion of project was on account of the following reasons/circumstances like:

- i. Implementation of social schemes like National Rural Employment Guarantee Act ("NREGA") and Jawaharlal Nehru National Urban Renewal Mission ("JNNURM"), there was a significant shortage of labour/ workforce in the real estate market as the available labour had to return to their respective states due to guaranteed employment by the Central/ State Government under NREGA and JNNURM Schemes. This created a further shortage of labour force in the NCR region. Large numbers of real estate projects, including that of the Answering Respondent herein, fell behind on their construction schedules for this reason amongst others. The said fact can be substantiated by newspaper articles elaborating on the above-mentioned issue of shortage of labour which was hampering the construction projects in the NCR region. This certainly was an unforeseen one that could neither have been anticipated nor prepared for by the Respondent while scheduling their construction activities.
- ii. That such acute shortage of labour, water and other raw materials or the additional permits, licenses, sanctions by different departments were not in control of the respondent and were not at



all foreseeable at the time of launching of the project and commencement of construction of the complex.

That the intention of the force majeure clause is to save the performing party from the consequences of anything over which he has no control. Thus, in light of the aforementioned it is most respectfully submitted that the delay in construction, if any, is attributable to reasons beyond the control of the respondent and as such the respondent may be granted reasonable extension in terms of the allotment letter.

- l) Anent to the above, it is public knowledge, and several Courts and quasi-judicial forums have taken cognizance of the devastating impact of the Demonetization of the Indian economy, on the real estate sector. The real estate sector, is highly dependent on cash flow, especially with respect to payments made to labourers and contractors. The advent of demonetization led to systemic operational hindrances in the real estate sector, whereby the Answering Respondent could not effectively undertake construction of the project for a period of 4-6 months. Unfortunately, the real estate sector is still reeling from the aftereffects of demonetization, which caused a delay in the completion of the project. The said delay would be well within the definition of 'Force Majeure', thereby extending the time period for completion of the project.
- m) That the complainant has not come with clean hands before this Forum and have suppressed the true and material facts from this Forum. It would be apposite to note that the Complainant is a mere speculative investor who has no interest in taking possession of the apartment.
- n) That the project "HUES" is registered under the Haryana Real Estate Regulatory Authority vide registration certificate no. 182 of 2017 dated



04.09.2017. The Authority had issued the said certificate which is valid for a period commencing from 04.09.2017 to 31.12.2021.

- o) That the possession of the said premises was proposed to be delivered by the respondent to the Complainant by June 2019 with an extended grace period of 6 months which comes to an end by December, 2019. The completion of the building is delayed by reason of non-availability of steel and/or cement or other building materials and/ or water supply or electric power and/ or slow down strike as well as insufficiency of labor force which is beyond the control of respondent and if non-delivery of possession is as a result of any act and in the aforesaid events, the respondent shall be liable for a reasonable extension of time for delivery of possession of the said premises as per terms of the agreement executed by the complainant and the respondent. The respondent and its officials are trying to complete the said project as soon as possible and there is no malafide intention of the respondent to get the delivery of project, delayed, to the allottees. It is also pertinent to mention here that due to orders also passed by the Environment Pollution (Prevention & Control) Authority, the construction was I has been stopped for a considerable period of days due to high rise in Pollution in Delhi NCR.
- p) That the enactment of RERA Act is to provide housing facilities with modern development infrastructure and amenities to the allottees and to protect the interest of allottees in the real estate sector market. The main intention of the Answering Respondent is just to complete the project within stipulated time submitted before the HRERA Authority. According to the terms of agreement also it is mentioned that all the amount of delay possession will be completely paid/ adjusted to the complainant at the time of final





settlement on slab of offer of possession. That when the parties have contracted and limited their liabilities, they are bound by the same, and relief beyond the same could not be granted.

- q) Further, compounding all these extraneous considerations, the Hon'ble Supreme Court vide order dated 04.11.2019, imposed a blanket stay on all construction activity in the Delhi- NCR region. It would be apposite to note that the "HUES" project of the respondent was under the ambit of the stay order, and accordingly, there was next to no construction activity for a considerable period. Similar stay orders have been passed during winter period in the preceding years as well, i.e., 2017-2018 and 2018-2019. A complete ban on construction activity at site invariably results in a long-term halt in construction activities. As with a complete ban the concerned labor is let off and the said travel to their native villages or look for work in other states, the resumption of work at site becomes a slow process and a steady pace of construction is realized after long period of time.
- r) That Graded Response Action Plan targeting key sources of pollution has been implemented during the winters of 2017-18 and 2018-19, these short-term measures during smog episodes include shutting down power plant, industrial units, ban on construction, ban on brick kilns, action on waste burning and construction, mechanized cleaning of road dust, etc. This also includes limited application of odd and even scheme.
- s) Unfortunately, circumstances have worsened for the respondent and the real estate sector in general. The pandemic of Covid 19 has had devastating effect on the world-wide economy. However, unlike the agricultural and tertiary sector, the industrial sector has been severally hit by the pandemic. The real estate sector is primarily dependent on its labour force and

consequentially the speed of construction. Due to government-imposed lockdowns, there has been a complete stoppage on all construction activities in the NCR Area till July, 2020. In fact, the entire labour force employed by the respondent was forced to return to their home towns, leaving a severe paucity of labour. Till date, there is shortage of labour, and as such the respondent has not been able to employ the requisite labour necessary for completion of its projects. The Hon'ble Supreme Court in the seminal case of Gajendra Sharma v. UOI & Ors, as well Credai MCHI & Anr. v. UOI & Ors, has taken cognizance of the devastating conditions of the real estate sector, and has directed the UOI to come up with a comprehensive sector specific policy for the real estate sector. In view of the same, it is most humbly submitted that the pandemic is clearly a 'Force Majeure' event, which automatically extends the timeline for handing over possession of the apartment.

7. No reply has been submitted by respondent no. 1. However, counsel for respondent no. 1 has stated that respondent no. 1 is under CIRP vide order dated 25.03.2022 passed by Hon'ble NCLT New Delhi Bench in case no. IB-204/ND/2021 titled as *Union Bank of India Versus M/s Supertech Limited* and moratorium has been imposed against respondent no. 1 company under section 14 of the IBC, 2016. Therefore, no proceedings may continue against respondent no. 1.
8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission 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 complete territorial jurisdiction to deal with the present complaint.

**E.II Subject matter jurisdiction**

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

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



**F. Findings on objections raised by the respondent:****F.1 Objections regarding force majeure.**

13. The respondent-promoter alleged that grace period on account of force majeure conditions be allowed to it. It raised the contention that the construction of the project was delayed due to force majeure conditions such as demonetization, and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the Covid-19, pandemic among others, but all the pleas advanced in this regard are devoid of merit. The flat buyer's agreement was executed between the parties on 22.12.2017 and as per terms and conditions of the said agreement the due date of handing over of possession comes out to be June 2019, which was prior to the effect of Covid-19 on above project could happen. The Authority put reliance judgment of Hon'ble Delhi High Court in case titled as *M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and IAs 3696-3697/2020* dated 29.05.2020 which has observed that-

*"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before the outbreak itself."*

14. But all the pleas advanced in this regard are devoid of merit. Therefore, it is nothing but obvious that the project of the respondent was already delayed, and no extension can be given to the respondent in this regard. The events taking place such as restriction on construction were for a shorter period of time and are yearly one and do not impact on the project being developed by the respondent. Though some allottee may not be regular in paying the amount due but the interest of all the stakeholders concerned with the said project cannot be put on hold due to fault of some of the allottees. Moreover, the respondent



promoter has already been given 6 months grace period being unqualified to take case of unforeseen eventualities. Therefore, no further grace period is warranted in account of Covid-19. Thus, the promoter/respondent cannot be given any leniency based on aforesaid reasons and the plea advanced in this regard is untenable.

15. In view of the above, the Authority allows 6 months grace period on account of force majeure is being granted in this regard and thus, no period over and above grace period of 6 months can be given to the respondent/promoter.

**F. II Objection regarding CIRP against "Supertech Ltd." and consequent moratorium against proceedings against "Supertech Ltd."**

16. The respondent has stated that vide order dated 25.03.2022 passed by the Hon'ble NCLT, New Delhi Bench in case titled as "Union Bank of India Versus M/s Supertech Limited", the Hon'ble NCLT has initiated CIRP against "Supertech Limited" and imposed moratorium under Section 14 of the IBC, 2016. The Authority observes that the said project in question is no longer the asset of "Supertech Limited" and admittedly, respondent has taken over all assets and liabilities of the project in question in compliance of the direction passed by this Authority vide detailed order dated 29.11.2019 in Suo-Moto complaint HARERA/GGM/ 5802/2019. Respondent has stated that the MDA was cancelled by consent of "Supertech Limited" and respondent vide cancellation agreement dated 03.10.2019. Thereon, respondent i.e., "SARV Realtors Pvt. Ltd." admittedly took responsibility to develop the project and started marketing and allotting new units under its name. In view of the above, respondent remains squarely responsible for the performance of the obligations of promoter in the present matter. So far as the issue of moratorium is concerned, the projects Hues & Azalia stand excluded from the CIRP in terms of affidavit dated 19.04.2024 filed by SH. Hitesh Goel, IRP for M/s Supertech



Limited. However, it has been clarified that the corporate debtor i.e., Supertech Limited remains under moratorium. Therefore, even though the Authority had held in the Suo-Moto proceedings dated 29.11.2019 that Supertech Limited & SARV Realtors Pvt. Ltd were jointly and severally liable for the project, no orders can be passed against Supertech Ltd. in the matter at this stage.

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

**G.1 Direct the respondent to pay delayed possession charges to the complainant on the principal amount of Rs.13,27,629/- paid by the complainant, from the due date of possession till the date of actual handing over.**

17. In the present matter the complainants were allotted unit no. 0302, 3<sup>rd</sup> floor, in Tower- A, admeasuring 1180 sq. ft. in the project "Supertech Hues" situated at Sector 68, Gurugram by the respondent-builder for a sale consideration of Rs.11,80,073/- and he has paid a sum of Rs.13,27,629/- against the allotment of the said unit.
18. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by them as provided under the proviso to Section 18(1) of the Act, which 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."*

*(Emphasis supplied)*

19. Clause E (23) of the buyer's agreement talks about handing over the possession of the unit to the complainants, the relevant portion is reproduced as under: -

*"E. POSSESSION OF UNIT: -*



24. *The possession of the unit shall be given by June 2019 or extended period as permitted by the agreement. However, the company hereby agrees to compensate the Buyer(s) @ Rs.5.00/- per sq. ft. of super area of the unit per month for any delay in handing over possession of the unit beyond the given period plus the grace period of 6 months and up to the offer letter of possession or actual physical possession whichever is earlier, to cover any unforeseen circumstances....."*

*[Emphasis Supplied]*

20. **Due date of handing over of possession and admissibility of grace period:**

As per clause E (23) of the buyer developer agreement, the possession of the allotted unit was supposed to be offered by the June 2019 with a grace period of 6(six) months. Since in the present matter the BBA incorporates unqualified reason for grace period/extended period of 6 months in the possession clause accordingly, the grace period of 6 months is allowed to the promoter being unqualified. Therefore, the due date of possession comes out to be December 2019.

21. **Admissibility of delay possession charges at prescribed rate of interest:**

The complainant is seeking delay possession charges at the prescribed rate of interest. Proviso to Section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules, *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., 22.01.2026 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(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

***"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.***

*Explanation. — For the purpose of this clause—*

- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

25. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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 BBA, the possession of the subject unit was to be



delivered within stipulated time i.e., by June, 2019. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over of possession was December 2019. The respondent has failed to handover possession of the subject unit till date of this order. Accordingly, it is the failure of the respondent to fulfil its obligations and responsibilities as per the agreement to handover the possession within the stipulated period. The Authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement dated 22.12.2017 executed between the parties. Further no OC/part OC has been granted to the project.

26. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid by the promoter interest for every month of delay from the due date of possession i.e., December 2019 till the date of valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier; at 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*.
27. 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 favour of the complainants. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, there is nothing on the record to show that the said respondent has applied for Occupation Certificate or what is the status of the completion of development of the above-mentioned project. In view of the



above, the respondent no.2 is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining Occupation Certificate from the competent authority.

**G. II Direct the respondent to obtain occupation certificate and provide basic amenities.**

28. The respondent/promoter is legally bound to meet the pre-requisites for obtaining occupation certificate from the competent Authority. It is unsatisfied that even after the lapse of more than 6 years from the due date of possession the respondent has failed to complete the construction and apply for OC to the competent authority. The promoter is duty bound to obtain OC and hand over possession as per agreed terms and condition of the byer's agreement only even after obtaining occupation certificate.

**H. Directions of the authority**

29. Hence, the authority hereby passes this order and issue the following directions under Section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:
- I. The respondent no. 2 (M/s Sarv Realtors Private Limited) is directed to pay interest at the prescribed rate of 10.80% p.a. for every month of delay from due date of possession i.e., December 2019 till the date of valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier; at 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, 2017.



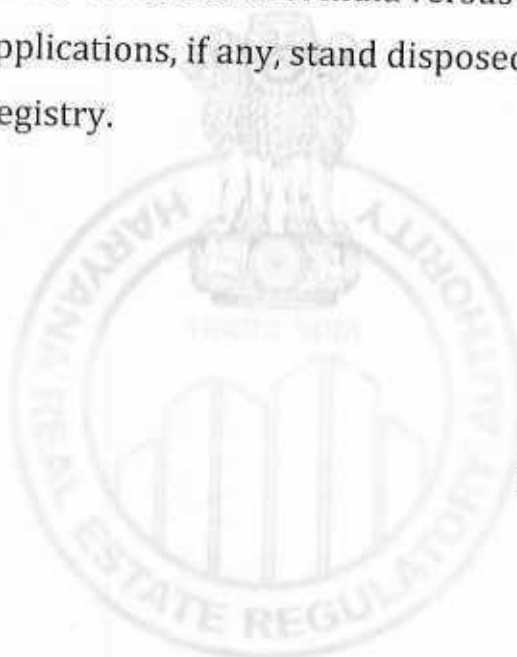
- II. The arrears of such interest accrued from due date of possession till the date of this order by the authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to allottee(s) before 10<sup>th</sup> of the subsequent month as per Rule 16(2) of the Rules *ibid*.
- III. The respondent no. 2 is directed to issue a revised statement of account after adjustment of delayed possession charges, within a period of 30 days from the date of this order. The complainant is directed to pay outstanding dues, after adjustment of delay possession charges within a period of next 30 days.
- IV. The respondent no. 2 is directed to hand over the actual physical possession of the unit to the complainants within 2 months after obtaining occupation certificate from the competent authority. The complainant w.r.t. obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupancy certificate.
- V. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act, 2016.
- VI. The respondent no. 2 is directed to execute the registered conveyance deed in terms of Section 17 (1) of the Act of 2016 within a period of 90 days after payment of requisite stamp duty and administrative charges by the complainant.
- VII. The respondent no. 2 shall not charge anything from the complainants which is not the part of buyer's developer agreement. The respondent no. 2 is



debarred from claiming holding charges from the complainants /allottees at any point of time even after being part of apartment buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal no. 3864-3899/2020 decided on 14.12.2020.

- VIII. No directions are being passed in the matter qua "M/s Supertech Limited" in view of the moratorium imposed under Section 14 of the IBC in NCLT case IB-204/ND/2021 titled "Union Bank of India versus M/s Supertech Limited".
30. Complaint as well as applications, if any, stand disposed of accordingly.
31. Files be consigned to registry.

**Dated: 22.01.2026**



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

**HARERA**  
**GURUGRAM**