

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

Complaint no. : 3118 of 2025
Date of filing : 26.06.2025
Date of Decision : 13.02.2026

Sanjeev Kumar Sharma

R/o: C-39, 2nd Floor, Back Side, Anoop Nagar, Binda
Pur, Uttam Nagar, West Delhi, Delhi-110059

Complainant

Versus

M/s JMS Buildtech Private Limited

Address: - Plot no. 10, 3rd Floor, Sector-44, Gurugram

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Jaswant Kataria (Advocate)

Sh. Ravinder Singh Kinha (Advocate)

Complainant

Respondent

ORDER

1. The present complaint dated 26.06.2025 has been filed by the complainant/allottee in Form CRA 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 to the allottees as per the agreement for sale executed inter se them.

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. N.	Particulars	Details
1.	Name of the project	"Marine Square", Sector- 102, Gurugram
2.	Nature of project	Commercial Complex
3.	RERA registered/not registered	Registered vide registration no. 22 of 2018 dated 02.02.2018
	Validity status	02.02.2023 Extension vide extension no. 12 of 2024 dated 28.06.2024 valid upto 02.08.2024
	registered area	2 acres
4.	DTCP License no.	99 of 2014 dated 13.08.2014 Valid upto 12.08.2026
5.	Unit no.	72, 1 st floor [page 31 of complaint]
6.	Unit area admeasuring	107.85 sq. ft. (carpet area) 132.90 sq. ft. (covered area) [page 31 of complaint]
7.	Allotment letter in favour of complainant and his wife	06.08.2018 (page no. 17 of reply)
8.	Buyer's agreement solely with complainant as his wife's share is transferred in his favour	18.11.2019 (page no. 27 of complaint)

9.	MOU	Signed but not executed and undated. (Page no. 19 of complaint)
10.	Possession clause	7. Possession of the Unit 7.1 Schedule for possession off the said unit The Promoter assures to offer the possession of the Unit as per agreed terms and conditions on or before time granted under the registration by the HRERA or such extension thereof as extended by HRERA unless there is delay due to " <i>Force Majeure</i> ", which shall mean all such circumstances or factors not in control of the Promoter, including, but not limited to, shortage of materials, inflation.....
11.	Due date of possession	02.08.2023 [as per possession clause + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020]
12.	Total sale consideration	Rs.28,57,463/- (as per payment plan at page no. 66 of complaint)
13.	Amount paid by the complainant	Rs.29,00,837/- (as per SOA at page no. 19 of complaint)
14.	Occupation certificate	27.12.2024 (Page no. 102 of reply)
15.	Offer of possession	Not offered
16.	Assured return paid by respondent	Rs. 11,09,775/- till 2023

B. Facts of the complaint

3. The complainant has made the following submissions in their complaint:
- I. That the complainant along with his wife Late Smt. Ajita Sharma booked a unit. Later wife of the complainant died on dated 14.02.2019 and the unit in question was transferred in the name of the complainant on dated 18.11.2019 booked a unit on dated 28.06.2018.
 - II. In this way, the complainant has paid to the respondent Rs. 29,00,837/-. That the complainant was on dated 21.10.2019 allotted a unit/shop bearing no. FF072, 1st floor having a total carpet area 107.85 sq. ft. and covered area 132.90 sq. ft. in the project "Marine Square" at Village Sector 102, Gurugram - 122006. The unit in question was offered for a total sales consideration to the tune of Rs. 28,57,463/- including GST and PLC, EDC, IDC, IAC etc.
 - III. That the complainant has paid Rs. 29,00,837/- i.e. 101.52% of the total sale consideration i.e., Rs. 28,57,463/- including GST and PLC, EDC, IDC, IAC etc.
 - IV. That complainant on dated 18.12.2019 get entered into a buyer's agreement hereinafter referred to as "the agreement". At the time of booking or even at the time of allotment, the respondent promised and assured the complainant that the possession of the said unit will be handed over within a period of 36 months from the date application i.e. 28.06.2018. Hence, the date of possession was 28.06.2021 as per the promise and assurance of the respondent. But the respondent cleverly did not mention the date of possession in the agreement. That as per assurances and promise of the respondent, the possession of the unit in question was to be handed over within 36 Months from the date of allotment letter i.e. the date of possession was 03.06.2023 per

assurances and promise of the respondent.

- V. That at the time of application for allotment, the respondent also promised and assured the complainant to provide assured return. The respondent has not paid assured return cheque of Rs. 21,109/- dated 15.05.2021 and 15.06.2021 amounting to Rs. 42,218/-. The respondent has not paid assured return from 15.07.2022 at the rate Rs. 21,110/- per month till date to the tune of Rs. 7,38,850/-. Hence, total assured return is not paid by the respondent to the tune of Rs. 7,81,068/- (42,218+7,38,850) to the complainant. That the complainant kept on requesting for the payment for outstanding assured return, through email and the respondent also promised and assured for the same but the respondent kept the complainant in dark by making false promises and assurance to pay the unpaid assured return till date. The complainant also requested the respondent for possession and delayed possession charges.
- VI. That complainant has paid Rs. 29,00,837/- i.e. 101.52% of the total sale consideration i.e., Rs. 28,57,463/- including GST and PLC, EDC, IDC, IAC etc. to the respondent but the respondent kept the complainant in dark did not inform the complainant in time about the progress of the project.
- VII. That when the respondent did not hand over the possession of the unit in question till date.
- VIII. That the respondent thus failed to hand over the possession of the unit on or before the due date of possession i.e. 28.06.2021 and has also not paid assured return to the tune of Rs. 7,81,068/- (42,218+7,38,850) to the complainant. There was delay of almost four years in the delivery of the possession as per assurance and plan of the respondent

- IX. That complainant is ready to pay the balance sale consideration to the respondent and respondent is liable to hand over the possession with delay possession charges.
- X. That the complainant herein has been repeatedly and continuously expressing discontent and objecting to the malafide attitude of the respondent towards its allottees. It is submitted that the complainant have been requesting to the respondent and have made numerous requests and efforts seeking redressal of his grievance.

C. Reliefs sought by the complainant

4. The complainant is seeking the following relief:
- I. Direct the respondent to pay assured return amounting to Rs. 7,81,068/- with compounding interest from 15.07.2022 (21,110/- per month) till date of realization.
 - II. Direct the respondent to deliver the possession of the unit as far as possible with compensation.
 - III. Direct the respondent to pay to the complainant delayed possession charge.
 - IV. Direct the respondent not to charge late payment charges from the complainant.
 - V. Direct the respondent to pay the complainant litigation costs and litigation expenses of Rs. 1,50,000/-.
 - VI. Direct the respondent to pay sum of Rs. 5,50,000/- for causing mental, physical harassment, frustration & grievance to the complainant and miserable attitude of the respondent and deficiency in service.
5. On the date of hearing, the Authority explained to the respondent/promoter about the contravention 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 filed by the respondent.

6. The respondent has contended the complaint on the following grounds:

- I. That after receipt of application from the complainant and his wife Mrs. Ajita Sharma, a commercial unit/space bearing no. 72, 1st floor, in the project "Marine Square", situated at Sector 102, Village Dhankot, Gurugram, was allotted to the complainant and his wife vide allotment letter dated 06.08.2018.
- II. That as the unit was allotted on assured return basis, memorandum of understanding dated 13-08-2018 was executed between the complainant & his wife and respondent and as per the said MOU the respondent has assured to pay assured return amount of Rs 19,399/- less TDS i.e. Rs. 17,459/- per month starting from July, 2018 till offer of possession, in terms of clause 7 of MOU. That the respondent was constantly paying the assured return to the complainant and her wife and till date has paid an amount of Rs. 70,967/- to Mrs. Ajita Sharma and Rs. 10,38,808/- to the Mr. Sanjeev Kumar Sharma (complainant).
- III. Hence till date an amount of Rs. 11,09,775/- has been paid/adjusted towards assured return of the unit to the complainant and his wife Mrs. Ajita Sharma. However, thereafter due to covid 19 impact, it was verbally mutually agreed between the complainant and the respondent that the respondent will pay the assured amount only till application of occupation certificate and the amount shall be adjusted in offer of possession letter against pending sale consideration and in this regards a letter dated 25-04-2023 was sent to the complainant which is also annexed by the complainant in his complaint.

- IV. That thereafter, the complainant vide letter dated 21.02.2019 informed about the death of his wife Mrs. Ajita Sharma and has thereafter requested for deletion of name of Mrs. Ajita Sharma, as co-allottee of the unit in question. The complainant submitted various documents like affidavit cum undertaking dated 02.12.2019, relinquishment deed dated 22.04.2019, Affidavit dated 28.06.2019 mentioning there that his son being another legal heirs of Mrs. Ajita Sharma has executed a release deed of share in subject unit in favour of complainant, indemnity bond dated 28.06.2019 with forge signatures of his son Mr. Ashwini Kumar Sharma.
- V. That thereafter son of the complainant vide email dated 28.09.2019 also marked to the respondent made a complaint to Head Office, Bank of India and other higher authorities, that his signatures has been forged on various documents to transfer his share in property worth Rs. 80,00,000/- and that his signatures have been wrongly attested and verified by the Branch Manager/Official, Bank of India as he was not present in Delhi from 30.04.2019 to the date of email. Mr. Ashiwini Kumar Sharma accordingly sought legal action against the erring officials and other persons indulged in forging his signatures.
- VI. That thereafter vide email dated 29.09.2019 marked to the respondent, the complainant levelling allegations against his son, asked to transfer the entire share of Mrs. Ajita Sharma, in his name and not to any third party including his son Mr. Ashwini Kumar Sharma.
- VII. That in terms of email dated 30.09.2019, the son of the complainant namely Sh. Ashwini Kumar Sharma, asked the respondent to keep the transfer process on hold till December, 2019 stating that his mother's share has to be transferring in his name and that fake documents

bearing his forged signatures have been submitted by his father to get the share of his mother transferred in his name as he was not in Delhi on the date of alleged execution of documents so submitted.

- VIII. That vide email dated 17.10.2019, complainant again submitted a fresh application to transfer the share of his deceased wife Mrs. Ajita Sharma, solely in his name. That thereafter on 18.11.2019, after confirmation by the son of the complainant regarding transfer of share of Mrs. Ajita Sharma in name of complainant, buyer's agreement was executed in favour of the complainant.
- IX. That later on fresh MOU regarding payment of assured return was executed in favour of the complainant on 09.12.2019, agreeing therein vide clause 3 to pay Rs. 19,399/- less TDS as assured return. However on the request of the complainant, cheques of more amount was issued with an undertaking that the additional amount shall be adjusted at the time of final offer of possession.
- X. That the respondent received the occupation certificate for the project 'Marine Square' on 27.12.2024 and accordingly after completing the internal formalities issued letter of offer of possession on 06.06.2025. That the respondent was liable to pay assured return amounting to Rs. 12,91,966/- calculated at the rate of Rs. 17,459/- per month for 74 months and has already paid or adjusted an amount of Rs. 11,09,775/- and hence only Rs. 1,82,119/- is due and outstanding but the complainant is not entitled for any assured return due to covid-19 pandemic and due to their non-performance which was happened due to the fight between the L/Rs of co allottee Ms Ajita Sharma .
- XI. That the respondent while issuing the letter of offer of possession along with the account statement reflating the outstanding amount to be paid

by the complainant, however the complainant has failed to pay the outstanding dues and take the possession of the subject Unit and the said amount has to be paid by the complainant without any protest or demur.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and written submissions made by the parties and who reiterated their earlier version as set up in the pleadings.

E. Jurisdiction of the authority:

8. 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

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

E.II Subject-matter jurisdiction

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

Section 11(4)(a)

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;

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

F. Findings of the authority on relief sought by complainant.

- i. Direct the respondent to pay assured return amounting to Rs. 7,81,068/- with compounding interest from 15.07.2022 (21,110/- per month) till date of realization.**
- ii. Direct the respondent to deliver the possession of the unit as far as possible with compensation.**
- iii. Direct the respondent to pay to the complainant delayed possession charge.**

12. In the present complaint, the complainant and his wife booked an unit in the project "Marine Square" being developed by the respondent i.e., M/s JMS Buildtech Private Limited. The Allotment letter was issued in the name of complainant and his wife on dated 06.08.2018. Thereafter, the wife of the complainant expired and the buyer's agreement was executed between the complainant and the respondent on 18.11.2019 in respect of unit bearing no. 72 situated on 1st floor, measuring 107.85 sq. ft. of carpet area and 132.90 sq. ft. of covered area. The total sale consideration of the unit was Rs.28,57,463/- out of which the complainant has paid an amount of Rs. 29,00,837/-

13. The complainant has sought assured returns on the basis of a purported Memorandum of Understanding (MoU). The Authority observes that no MoU was ever duly executed between the parties. It is further noted that the document placed on record by the complainant, claimed to be the MoU, is neither executed nor duly signed by the parties. Accordingly, the same cannot be relied upon and holds no evidentiary value in the eyes of the Authority.
14. Further, as per clause 7 of the buyer's agreement dated 18.11.2019, the respondent undertook to offer possession of the unit to the complainant on or before time granted under the registration by the HRERA or such extension thereof as extended by HRERA. The project is duly registered under registration no. 22 of 2018 dated 02.02.2018 valid upto 02.02.2023. Further a grace period has been granted on account of the Covid-19 pandemic in terms of the relevant notification issued by Harera, bearing notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020. Thus, the due date for handing over of possession of the unit to the complainant comes out to be 02.08.2023. The respondent received the occupation certificate on 27.12.2024 from the competent authority but has not offered possession till date. Moreover, there is no document on record which substantiate that offer has been made.
15. The complainant is seeking delayed possession charges along with interest on the amount paid. Clause 7 of the buyer agreement (in short, agreement) provides for handing over of possession and is reproduced below: -

7.Possession of the unit

7.1 Schedule for possession off the said unit

The Promoter assures to offer the possession of the Unit as per agreed terms and conditions on or before time granted under the registration by the HRERA or such extension thereof as extended by HRERA unless there is delay due to "*Force Majeure*", which shall mean all such circumstances or factors not in control of the Promoter, including, but not limited to, shortage of materials, inflation or recession in the market, dispute by the contractor, court orders, or by reason of war, or enemy action or earthquake or any act of God, or any act, notice, order, rule or notification of Government and/or any other public or competent authority, affecting the regular development of the Commercial Complex.

- 16. Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

17. The legislature in its wisdom in the subordinate legislation under rule 15 of the rules has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

18. 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., **13.02.2026** is 8.80%. Accordingly, the prescribed rate of interest will be MCLR +2% i.e., 10.80%.

19. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default. The relevant section is reproduced below:

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

Explanation. —For the purpose of this clause—

(i) the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default;

(ii) the interest payable by the promoter to the allottees 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 allottees to the promoter shall be from the date the allottees defaults in payment to the promoter till the date it is paid;"

20. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent which the same is as is being granted to the complainant in case of delayed possession charges.

21. On consideration of the documents available on record and submissions made by the parties, 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 buyer agreement executed between the parties on 18.11.2019. As per the clause 7 of the buyer agreement dated 18.11.2019, the possession of the booked unit was to be delivered by 02.08.2023. The respondent received the occupation certificate on 27.12.2024 from the competent authority but has not offered possession

till date. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and to hand over the possession within the stipulated period.

22. Accordingly, 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 complainant is entitled to delay possession charges at the prescribed rate of interest i.e., 10.80% p.a. for every month of delay on the amount paid by complainant to the respondent from the due date of possession i.e., 02.08.2023 till the valid offer of possession of the subject unit after obtaining occupation certificate from the competent authority plus two months or handing over of possession whichever is earlier as per the provisions of section 18(1) of the Act read with rule 15 of the rules.
23. The respondent is also directed to handover possession of the subject unit allotted to the complainant after completion of the unit in terms of buyer's agreement within a period of 60 days after obtaining valid occupation certificate.
- iii. Direct the respondent not to charge late payment charges from the complainant.**
- iv. Direct the respondent to pay the complainant litigation costs and litigation expenses of Rs. 1,50,000/-.**
- v. Direct the respondent to pay sum of Rs. 5,50,000/- for causing mental, physical harassment, frustration & grievance to the complainant and miserable attitude of the respondent and deficiency in service.**

24. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Decided on 11.11.2021), has held that an allottee is entitled to claim compensation under sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of compensation.

H. Directions of the authority

25. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

- i. The respondent is directed to pay the interest at the prescribed rate i.e. 10.80% per annum for every month of delay on the amount paid by the complainant from the due date of possession i.e., 02.08.2023 till the valid offer of possession of the subject unit after obtaining occupation certificate from the competent authority plus two months or handing over of possession whichever is earlier as per the provisions of section 18(1) of the Act read with rule 15 of the rules.
- ii. The respondent is directed to pay arrears of interest accrued within 90 days from the date of this order as per rule 16(2) of the rules and thereafter monthly payment of interest be paid till date of handing over

of possession shall be paid on or before the 10th of each succeeding month.

- iii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be at the prescribed rate i.e., 10.80% by the respondent, which is the same rate of interest which the promoter shall be liable to pay to the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
 - iv. The respondent is directed to handover possession of the unit allotted to the complainant after completion of the unit in terms of buyer's agreement after obtaining occupation certificate.
 - v. The respondent shall not charge anything from the complainant, which is not the part of the buyer's agreement.
26. Complaint stands disposed of.
27. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 13.02.2026