

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

Complaint No. 4526 of 2025
Date of complaint: 09.09.2025
Date of order: 13.02.2026

1. Shobha Meena 2. Surendra Kumar Meena Both R/o: Flat No. B-201, Anusandhan Apartments, Plot No. 22, Sector - 6, Dwarka, New Delhi - 110075.	Complainants
Versus	
M/s Vikas Parks Private Limited Regd. Office At: - E1, Qutub Hotel Complex, Saheed Jeet Singh Marg, New Delhi - 110016.	Respondent
CORAM:	
Shri Arun Kumar	Chairman
APPEARANCE	
Shri Ashwani Kumar Singla, Advocate	Complainants
Shri Avinash Kumar Singh, Advocate	Respondent

ORDER

1. The present complaint has been filed by the complainants/allottees 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 there under or to the allottees as per the agreement for sale executed inter se.

A. Unit and Project related details:

2. The particulars of the project, the details of sale consideration, the amount paid by the complainants, 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 and location of the project	"Hero Homes", Sector-104, Village Dhanwapur, Gurugram.
2.	Project area	9.053 Acres (Total area 34.0228 acres)
3.	Nature of the project	Residential Group Housing
4.	DTCP license no. and validity status	246 of 2007 dated 29.10.2007 valid up to 28.10.2024, 56 of 2011 dated 23.06.2011 valid up to 22.06.2024, 37 of 2012 dated 22.04.2012 valid up to 21.04.2025, 66 of 2012 dated 21.06.2012 valid up to 20.06.2025, 67 of 2012 dated 21.06.2012 valid up to 20.06.2025, 43 of 2014 dated 16.06.2014 valid up to 15.06.2024, 44 of 2014 dated 16.06.2014 valid up to 15.06.2024.
5.	Name of the Licensee	M/s Mabon Properties Pvt. Ltd. & others
6.	RERA registered/ not registered and validity status	Registered 24 of 2018 dated 13.11.2018 Valid up to 31.08.2023
7.	RERA Extension	Extension No. 01 of 2024 dated 29.04.2024
8.	RERA Extension	PROJECT CONTINUATION- RC/ REP/ HARERA/ GGM/ 24 of 2018/ 7(3)/ 64/ 2025/ 06 DATED 27.03.2025 Valid up to 28.02.2027
9.	Unit no.	T-03/2303 on 23rd floor, Tower-03. (as mentioned in allotment letter at page 14 of complaint)

10.	Unit area	1359 sq. ft. (super area) (as mentioned in allotment letter at page 14 of complaint)
11.	Allotment letter	17.09.2019 (as per page 14 of complaint)
12.	Date of execution of buyer's agreement	25.09.2019 (as per page 19 of complaint)
13.	Possession clause	7. Possession of the apartment for residential usage: 7.1... <i>The promoter assures to handover possession of the apartment for residential usage along with parking on or before 31.12.2023 unless there is delay or failure due to "Force Majure" ...</i> (Emphasis supplied) (as per page 27 of the complaint)
14.	Due date of possession	30.06.2024 [31.12.2023 + grace period of 6 months on account of Covid-19] (as mentioned in para 7.1 of the buyer's agreement at page 45 of complaint)
15.	Total sale consideration	Rs.89,04,879/- (as mentioned in clause 1.2 of BBA at page 23 of the complaint)
16.	Amount paid by the complainants	Rs.90,93,406/- (as per mentioned in the customer ledger dated 25.03.2025 at page 51-52 of complaint)
17.	Occupation certificate	20.01.2025 [For Tower- 1 to 4] & 07.01.2026 [For Tower- 5 to 7] (As per copy of OC available at TCP, Haryana Official website)
18.	Offer of possession	25.02.2025 (page 230-231 of complaint)
19.	Possession letter/ Physical handover	30.06.2025 (page 229 of complaint)
20.	Conveyance deed (in favour of complainants)	30.06.2025 (As admitted by the complainants in para 11 at page 7 of complaint also as confirmed in para 4 at page 6 of reply)

B. Facts of the complaint: -

3. The complainants have made the following submissions: -
 - a. That the complainants are citizens of India by birth and have the constitutional right to invoke the jurisdiction of this Authority.
 - b. The respondent is a body corporate constituted under the provisions of the Companies Act, 2013 and their project Hero Homes, Sector 104, Dwarka Expressway, Gurugram, falls within the territorial jurisdiction of this Authority.
 - c. That the complainants, after relying on the promises of the respondent, booked an apartment measuring 1389 square feet in the aforesaid project of the respondent at a total cost of Rs.89,04,879/- on the 17.09.2019.
 - d. That the complainants and the respondent entered into a builder buyer agreement on 11.11.2019 and as per the builder buyer's agreement, the respondent has allotted a unit/apartment no. 2303 having super area of 1389 sq. ft. on 23rd floor in Tower no. T-03 along with basement parking no. B 2-252 admeasuring 134.55 sq. ft. in basement - 2. As per clause no. 7.1 of the agreement, the respondent has agreed and assured to hand over the possession of the apartment for residential usage with parking on or before 31.12.2023.
 - e. That the complainants made payment of Rs.90,93,520/- to the respondent vide cheque, RTGS (online) as and when demanded by the respondent.
 - f. That the respondent with a view to fleece innocent homebuyers filed application for Occupancy Certificate (O.C.) in February 2024 without completing the required level of work (fully explained in para 7 infra). One of the motives was to raise a demand, without actually achieving milestone. The respondent raised a demand of 30% on the complainant payable by 08.03.2024.

- g. That the respondents have filed a defective and incomplete application for issue of an occupancy certificate and filing a defective/ incomplete application is equivalent to non-filing of such an application. The same has been got evaluated from a civil engineer Shri Sanjay Gupta who after referring to the following documents has issued a certificate on 20.02.2025.
- h. As per certificate dated 20.02.2025 issued by Shri Sanjay Gupta, Civil Engineer, the construction levels were below the mark and as such the respondent was not eligible get occupancy certificate before 31.12.2024. Making application for issuance of an occupancy certificate without completing the work and knowingly that certificate will not be issued is illegal and clandestine activity on the part of the respondent/ defendant. The defendant cannot take benefit for any such incomplete application that too made with ulterior motive to escape the liability of delayed possession. This act of the respondent is not only condemnable but also illegal ab-initio.
- i. Despite receiving approximately 90% payment of total cost on time for all the demands raised by the respondent, the respondent has failed to deliver the possession of the allotted unit to the complainants within stipulated period.
- j. That the respondent vide email dated 25.02.2025 offered possession. The flat was not however fit for possession. The complainant was allowed a site visit on 17.04.2025 and the complainant brought out the deficiencies which the respondent acknowledged vide email dated the 05.05.2025. On 21.06.2025 the respondent offered possession on 30.06.2025 and the finally the possession was handed over on the 30.06.2025.
- k. That it is imperative to mention here that all through this while, the complainants kept reiterating that the delay in handover of possession has caused extreme mental agony as well as financial hardship to them.

Accordingly, by way of the present complaint, the complainants seek direction to the respondent to pay the DPC.

- l. That the complainants have 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 complainants have gone through.
- m. That the present complaint has been filed in order to seek delayed possession charges on the principal amount paid by the Complainants at the rate prescribed as per RERA, 2016 and HRERA Rules, 2017 from the due date of possession, along with other reliefs mentioned herein below. Hence, this complaint.
- n. That as per section 11 (4) of the RERA Act, 2016, the promoter is liable to abide by the terms and agreement of the sale.
- o. That as per section 18 of the RERA 2016, the promoter is liable to pay interest to the allottees of an apartment, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale. The complainant has taken the possession on 30.06.2025 and has got the conveyance deed executed in his favour.
- p. The complainants also reserve their right to file separate complaint for compensation as and when required before the appropriate forum/ authority.
- q. The respondent at Para N 1.2 (page 23) has mentioned total unit price as Rs.89,04,879/-. Against this agreed amount the respondent has actually charged Rs.90,93,520/- which is duly reflected in the ledger at page 52 of the complaint. Thus, the respondent has excess charged Rs.1,88,641/- for which refund along with interest has been sought in the prayer.

C. Relief sought by the complainants:

4. The complainants have sought following relief:

- i. Direct the respondent to pay delayed possession charges to the complainants on the amount paid by the complainants, from the due date of possession i.e., 31.12.2023 till the actual handing over of the possession i.e., 30.06.2025. The respondent has already paid a sum of Rs.2,97,504/- as DPC. Net payable is Rs.10,24,760/- (Rs.13,22,264/- less Rs.2,97,504/-;
- ii. Direct the respondent to refund/ pay the amount of Rs.1,88,641/- with interest which was unlawfully charged by the respondent as additional amount over and above the total sale consideration of Rs.89,04,879/- including applicable taxes, as clearly stipulated in the builder buyer's agreement execute between the parties;
- iii. Direct the respondent to pay litigation cost of Rs.30,000/- to the complainants;
- iv. Any other relief as Authority may please allow for delivery of justice.

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 filed by the respondent:

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

- a. That the respondent i.e., Vikas Parks Private Limited, a company duly incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013 and a subsidiary company of Hero Realty Private Limited, real estate arm prestigious Hero Group. The respondent is engaged in the business of construction and development of real estate projects and is known amongst the customers of the real estate and infrastructure sector for its trust and ethical conduct, synonymous with the name and brand "Hero".
- b. That the present complaint has been preferred by the complainants on frivolous and unsustainable grounds and the complainants have not

approached this Authority with clean hands and are trying to suppress material facts relevant to the matter. The complainants are making false, misleading, fatuous, baseless and unsubstantiated allegations against the respondent with malicious intent and sole purpose of extracting unlawful gains from the respondent. The instant complaint is not maintainable in the eyes of the law and is devoid of merit, therefore it is fit to be dismissed in limine.

- c. That the defendant has already taken the physical possession of the said apartment after being satisfied in all respects on 30.06.2025 after registering conveyance deed on 19.06.2025 and signed the possession letter on 30.06.2025 after full and final settlement of financial accounts with respondent.
- d. That the complainants are barred by law of estoppel as the complainants have already previously at the time of execution and registration of conveyance deed voluntarily agreed to the terms and expressed their full consent and satisfaction with regard to the timelines of the possession as well as other aspects of the transactions and financial accounts. Hence, as per the law of estoppel, the complainants cannot now contradict of conveyance deed which they have previously stated as true in the eyes of law. So, their complaint should be dismissed on this ground only.
- e. That the complainants do not fall within the definition of allottee as provided in Section 2 (d) of the RERA Act, 2016 since the relation of the allottee and a promoter stands concluded and all the obligations of the promoter under the agreement stand discharged after the execution of the conveyance deed as the buyer became the owner of the unit. Therefore, the owner is estopped from claiming any interest on the delay in handing over possession.
- f. That upon taking the peaceful possession after getting fully satisfied and after settling the financial account with the respondent, the contractual

- obligations between the parties stands fully satisfied and all the rights and obligations of the parties come to an end. That there remain no claim/grievances of the complainants with respect to the agreement.
- g. That the respondent after making the due application to the office of the Directorate, Town and Country Planning (DTCP) has obtained the occupation certificate from the department of DTCP.
- h. That the respondent humbly submits that each and every averment and contention, as made/raised in the present Complaint under reply, unless specifically admitted, are categorically denied and may be read as travesty of facts. The complainants may be put to strict proof in respect thereof.
- i. That pursuant to the application submitted by the complainants, the respondents issued the allotment letter dated 09.04.2019 in favor of the complainants and confirmed the allotment of apartment no.-T-03/2303, Tower No. - 03, Floor - 23rd, Area 1389 sq. ft., along with pro rata share in the common areas for total sale consideration of Rs.97,67,400/- in residential project "Hero Homes" situated at, Sector - 104, Dwarka Expressway, Gurugram, Haryana, India - 122006, along with the annexure of possession linked payment plan, wherein the respondent gave inaugural discounts of Rs.6,00,000/- for area 1389 sq. ft. and special subvention subsidy of Rs.2,43,075/-. So, the respondent provided total discount of Rs.8,43,075/-, at the time of allotment of the apartment.
- j. That subsequent to the above referred allotment of the said apartment, the complainants entered an agreement for sale on 25.09.2019 with the respondent and thereafter the said agreement for sale got executed and registered on 11.11.2019 in the office appurtenant to the Sub-registrar, at Kadipur, Gurugram, for the delivery of the possession of the said apartment exclusively on the agreed terms and conditions as contained in the agreement for sale.

- k. The promoter/ respondent assured to hand over possession of the apartment for residential usage along with parking on or before 31.12.2023 unless there is delay or failure due to "force majeure", Court Orders, Government policy / guidelines, decisions affecting the regular development of the real estate project. If, the completion of the project is delayed due to above conditions, then the allottees/ complainants agree that the promoter/ respondent shall be entitled to the extension of time for delivery of possession of the apartment for residential usage as per the agreed terms of the agreement for sale.
- l. That the specifically agreed terms and conditions regarding possession by the complainants, it is said that the delivery of possession was always subject to force majeure circumstances, receipt of occupancy certificate and complainants having timely completed with all obligations and duties under the agreement of sale. That after the completion of the Tower No. 1 to Tower 4, in all manner and after obtaining Fire NOC on 17.01.2024, the respondent applied to the Director, Town and Country Planning, Haryana at Chandigarh, vide its application dated 21.02.2024 along with all requisite documents for the grant of occupation certificate for Tower 1 to Tower 4, which was submitted on 22.02.2024. After filing of the application for grant of OC, the DTCP did not raise any concern regarding construction of the Tower no. 1 to 4, as the same was completed in all manner and only submission of relevant documents were to be verified. All documents were again submitted in the Office of DTCP on 09.07.2024, and thereafter the occupation certificate was granted for the Tower no. 1 to Tower 4, by the Office of DTCP on 20.01.2025.
- m. That after receipt of the occupation certificate on 20.01.2025, the respondent offered the possession to the complainants on 25.02.2025 with complete guidelines to complete the remaining final payments within 15 days and take

the physical possession after requisite documentations in this regard by the complainants.

- n. That the respondent has also paid the amount of Rs.2,97,504/- on 24.02.2025 including (Rs.36,580/- on 12.03.2025) as compensation for delayed possession to the complainants. The complainants have duly acknowledged the payment of the abovementioned compensation amount in his complaint. The above payment is without prejudice to respondent right to defend itself in the ongoing complaint under reply. The same is reflected in the customer/applicant ledger/ statement of account provided by the respondent to the complainants. In spite of all support from the respondent, the complainants failed to take the possession of the apartment in question within stipulated time.
- o. That it is the fault of the complainants, that they did not take the physical possession within stipulated time even after receiving the compensation from the respondent, wherein the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the RERA Act) U/S 19(10) puts the allottees under duty to take possession of the apartment, within a period of two months of the occupancy certificate issued for the said apartment in question.
- p. That the pandemic and ban on construction activity by competent authorities are force majeure events which are beyond the control of the parties to prevent the same or its consequences and as in view of clause 7(7.1) of the Agreement for Sale dated 17.04.2019, the Respondent is entitled to exclusion of period where the constructions of the project was affected due to orders/directions of statutory authorities / court orders / government orders etc.
- q. That the respondent would have completed the project within given time, but due to force majeure events Covid-19 and restrictions imposed, which

were beyond the control of the respondent, the project could not be completed on the expected time. That the Authority is requested to consider such period as force majeure events and the burden of payment of interest for the period must not be put on the respondent as the delay for grant of occupation certificate has been caused without any fault of the respondent. The burden of interest claimed by the complainants must not be put on the respondent, as the reasons of delay were completely out of the control of the respondent /developer.

- r. That in case of delay/failure due to occurrences of force majeure events/ events beyond the control of the respondent company or impacting the real estate project, the respondent is entitled to extension of time. There has been no delay on the part of the respondent, and the extension in delivery schedule is due to *force majeure* and other reasons.
- s. That said, the construction of the project commenced as per schedule, however, in the intervening period when the construction and development was under progress there were various instances and scenarios when the development and construction work had to be put on hold due to reasons beyond the control of the respondent/developer. The parties have agreed that if the delay is on account of force majeure conditions, the developer/respondent shall not be liable for performing its obligations. The project got delayed and proposed possession timelines were shifted within the framework of the agreement as agreed on account of following reasons among others as stated below: -
- a) That the outbreak of Covid-19 has been declared as a pandemic by the World Health Organization on 11.03.2020. The directions for lockdown and various restrictions have been issued by the Government of India as also State Govt. regarding COVID-19. The said pandemic has also serious consequences and was so deadly and contagious that complete lockdown was imposed several times not only in Haryana but in whole

of India and rest of the world also. The Government of India, Ministry of Housing & Urban Affairs vide Memo No. O-17024/230/2018-Housing-UD-/EFS-9056405 dated 13.05.2020 and State Government of Haryana vide Memo No. 1/32/2020-ITCP dated 15.05.2020 issued advisory pertaining to the COVID-19. Pursuant to the advisory issued regarding outbreak of above situations of COVID-19, the Hon'ble Haryana Real Estate Regulatory Authority (HARERA), Gurugram vide notification dated 26.05.2020 had given extension of 180 days starting from 25Th of MARCH, 2020 till 24th September 2020 under Force Majeure keeping in view of the Covid-19 pandemic situation in the country.

- b) That Hon'ble Supreme Court banned all construction activities in Delhi / NCR in the leading Writ Petition (S) (Civil) No(s). 13029 / 1985 on NOVEMBER 04, 2019 and the restrictions on constructions activities were continued till 14.02.2020. The restrictions on construction activities imposed by the Hon'ble Supreme Court vide its order dated 04.11.2019 were recalled completely on 14.02.2020 after complete ban/stop of construction activities for 102 Days.
- c) That the Commissioner of Municipal Corporation Gurugram vide Order dated 11.10.2019 issued direction to issue challan for construction activities & lodging of FIR from 11.10.2019 to 31.12.2019 as per direction issued by the chairman of Environment Protection Committee Authority (EPCA) vide letter EPCA-R/2019/L-42 dated 09.10.2019.
- d) That it is also matter of record that Gurugram falls within the area of NCR and different competent authorities such as the National Green Tribunal (NGT), Municipal Corporation Gurugram (MCG), Haryana State Pollution Control Board (HSPCB) etc. had directed ban on the construction activities in DELHI / NCR due to rise in pollution level mainly in winter season for various periods (including from October 2019 to February 2024) thereby severely affecting the regular development of the real estate projects for 209 Days.
- t. That due to change in location for development of EWS (economically weaker section) flats in compliance of statutory requirements, the project building plan, site plan etc. were revised time to time and the same caused completion time extended.

u. That there is no fault on the part of the respondent in carrying its obligations towards the completion of the project and its delivery. The respondent has already offered the physical possession of the apartment to the complainants on 25.02.2025 after obtaining occupation certificate on 20.01.2025. The respondent has already made payment of delayed possession charges. The complaint is liable to be dismissed/rejected on the said grounds.

7. All other averments made in the complaint denied in toto.

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 submissions made by the parties.

E. Jurisdiction of the Authority:

9. The respondent has raised a preliminary submission/objection that the Authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee 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 of 2016 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 regarding relief sought by the complainants:

- F.I. Direct the respondent to pay delayed possession charges to the complainants on the amount paid by the complainants, from the due date of possession i.e., 31.12.2023 till the actual handing over of the possession i.e., 30.06.2025;**
- F.II. Direct the respondent to refund/ pay the amount of Rs.1,88,641/- with interest which was unlawfully charged by the respondent as additional amount over and above the total sale consideration of Rs.89,04,879/- including applicable taxes, as clearly stipulated in the builder buyer's agreement execute between the parties;**
- F.III. Any other relief as Authority may please allow for delivery of justice.**

13. The above-mentioned relief sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
14. In the present case, the complainants booked an apartment in the project namely “HERO HOMES” located in Sector-104, Gurugram, being developed by the respondent herein. Vide allotment letter dated 17.09.2019, they were allotted an apartment bearing no. 2303, 23rd floor in tower T-03 admeasuring

884.58 sq. ft. carpet area & 1357 sq. ft. super area in the project namely Hero Homes Tower 02 located in sector 104, Gurugram. Thereafter, on 25.09.2019, an agreement for sale was executed between the complainants and the respondent and according to clause 7.1 of the agreement the respondent was obligated to complete the construction of the unit as provided under Rule 2(1)(f) of Rules, 2017 i.e., by 31.12.2023 (as mentioned in agreement to sale dated 25.09.2019). The complainants have paid an amount of Rs.90,93,406/- against the total sale consideration of Rs.89,04,879/-.

15. As per documents available on record, the respondent has offered the possession of the allotted unit on 25.02.2025 after obtaining of Occupation Certificate from the Competent Authority on 20.01.2025. The complainants took a plea that offer of possession was to be made in 2025, but the respondent has failed to handover the physical possession of the allotted unit within stipulated period of time.
16. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the provisions of Section 18(1) of the Act which reads as under:

"Section 18: - Return of amount and compensation

*(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"*

17. Clause 7.1 of the agreement for sale provides the time period for handing over possession and the same is reproduced below: -

"7.1 POSSESSION OF THE APARTMENT FOR RESIDENTIAL USAGE

7.Schedule for possession of the said Apartment for residential usage – The Promoter agrees and understands that timely delivery of possession of the Apartment for residential usage along with parking to the Allottee(s) and the common areas to the association of allottees or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement....

"(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;"

21. 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 marginal cost of lending rate +2% i.e., 10.80%.
22. **Rate of interest to be paid by complainants/allottee for delay in making payments:** 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.
23. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.
24. 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 clause 7.1 of the agreement for sale executed between the parties, the possession of the said unit was to be as per Rule 2(1)(f) of Rules, 2017. Therefore, the due date of handing over possession comes out to be 30.06.2024. In the present case, the complainants were offered possession

The promoter assures to handover possession of the apartment for residential usage along with parking on or before 31.12.2023 unless there is delay or failure due to "Force Majeure"

(Emphasis supplied)

18. **Due date of handing over of possession:** The promoter has proposed to handover the possession on 31.12.2023, Therefore, the due date of handing over of possession comes out to be 31.12.2023. 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 date on or after 25.03.2020, the completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 31.12.2023 i.e., after 25.03.2020. As far as grace period of 6 months is concerned, the same is allowed Therefore, the due date of possession comes out to be 30.06.2024.

19. **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]

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."

20. 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:

by the respondent on 25.02.2025 after obtaining occupation certificate dated 21.01.2025 from the competent authority. Copies of the same have been already placed on record. The Authority is of the considered view that there is delay on the part of the respondent to offer possession of the allotted unit to the complainants within the stipulated time period as per the terms and conditions of the agreement for sale dated 29.09.2019 executed between the parties.

25. 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 21.01.2025. However, the respondent offered the possession of the unit in question to the complainants only on 25.02.2025. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 (two) months of reasonable time is being given to the complainants 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 that the unit being handed over at the time of taking possession is in habitable condition.
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 complainants are entitled to delay possession charges at prescribed rate of the interest @ 10.80% p.a. from due date of possession i.e., 30.06.2024 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act, 2016 read with Rule 15 of the Rules, *ibid.*

27. It is further observed by the Authority that at the time of issuance of offer of possession, the respondent has adjusted an amount of Rs.2,97,504/- on account of compensation against delayed possession charges and the same is reflected into customer ledger dated 29.08.2025 (at page 73 of reply). Therefore, the Authority is of the view that the same shall be adjusted/ deducted from the total payable amount of delay possession charges.

F.IV Direct the respondent to pay litigation cost of Rs.30,000/- to the complainant;

28. The complainants are seeking above mentioned relief w.r.t litigation cost. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)*, has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the adjudicating officer as per Section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in Section 72. Therefore, the complainants may approach the adjudicating officer for seeking the relief of compensation.

G. 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 cast upon the promoter as per the function entrusted to the Authority under Section 34(f):
- The respondent is directed to pay interest at the prescribed rate i.e. 10.80% per annum for every month of delay on the amount paid by the complainants from the due date of possession i.e., 30.06.2024 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*. The arrears of the interest accrued so far shall be paid to the

complainants within 90 days from the date of this order as per Rule 16(2) of Rules, *ibid*.

- b. Also, the amount, if any, so paid by the respondent towards compensation against delayed possession charges shall be adjusted towards the delay possession charges to be paid by the respondent in terms of proviso to Section 18(1) of the Act.
 - c. 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.
 - d. The respondent is further directed to issue updated statement of account to the complainants after adjustment of DPC and the complainants shall pay the outstanding dues, if any, to the respondent within a period of 30 days along with equitable rate of interest.
 - e. The respondent shall not charge anything from the complainants which is not the part of the agreement for sale.
30. Complaint as well as application, if any, stands disposed of accordingly.
31. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 13.02.2026