



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	762 of 2022
Date of filing.:	02.05.2022
Date of first hearing.:	12.07.2022
Date of decision.:	23.07.2026

Anshupriya W/o Sh. Bineet Bibhav
R/o House no. G-1204, Princess Park
Sector-86, Faridabad-121004

....COMPLAINANT

VERSUS

1.M/s BPTP Limited
M-11, Middle Circus, Connaught Place
New Delhi-110001
2.M/s Business Park Maintenance Services Pvt. Limited
M-11, Middle Circus, Connaught Place
New Delhi-110001
3.M/s Countrywide Promoters Pvt Ltd,
M-11, Middle Circus, Connaught Place
New Delhi-110001

....RESPONDENTS

CORAM: Parneet Singh Sachdev

Chairman

Nadim Akhtar

Member

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Present: - Mr. Bineet Bibhav, Counsel for complainant through VC.

W

Mr. Hemant Saini, Counsel for the respondent through VC.

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. Present complaint has been filed by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project.	Parklands, Sector-86, Faridabad.
2.	Nature of the project.	Residential
3.	RERA Registered/not registered	Not Registered
4.	Details of unit.	1-45-02, 497 sq. yds.

5.	Date of booking	16.11.2019 by paying Rs 12 lacs.
6.	Allotment letter	16.11.2019
7.	Date of builder buyer agreement with complainant	30.11.2019
8.	Due date of possession	As per opted payment plan.
9.	Possession clause in BBA (Clause 2.1)	<i>Subject to force majeure circumstances, intervention of statutory authorities and purchaser having timely complied with all its obligations, formalities or documentation as prescribed/requested by Seller/Confirming party under this agreement and not being in default under any part of this agreement including but not limited to the timely payment of installments of the total sale consideration as per the payment plan opted, other charges and stamp duty and registration charges, the Seller/Confirming party shall offer the possession of the said plot to the purchaser as per payment plan opted by the purchaser. The Seller/Confirming party shall be additionally entitled to a grace period of 6 months (grace period) after the expiry of the said commitment period for making offer of possession of the said plot.</i>
10.	Total sale consideration	₹ 1,13,54,000/-



11.	Amount paid by complainant	₹ 1,22,55,114/-
12.	Offer of possession.	04.12.2019 with demand of ₹1,01,54,000/-
13.	Maintenance and service agreement	14.09.2020
14.	Date of conveyance deed	15.06.2021
15.	Date of NOC for physical possession	21.06.2021
16.	Date of physical possession letter	29.11.2023

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. That a meeting was held on 16.11.2019 between the petitioner/his representative and Mr. Saurabh Paliwal, designation sales executive, of the project at ECE house, 1st floor, Kasturba Gandhi Marg, Connaught Place, New Delhi 110001, when Mr. Saurabh Paliwal and other executives, explained the nature of the property which will be developed/handed over to the petitioner.
4. Two Cheques amounting to Rs. 900000/- and Rs. 300000/- was Paid by the petitioner/his representative to M/S BPTP Limited as advance deposit for booking the plot in the project. A copy/proof of the Cheque is annexed at Annexure P/1, P/2. M/S BPTP Limited, the promoter of the project



acknowledged the receipt of the said amount of Rs. 900000/- and Rs. 300000/- advance deposit for booking the plot. An Allotment letter, Welcome letter, Payment Schedule annexure and Receipt of payment were handed over to the petitioner/his representative. A copy of the Allotment letter, Welcome letter, Payment Schedule annexure and Receipt of payment is annexed as Annexure P/3, P/4, P/5, P/6, P/7.

5. That a Plot Buyer's Agreement was signed on 30.11.2019, Amongst M/S. BPTP Ltd., MRS. Anshupriya, M/S. Countrywide Promoters Pvt. Ltd. Copy of Plot buyer's agreement is annexed at Annexure P/8.
6. That letter for offer of Possession and Statement of Account cum Invoice received by the petitioner/his representative on 04.12.2019. Copy of the Letter for offer of Possession and Statement of Account cum Invoice are annexed at Annexure P/10.
7. That on 05.12.2019 Two Cheques amounting to Rs. 900000/- and Rs. 900000/-, total amount Rs. 1800000/- was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/11, P/12. On 26 Dec 2019 Three Cheques amounting to Rs. 900000/-, Rs. 900000/- and Rs. 500000/-, total amount Rs. 2300000 was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/13, P/14, P/15.



8. That on 17.01.2020 Five Cheques amounting to Rs. 900000/-, Rs. 900000, Rs. 900000/- , Rs. 500000/- , and Rs. 400000/-, total amount Rs. 3600000/- was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/16, P/17, P/18, P/19, P/20.
9. That on 22.01.2020 One Cheque amounting to Rs. 200000/- was Paid by the petitioner/his representative to M/S BPTP Limited. M/S BPTP Limited, the promoter of the project acknowledged the receipt of the said amount of Rs. 200000/- for the said plot. Receipts of payment were handed over to the petitioner/his representative. A copy of the Receipts of payment is annexed as Annexure P/21.
10. That on 28.02.2020 One Cheque amounting to Rs. 1000000/- was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/22.
11. That on 27.05.2020 Three Cheques amounting to Rs. 950000/- (Fifty Thousand), Rs. 264000/- (and Rs. 40000/-, total amount Rs. 1254000/- was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/23, P/24, P/25.
12. Maintenance and Service agreement of Plot: F45-02 in Parklands situated at Faridabad Haryana received by Petitioner/his representative on 31.08.2020.



A copy of the Receipts of BPMS maintenance agreement is annexed as Annexure P/26.

13. That on 01.09.2020 Two Cheques amounting to Rs. 85769/- and Rs. 80000/- , total amount Rs. 165769/- was Paid by the petitioner/his representative to M/S Business Park Maintenance Services Pvt. Ltd. A copy of the Receipts of payment is annexed as Annexure P/27, P/28.

14. That on 01.09.2020, One Demand Draft amounting to Rs. 341000/- was Paid by the petitioner/his representative to M/S BPTP Limited. A copy of the Receipts of payment is annexed as Annexure P/29.

15. That on 14.09.2020 Maintenance and service agreement was signed Between M/S Business Park Maintenance services Pvt. Ltd. A copy of the Receipts of Maintenance and service agreement is annexed as Annexure P/30. Recovery letter for interest and holding charges received by Petitioner/his representative on 17.09.2020. A copy of the Receipts of payment is annexed as Annexure P/31.

16. That on 05.10.2020 Two Cheques amounting to Rs. 125000/- and Rs. 10340/-, total amount of Rs. 135340/- was Paid by the petitioner/his representative to M/S BPTP Limited in respect of Holding charges and interest. A copy of the Receipts of payment is annexed as Annexure P/32, P/33.



17. That on 05.10.2020 One Cheque amounting to Rs. 20283/- was Paid by the petitioner/his representative to M/S Business Park Maintenance Services Pvt. Ltd. A copy of the Receipts of payment is annexed as Annexure P/34.
18. That on 13.01.2021 Recovery letter for extra stamp duty of Rs. 227000/- for plot registration received by Petitioner/his representative. This extra stamp duty was incurred due to delay in registration by M/S BPTP Limited. Petitioner/his representative has paid all amount due to /demanded by M/S BPTP Limited including registration charges / stamp duty, Interest, Holding charges etc. on 27 May 2020. A copy of the recovery letter for extra stamp duty is annexed as Annexure P/35.
19. That on 09.04.2021, One Cheque amounting to Rs. 227000/- was Paid by the petitioner/his representative to M/S BPTP Limited in respect of extra stamp duty for plot registration. M/S BPTP Limited, the promoter of the project acknowledged the receipt of the said amount of Rs. 227000/- for the said plot. A copy of the Receipts of payment is annexed as Annexure P/36
20. That on 09.04.2021, One Cheque amounting to Rs. 2180/- was Paid by the petitioner/his representative to M/S Business Park Maintenance Services Pvt. Ltd. for electricity charges and common area maintenance charges. A copy of the Receipts of payment is annexed as Annexure P/37.



21. That on 24.04.2021, One Cheque amounting to Rs. 9542/- was Paid by the petitioner/ his representative to M/S Business Park Maintenance Services Pvt. Ltd. for electricity charges and common area maintenance charges. A copy of the Receipts of payment is annexed as Annexure P/38.
22. That the Conveyance deed is made and executed at Faridabad on 15th June 2021 Between M/S. BPTP Ltd. And M/S. Countrywide promoters Pvt. Ltd. In favour of Mrs. Anshupriya. A copy of the Conveyance deed is annexed as Annexure P/39.
23. That on 21 Jun No objection certificate for giving physical possession of Plot No F45-2 in Block F in Parkland, sector 88 Faridabad Haryana received by Petitioner/his representative. A copy of the No objection certificate for giving Physical possession is annexed as Annexure P/40.
24. Petitioner/his representative have visited to M/S BPTP local office at Faridabad and head office at New Delhi at various occasion to get physical possession, and requested via mail as well for same but Respondent office is not giving any answer neither responding to my emails. A copy of the email correspondence regarding giving Physical possession is annexed as Annexure P/41. Even after repeated request by the Complainant, the Respondent has neither removed/returned interest, holding charges nor removed/returned extra stamp duty. Feeling aggrieved, present complaint has been filed.



C. RELIEF SOUGHT

25. That the complainant seeks following relief and directions to the respondent:-

- i. Physical possession of the said plot should be handed over to the complainant.
- ii. Interest amount of Rs. 5471193/- (Fifty-Four Lakh Seventy-One Thousand One Hundred Ninety-Three Rupees), till date 01 May 2022, and until the possession of the plot is given to the complainant as applicable, is to be paid to the Petitioner due to delay in possession. The said amount is calculated on page 31-32 (Details of the amount of interest being claimed) at the rate of 18% per Annum, the same rate is used/demanded by the Respondent. The rate of interest is mentioned in the Tax invoice P/9, statement of account cum invoice P/10, Plot Buyer Agreement P/8 para 1.2 (d) and Maintenance and Service Agreement P/30 para 4.3.
- iii. Interest and Holding Charges illegally collected by M/S. BPIT Pvt. Ltd of Rs. 135340/- (One Lakh Thirty-Five Thousand Three Hundred Forty Rupees) is to be returned back to the Petitioner.



- iv. Common Area Maintenance Charge and electricity bill illegally collected by M/S. Business Park Maintenance Services Pvt. Ltd. of Rs. 197774/-(One Lakh Ninety-Seven Thousand Seven Hundred Seventy-Four Rupees) is to be returned back to the Petitioner.
- v. Extra Stamp duty for Plot Registration illegally collected by M/S. BPITP Pvt. Ltd of Rs. 227000/- (Two Lakh Twenty-Seven Thousand Rupees) is to be returned back to the Petitioner. This was due to delay in registration of Plot from M/S. BPITP Pvt. Ltd. Even after Complete Payment was done by Petitioner/his representative.
- vi. Compensation for not giving Physical Possession at the rate of Rs. 50000/- per month or as decided by the honorable court from date 01.09.2020 (date on which all demand and dues was paid to M/S. BPITP Pvt. Ltd) till date 01.05.2022 for 20 Months is Rs. 1000000/- (Ten Lakhs Rupees) is to be paid to the Petitioner.
- vii. Compensation for the enormous harassment and mental stress to the complainant due to delay in possession.
- viii. Connecting road to the said plot should be constructed.
- ix. The said plot should be connected to main road as per plan, so that the complainant can reach to his plot and all type of



construction material and other vehicle can reach to the said plot.

- x. Electricity and water connection should be provided to the said plot so that complainant can commence construction of his plot.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 15.05.2023 pleading therein:

26. That the Conveyance Deed has been executed in favour of the Complainant on 15.06.2021, whereby the Complainant on account of accepting the physical possession of the allotted plot acknowledged vide clause 3 of the Conveyance deed, that the Complainant had taken the physical possession of the plot after due verification and inspection and therein no objection with regards to the area, location, dimension etc. Complainant had duly verified the plot and undertakes not to raise any dispute/claim with the Respondent in future against the plot.

27. That the respondent had out performed its contractual obligation towards the complainant as it has given the physical possession of the plot to her.

28. That vide clause 2 of the subject to force majeure the respondents had proposed to offer possession as per the payment plan opted by the complainant subject to timely payment of total sale consideration. It is



submitted that respondent had offered possession of the plot to the complainant vide offer of possession dated 04.12.2019, thereafter respondent had issued no objection certificate for giving possession of the plot vide certificate dated 21.06.2021, subsequently conveyance deed was executed between the parties.

29. That the respondent is left with no contractual objection towards the physical handover of the plot as conveyance deed had already been executed between the parties. Since, while offering the possession of the plot by the respondent is well within the purview of clause 2 of the agreement, considering which no cause of action whatsoever has ever arisen in favor of complainant.

30. That it is germane to bring to the kind attention of this Hon'ble Authority that the Complainant has knocked the doors of this Hon'ble Authority for redressal of their alleged grievances with unclean hands, i.e. by not disclosing material facts pertaining to the case at hand and also, by distorting and/or misrepresenting the actual factual situation with regard to several aspects. It is further submitted that the Hon'ble Apex Court in plethora of judgments has laid down strictly, that a party(ies) approaching the Court for any relief, must come with clean hands, i.e. without concealment and/or misrepresentation of material facts, as the same amounts to fraud not only against the Respondent but also against the Court and in such situation, the Complaint is liable to be dismissed at the threshold without any further adjudication.



31. That the Complainant furthermore concealed from this Hon'ble Authority that the Respondent has already offered the possession of the Plot in question to the Complainant way back in 2019 i.e. 04.12.2019. However, the Respondent had performed its contractual obligation towards the complainant and have executed the Conveyance deed in favour of the Complainant.
32. That the Respondent had performed its contractual obligation on various occasions and have intimated the complainant to take physical possession of the plot i.e. vide offer of possession dated 04.12.2019, Conveyance deed dated 15.06.2021 and lastly by No objection certificate vide dated 21.06.2021 regarding physical possession of the plot.
33. From the given premise, it is very well established that the Complainant with malafide intention in order to shield her own case has approached this Hon'ble Authority with unclean hands by distorting, concealing and misrepresenting the relevant facts which are necessary for the proper adjudication and to meet the ends of justice. It is further submitted that the sole intention of the Complainant is to unjustly enrich herself at the expense of the Respondent by filing this frivolous Complaint which is nothing but gross abuse of the due process of law. It is further submitted that in light of the fleet of precedents laid down by the Hon'ble Apex Court, the present Complaint warrants dismissal without any further adjudication.



34. That it is the complainant who have failed to occupy the said plot despite the execution of conveyance deed in her favour.

E. ADDITIONAL DOCUMENTS BY THE PARTIES

35. Complainant had filed photographs of plot in registry on 06.09.2023.

36. Complainant had placed detailed calculations in registry on 08.11.2023.

37. Complainant had filed written arguments and copy of physical possession letter dated 29.11.2023 in registry on 26.02.2024.

38. Respondent had filed an application in registry on 13.05.2024 stating that respondents were directed to physically handover the plot to the complainant vide order dated 11.10.2023. Respondents have complied with the directions and had given physical possession of the plot vide physical possession letter dated 29.11.2023. Copy of letter is annexed as Annexure-A. The possession of the plot handed over to the complainant is free from any type of encroachment and have been duly handed over to the Complainant after its out most satisfaction of the plot, whereby the Complainant had duly inspected the plot. It is further submitted that the Complainant have taken the vacant possession of the plot vide physical possession letter dated 29.11.2023, and have duly proceed with the constructions activities at the site, enclosed herewith are the photographs of the constructions activities going at the site marked as Annexure-B.

39. Respondent had filed an application in registry on 09.09.2024 stating that vide order dated 14.05.2024 respondent were directed to place on record

statement of receivables and payables. It is submitted that, since it's a CD executed case, nothing is pending on account of receivables and payables. Complainant had duly taken possession of the unit. That the process of handover, is elaborated below for the ready reference of the Hon'ble Authority.

- Payment of all dues i.e for BPTP and Stamp Duty, as per Annexure-'A' and for BPMS as per the invoice shared, within 30 days from the date of OOP.
- Submission of all documents as per Annexure-'B' of OOP.
- Execution of Maintenance Agreement with Business Park Maintenance Services Pvt. Ltd.
- Deposit of fixed deposit or bank guarantee for VAT/EE/DC as security, if applicable.
- Completion of final checking of accounts and documents by us within 30 days from the receipt of full payments and all documents.
- All the modalities (including purchase of stamp papers) for execution and registration of the conveyance deed to be completed. Post that you will be requested to choose a date of mutual convenience for execution and registration of conveyance deed.
- Execution of conveyance deed and issue of NOC for physical possession/physical handover of plot. A copy of offer of possession is marked herewith as Annexure-A.



-It is submitted that the Respondent had duly complied with the directions of the Hon'ble Authority vide order dated 14.05.2024.

40. Respondent had filed application in registry on 09.12.2024 reiterating the submissions already made in application filed in registry on 09.09.2024.

41. Complainant had filed an application in registry on 24.11.2025 stating as follows:-

-It is submitted that vide order dated 15.05.2025, Complainant was directed to place on record the notice of common area maintenance charges demanded by BPITP. A copy of order dated 15.05.2025 is marked herewith as Annexure -A. Copy of common area maintenance charge dated 24.06.2025 is attached herewith as annexure - B.

-Total amount demanded by BPITP till 24.06.2025 is Rs. 7,03,732/-.

-It is submitted that Actual physical possession date is 29.11.2023. BPITP rate of maintenance charge is Rs. 9677/- for three months. Total Common area maintenance charge from 29.11.2023 to 29.11.2025 is Rs. 77,416/-.

-It is also submitted that complainant has already paid advance maintenance charge for 15 months of Rs. 57473/- in order to get conveyance deed completed.

-Copy of electricity bill dated 24.06.2025 is attached herewith as annexure - C.

-Copy of Occupancy certificate dated 06.10.2025 is attached herewith as annexure-D.



-It is further submitted that BPTP demand for common area maintenance charge is highly inflated and beyond my understanding. Interest at 18% is also charged even after court order.

F. ARGUMENTS OF COUNSEL FOR COMPLAINANT AND RESPONDENT

42. Adv. Hemant Saini. Ld. counsel for respondent relied upon Section 11(4)

(a) of RE (R&D) Act, 2016 which is as follows:-

Section 11 Functions and duties of promoter.

.....(4) ***The promoter shall(emphasis laid)***—

(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;

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

43. He argued that word used in section is 'shall' and till the 'conveyance of apartments'. Proviso deals in negative specifying only for structural defect. Legislature has specifically used 'shall' till the conveyance and thereafter role of proviso comes in. Herein, stage of execution of conveyance deed has been categorized. Builder is liable for all obligations and responsibilities only upto stage of conveyance deed. Legislature consciously used word 'shall' which establish that after conveyance deed



what all survives. Proviso has been incorporated in to specify the obligations/duties which will survive after execution of conveyance deed. There is no ambiguity in language. After execution of conveyance deed, relation of promoter and allottee comes to an end qua the obligations of promoter/builder. As soon as execution of conveyance deed takes place, relations of parties as well as obligations of the parties comes to an end.

44. He referred to Section 14 (3) of RE (R&D) Act, 2016 to submit that the time period of 5 years has been prescribed in Act for bringing into notice the structural defect.

Section 14-Adherence to sanctioned plans and project specifications by the promoter.

.....(3) *In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter **within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge**, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.*

45. For relying upon the interpretation of word 'till', reference has been made to Cambridge dictionary, wherein it has been stated as '**till-up to (the time); until**'. Example like, before, by , till , until. He stated that by using word 'till' in Section 11 (4) (a), legislature was aware of the fact that time period has been specified.



46. Judgment (page 4 wherein issues have been framed) passed by the Authority in complaint no. 328/2021 titled as Alka Sibbal vs Countrywide Promoters Pvt Ltd passed on 17.08.2022 has been referred in support of plea that there is no contractual relationship between the parties after execution of conveyance deed. He stated that appeal has been filed by complainant's counsel which is pending before Hon'ble Real Estate Appellate Tribunal, Chandigarh.

47. He referred to Section 11 (g) of RE (R&D) Act, 2016 to submit that Legislature was alive to situation/circumstances of Real Estate Sector and has wisely inserted the proviso where the obligations of builder was supposed to be continued even after execution of conveyance deed.

Section 11 (g)- pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees, as the case may be, which he has collected from the allottees, for the payment of outgoings (including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authorities, banks and financial institutions, which are related to the project);

Provided that where any promoter fails to pay all or any of the outgoings collected by him from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoings and penal charges, if any, to the authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefor by such authority or person;



Duties and obligations of the builder have been specified throughout the scheme of the Act. Words and proviso has been used to specify the stage as to upto when those obligations will subsists.

48. Several judgments have been referred in support of plea that when words of stature are clear and unambiguous then there is no room for any further interpretation of it. Courts/Authorities are bound to give simple meaning to it.

1. All words employed therein must be given their full meaning unless the same results in absurdity

1. Illachi Devi (D) by LRs Vs. Jain Society Protection of Orphans Ltd. (Flag 1 Para 26)

2. Gurudevdata VK SSS Maryadit Vs. State of Maharashtra. (Flag 8 Para 26)

Words must be understood in their natural, ordinary or popular sense unless leads to some absurdity.

3. Sutters Vs. Briggs (Flag B Para 26)

No reason for limiting the natural and ordinary meaning of words used.

4. Dental Clinic of India Vs. Hariprakash (Flag C Para 26)



Golden Rule: when words are not ambiguous, literal meaning has to be applied.

5. Dayal Singh Vs. UOI (Flag 1, Illachi Devi Para 29)

The question is not what is supposed to have been intended but what has been said.

6. Grasim Industries Vs. Collector of Customs (Flag F)

Where words are clear and there is no obscurity, intention is clearly conveyed and no scope for court to take upon itself the task of amending /altering statutory provisions.

7. Illachi Devi (Flag 1 Para 32)

When legislature has employed a plain language, court is not concerned with consequences.

8. Referred /Argued in Lalu Prasad Yadav Vs. State of Bihar (Flag 3 Para 8 onwards, 18 to 21)

Robert Mitchell Vs. Soren (Para 17)

Words ought to be understood according to genuine and natural signification.

II. Courts not to adopt hypothetical construction

9. Union of India Vs. Hansoli (Flag 4)

When language is plain and unambiguous, Court must give effect to words used and not be open to adopt hypothetical construction. Para 9, 10)



10. Ajay Pradhan Vs. State of MP (Flag 5 Para 7)

If plain words, we are bound to construe them in ordinary sense.

King Emperor Vs. Benori Lal Sharma (Para 7)

"We must give effect to it whatever may be the consequences."

12. Swedish Match Vs. SEBI (Flag 6)

Where wordings are absolutely clear, recourse to different principles of interpretation may not be resorted to. (Para 51)

Harmonious construction, where expression is capable of more than one meaning (Para 85 to 87)

Literal Construction (Para 93 to 97, 102)

III. Literal Interpretation

13. Swedish Match Vs. SEBI (Flag 6 Para 93-97)

14. Nathi Devi Vs. Radha Devi Gupta (Flag 7 Para 13)

15. Nasiruddin Vs. Sita Ram (Flag N, Para 14)

Cannot re-write or recast legislation

16. High Court of Gujrat Vs. Gujrat Kishan Mazdoor (Flag 2 Para 16 of Nathi Devi)

17. Gurudev datta Vs. State of Maharashtra (Flag 8 Para 28)

18. Union of India Vs. Popular Construction (Flag 15)

Express Exclusion: but "not thereafter"

19. Padmasundera Vs. State of Tamil Nadu (Flag 17)



Court cannot read something in statute which is not there in it. (Para 12 to 16)

IV. Superior Court/ Inferior Court

20. M.M.Thomas Vs. State of Kerala (Flag 10)

Nothing is within jurisdiction of Inferior Courts unless expressly shown (Para 15)

V. Interpretation must remain interpretation and not descend into interpolation.

21. Illachi Devi Vs. Jain Society (Flag 1 Para 28)

VI. Intention of legislature

22. Dayal Singh Vs. UOI (Illachi Flag1 Para29)

Intention must be found out from the language employed in Statute itself.

23. Padma Sundara Rao Vs. State of Tamil Nadu (Flag 17)

Court cannot read anything into a statutory provision which is plain and unambiguous.

24. Harbhajan Singh Vs. Press Council of India (Flag 1)

Legislature does not waste its words.

No other meaning can be assigned except by doing violence to the language employed.

25. Grasim Industries Vs. Collector (Flag F)

26. Illachi Devi (Flag 1 Para 32)



27. Nathi Devi Vs. Radha Devi Gupta (Flag 7)

Irrespective of consequence (Para 11)

If plain, no question of construction of Statute

Function is to discover true legislative intent.

Construction attributing redundancy will not be accepted. (Para 12)

28. Col. Prithi Pal Vs. UOI (Flag 18 Para 8)

Court should adopt literal construction if it does not lead to an absurdity (Flag 18 Para 8)

VII. Casus Omissus

29. Dr. Baliram Waman Hiray Vs. Mr. Justice B.L.entin (Flag G)

30. Kanta Devi Vs. UOI (Flag H)

31. Shrimati Tarulata Shyam Vs. Commissioner of Income Tax (Flag I)

If there be casus Omissus, defect can be remedied only by legislation and not by judicial interpretation.

32. Major & St. Mellons Vs. Newport (Flag K Para 14 of Illachi)

Duty of Court is to interpret words legislature has used.

Travel outside on voyage of discovery- prohibited.

VIII. Legislation seeks to obviate some mischief

33. Union Bank Vs. Abhijit Tea Co. (Flag J)

34. RBI Vs. Peerless

No part of Statute and no word of Statute can be construed in isolation.



35. Gurudev data Vs. State of Maharashtra (Flag 8) Para 24)

IX. Purposive Construction

36. Illachi Devi (Flag 1 Para 40, 45/1)

37. Punjab Land Development Vs. Presiding Officer, Labour Court Chandigarh (Flag I.)

38. Gopal Reddy Vs. State of Andhra (Flag M)

Purposive Approach for interpreting is necessary.

39. Swedish Match Vs. SEBI (Flag 6 Para 15 of Natni Devi Vs. Radha)

X. Not permissible to add words:

40. Lalu Prasad Vs. State of Bihar (Para 21)

41. Quebec Railway Vs. Vandry

Not permissible to add words which are not there.

49. Learned counsel referred to Section 39 of RI(R&D) Act,2016 stating that power of review has been not given to the Hon'ble Authority. Whereas in Section 53 (c) of RI(R&D) Act,2016 dealing with powers of Tribunal has specifically provided power to 'reviewing its decisions'. Proper structure has been laid down by the legislature. At one stage, Power of review is not given but at the other stage, it is expressly given. Powers cannot travel beyond statute. Distinction of stage/powers has been made by the legislature.



50. He relied upon Para 34 of judgment dated 24.08.2020 passed by Hon'ble Supreme Court in Civil Appeal no. 6239 of 2019 titled as Wg. Cdr. Arifure Rahman Khan and Ors vs DLF Southern Homes Pvt Ltd.
51. He argued that complainant herein enjoys ownership right of the unit and has not placed any evidence of protest to any payments/ execution of conveyance deed. Nothing bonafide has been placed on record to show that they were aggrieved at time of execution of conveyance deed.
52. In present case, all obligations qua Section 11 of Act stands fulfilled. After getting conveyance deed in year 2021, complainant has filed present complaint after expiry of 1 year approximately in year 2022. No entitlement is made out in favor of complainant to any of the reliefs sought.
53. Complainant has argued that relief of delay interest is duly provided to the allottee as per Section 18 of RERA Act, 2016. Further he stated that maintenance charges and electricity bills be revised w.e.f date of physical handing over of possession i.e. 29.11.2023. Overpaid amount be returned to complainant. Construction has started after year 2023. Amounts were paid under protest to respondent.
54. At this stage, complainant was asked to point out the evidence of making payments under protest? To it, Id. counsel for complainant stated that no proof/evidence is available on record.



G. ISSUES FOR ADJUDICATION

55. Whether the complainant is entitled to the reliefs sought or not? If Yes, the quantum thereof.

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

56. At the outset, respondent has taken an objection that complainant had executed a conveyance deed dated 15.06.2021 and therefore, the transaction between the complainant and the respondent has been concluded and no right or liability can be asserted by respondent or the complainant against the other. Therefore, the complainant is estopped from claiming any interest in the facts and circumstances of the case. At this stage, it is important to look at the definition of the term, deed, itself in order to understand the extent of the relationship between an allottee and promoter. A deed is a written document or an instrument that is sealed, signed and delivered by all the parties to the contract (buyer and seller). It is a contractual document that includes legally valid terms and is enforceable in a court of law. It is mandatory that a deed should be in writing, and both the parties involved must sign the document. Thus, a conveyance deed is essentially one wherein the seller transfers all rights to legally own, keep and enjoy a particular asset, immovable or movable. In this case, the asset under consideration is immovable property. On signing a conveyance deed, the original owner transfers all legal rights over the property in question to the buyer, against a valid consideration (usually monetary).



Therefore, a conveyance deed, or 'sale deed' implies that the seller signs a document stating that all authority and ownership of the property in question has been transferred to the buyer.

57. From above, it can be said that taking over the possession and thereafter execution of the conveyance deed can best be termed as respondent having discharged its liabilities as per the buyer's agreement and upon taking possession, and/or executing conveyance deed, the complainant never gave up her statutory right to seek delayed possession charges.

58. It is noteworthy to mention here that in Appeal no. 272, 273, 274 of 2019 titled as Manju Arya vs M/s TDI Infrastructure Pvt Ltd, Hon'ble Haryana Real Estate Appellate Tribunal, Chandigarh vide order dated 19.01.2021 has observed that the cause of action which had already accrued to the allottee against the promoter due to non-fulfilment of the obligations as per the agreement for sale shall not stand extinguished with the execution of the conveyance deed. Whatever statutory rights had accrued to the allottee prior to the conveyance deed cannot be defeated with the subsequent execution and registration of the conveyance deed. Relevant part of the order is reproduced below:

"18. As far as appeal no.273 of 2019 is concerned, no doubt, the conveyance-deed was already executed and registered on the date of filing the complaint no.718 of 2018. But, in our view the execution and registration of the conveyance-deed will not absolve of the promoter of the liability which had accrued before the execution and registration of the conveyance-deed. The moment the delay has occurred in the delivery of possession, the statutory right to claim the compensation had occurred to the appellant



which cannot be subsequently extinguished with the execution and registration of the conveyance-deed.

19. The learned Adjudicating Officer has referred to Section 11 sub section 4 (a) of the Act to dislodge the claim of the appellants which reads as under: -
"11. Functions and duties of promoter.

(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: Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed

20. As per the aforesaid provision of law, the promoter shall be responsible for all the obligations, responsibilities and functions under the provisions of the Act or the rules and regulations made thereunder or to the allottees as per the, agreement for sale till the conveyance of all the apartments, plots or buildings, as the case may be. This provision does not say that the cause of action which had already accrued to the allottee against the promoter due to non-fulfilment of the obligations as per the agreement for sale shall stand extinguished with the execution of the conveyance-deed. Whatever statutory rights had accrued to the allottee prior to the conveyance-deed, cannot be defeated with the subsequent execution and registration of the conveyance-deed.

21. The Hon'ble Apex Court in case Wg. Cdr. Arifur Rahman Khan and Ors. Vs. DLF Southern Homes Pvt. Ltd. and Ors. 2020(3) RCR (Civil) 544 has laid down as under: - "The developer in the present case has undertaken to provide a service in the nature of developing residential flats with certain 15 had Complaint No.808/2020 amenities and remains amenable to the jurisdiction of the Consumer Fora. Consequently, we are unable to subscribe to the view of the NCDRC that flat purchasers who obtained possession or executed Deeds of Conveyance have lost their right to make a claim for compensation for the delayed handing over of the flats."

22. Thus, the Hon'ble Apex Court has categorically laid down that the purchasers will not lose their right to claim compensation for the delayed handing over of the unit on the ground that the possession has been delivered and deed of conveyance has been executed. This authority is squarely applicable to the controversy in hand.

23. Even though this judgment has been rendered by the Hon'ble Apex Court under the Consumer Protection Act, 1986 but the principle of law laid down



by the Hon'ble Apex Court in the aforesaid judgment will also be applicable to the cases under the Act. Thus, we are of the considered opinion that mere execution of the conveyance-deed by the respondent/promoter qua plot no.663, Block no.L, TDI City at Kundli, Sonapat, Haryana (Complaint No.718/2018, Appeal No.273/2019) will not extinguish the right of the appellant/allottee to claim the compensation which had already accrued to her much before the execution of the conveyance-deed."

Also, the para 35 of judgment dated 24.08.2020 titled as Wg. Cdr. Arifur Rahman Khan and Aleya Sultana and Ors. Vs. DLF Southern Homes Pvt, Ltd, (now Known as BEGUR OMR Homes Pvt. Ltd.) and Ors. (Civil appeal no.6239 of 2019) is reproduced herein below:

"35. The flat purchasers invested hard earned money. It is only reasonable to presume that the next logical step is for the purchaser to perfect the title to the premises which have been allotted under the terms of the ABA. But the submission of the developer is that the purchaser forsakes the remedy before the consumer forum by seeking a Deed of Conveyance. To accept such a construction would lead to an absurd consequence of requiring the purchaser either to abandon a just claim as a condition for obtaining the conveyance or to indefinitely delay the execution of the Deed of Conveyance pending protracted consumer litigation."

59. Authority observes that the complainant/allottee has invested her hard-earned money and there is no doubt that the promoter has been enjoying benefits of it. Next step thereafter is to get their title perfected by executing a conveyance deed which is the statutory right of the allottee. Also, the obligation of the developer promoter does not end with the execution of a conveyance deed. The essence and purpose of the Act was to curb the menace created by the developer/promoter and safeguard the interests of the allottees by protecting them from being exploited by the dominant position of the developer which he thrusts on the innocent allottees. Therefore, in furtherance to the Hon'ble Apex Court judgment and the law laid down in the Wg. Cdr. Arifur Rahman (supra), this Authority holds that even after execution of the

conveyance deed, the complainant cannot be precluded from her right to seek delay possession charges from the respondent-promoter. Keeping in view the aforesaid discussion, it is decided that the complaint is maintainable. However, the reliefs sought by the complainant has to be evaluated on basis of other principles like delay and laches, applicable of statutory provisions etc.. Same has been dealt below at length in further paragraphs.

60. Factual matrix of the case is that a unit was booked by the complainant in the project being developed by the respondent namely "Parklands" situated at Faridabad, Haryana in the year 2019. Builder buyer agreement for the unit/plot no. F-45-02, 497 sq. yds was executed between the parties on 30.11.2019. In terms of clause 2.1, the possession of the unit was to be delivered as per opted payment plan. An amount of ₹ 1,13,54,000/- has been paid by the complainant against the basic sale consideration of ₹ 1,13,54,000/-. Out of said amount, last amount of ₹ 1,25,000/- has been paid by complainant on 05.10.2020. An offer of possession was made to complainant on 04.12.2019 along with demand of ₹ 1,01,54,000/- (demand of ₹ 3,41,000/- for stamp duty charges). To said offer, complainant made the payments in year 2020-2021 and got conveyance deed executed in her favor on 15.06.2021. No objection certificate for giving possession of plot to complainant was issued on 21.06.2021. Grievance of the complainant herein is that respondents did not deliver actual possession of unit to complainant even after execution of conveyance deed and NOC. Thereafter,



complainant had filed present complaint in year 2022 seeking actual possession and delay interest.

61. As per clause 2.1 of the builder buyer agreement, possession of the unit was to be delivered as per opted payment plan along with grace period of 180 days for making offer of possession. Plan is provided in Schedule-I which is as follows:-

Sr. no.	Stage	Allied charges
1.	At the time of Booking	12 lakh
2.	On offer of possession (within 30 days from date of booking)	Complete 100% of TSC +Registration charges.

62. Timeline for possession (for offer) is 16.12.2019. Grace period does not come into picture as offer of possession was made within time on 04.12.2019. In pursuance of said offer, complainant had paid 100% amount towards sale consideration alongwith registration charges upto 09.04.2021. Same is evident from payment of ₹ 2,27,000/- as registration charges paid by complainant on 09.04.2021. Accordingly, deemed date for possession works out to 09.04.2021.

63. Fact remains that an offer for possession was issued to complainant on 04.12.2019 along with demand of ₹ 1,01,54,000/- (demand of ₹ 3,41,000/- for stamp duty charges). In acceptance of said offer, an amount of ₹ 1,10,55,114/- was paid by the complainant upto 09.04.2021. Thereafter, complainant got conveyance deed executed in her favor on 15.06.2021. NOC for handing over physical possession was issued on 30.06.2021. But actual possession of the plot



was not handed over to complainant. Authority had passed detail order dated 11.10.2023 observing that complainant could not enjoy the possession of plot even after conveyance deed. Order dated 11.10.2023 is reproduced below for reference:-

"Case was heard at length on 05.07.2023. After hearing arguments of both parties, Authority had made following observations:-

"4. After hearing submissions of both parties, it is observed that in this case physical possession of the plot has already been delivered to the complainant and further conveyance deed has also been executed on 15.06.2021. Prima facie there is no contractual obligation remaining on the part of respondent. Complainant has filed present complaint seeking physical possession of the plot with a claim that at the time of delivery of possession there was no road connectivity at site neither proper demarcation had been done by the respondent. These claims have been vehemently refuted by the respondent. Complainant has approached this Authority almost a year after taking possession of booked plot claiming that said possession was of an incomplete plot. However, complainant has failed to substantiate her claim with any documentary evidence or photographs of site at the time. Therefore, complainant is directed to file document, if any, to verify the fact that indeed at the time when possession of plot in question was handed over the plot in question was incomplete. Respondent is directed to file an affidavit stating that at the time of conveyance deed all facilities were available at site including road connectivity and proper demarcation. Both parties shall file their respective documents within three weeks with advance copies supplied to each other."

2. In compliance of order dated 05.07.2023, complainant has filed photographs of the site in question wherein it is visible that there is a boundary wall at the site of the plot of the complainant. She has further filed copies of Show cause notices dated 16.02.2023 and 06.03.2023 issued by the office of District Town Planner, Enforcement, Faridabad and Mr. N.K Sharma, President of RWA Villa Owners Association, F-Block, Sector 88, BPTP, Faridabad regarding unauthorised boundary wall and gate on 12M wide service road without any prior permission from the department. Mr. Bineet, representative of the complainant submitted that the photographs of the site and the notice issued by



DTP, District Town Planner, Enforcement, Faridabad prove that the access to the plot of the complainant had been blocked by the unauthorised boundary wall which made it difficult for the complainant to utilise the same without hindrance. He further referred to email dated 30.06.2021, annexed at page 129 of complaint file, sent to the respondent company immediately after execution of the conveyance deed wherein complainant has explicitly stated that she is not able to start construction over said plot as the road access to her plot is hindered.

3. Mr. Bineet argued that as per the terms of offer of possession dated 04.12.2019 issued to the complainant the steps leading to handing over of possession first included execution of conveyance deed and issuance of NOC and only thereafter physical possession was to be offered. Hence, complainant had no choice but to execute conveyance deed with respect to the said plot. A copy of the offer of possession is annexed at page 66 of complaint book. Whereas it has not been mentioned in the plot buyers agreement that execution of conveyance deed is a prerequisite for handing over of physical possession. The complainant had no option but to give in to the demands of the respondent. The offer of possession dated 04.12.2019 was not a valid offer of possession despite execution of conveyance deed as the complainant could not have used the plot. Therefore, he prayed that respondent be directed to handover the physical possession of the plot to the complainant at the earliest along with delay interest for delay in handing over of possession.

4. Mr. Hemant Saini, learned counsel for the respondent admitted to the fact that the access to the plot of the complainant had been hindered due to construction of an unauthorised boundary wall by owners of villa, which lay in front of the said plot. Now the said wall has been demolished and the access to the plot has been cleared. Conveyance deed has already been executed for the said plot and complainant already has the possession for the same. There is no obligation remaining on the part of the respondent.

5. It is pertinent to mention that vide order 05.07.2023, respondent was directed to file an affidavit stating that at the time of conveyance deed all facilities were available at site including road connectivity and proper demarcation. Said affidavit has not been filed.

6. Vide order dated 05.07.2023, it was prima-facie observed by the Authority that after execution of conveyance deed dated 15.06.2021 between both the parties, there is no contractual obligation remaining on the part of respondent. Complainant was already the owner in possession of the plot. **However, in light**

of the latest submissions made by the complainant and documents placed on record, it can be ascertained that in fact the access to the plot of the complainant had been restricted due to the construction of the unauthorised wall because of which the complainant was unable to construct her plot. Complainant had brought this fact in the knowledge of the respondent immediately after execution of the conveyance deed vide email dated 30.06.2021. The presence of the unauthorised wall at the site of the plot has also been admitted to by the respondent. Said wall has only recently been demolished. This establishes a clear fact that despite having executed the conveyance deed the complainant was unable to enjoy the rights affiliated to her plot. Further, it has also been pointed out by the complainant that execution of conveyance deed was a mandatory step in order to take physical possession. On the other hand respondent has not been able to prove that at the time of conveyance deed all facilities were available at site including road connectivity and proper demarcation.

*7. In light of the above facts, Authority cannot deny the fact that the complainant did not wholly enjoy the possession of her plot. **Complainant is yet to receive physical possession of her plot with complete access. Therefore, respondent is directed to handover actual physical possession of the plot to the complainant on 20.10.2023 with proper demarcation at the site.** Respondent shall send a proper communication to the complainant within five working days after uploading of this order with regard to the site visit for taking over of possession. The payable and receivables by both the parties with regard to the plot shall be decided on next date.*

8. Further, respondent shall file a detailed clarification with regard to the issue pertaining to the steps to take physical possession and the sequence of execution of conveyance deed before actual handing over of possession. Respondent is granted another opportunity to file the relevant details sought vide order dated 05.07.2023 subject to payment of cost of 5,000/- within two weeks with an advance copy supplied to the complainant. Both parties shall file their respective calculations pertaining to the payable and receivables amount with respect to the plot before next date of hearing with advance copy supplied to the opposite party.

9. Case is adjourned to 14.12.2023."

64. In compliance of directions issued vide order dated 11.10.2023, respondents had handed over the actual physical possession of the plot vide



letter dated 29.11.2023. In this case, only conveyance deed was executed between the parties but proper possession was not handed over to complainant till 29.11.2023 (date of actual taking of possession). It is clear from the facts that main purpose of contract/BBA had not been achieved/fulfilled even after 2.4 years of execution of conveyance deed. It can be inferred that signing of conveyance deed was only a documentary formality which only acts as a proof of ownership of property/unit in favour of complainant, but no meaning can be assigned to it, in respect of fulfilling vital obligation of respondents towards complainant for handing over of possession.

65. The facts set out in the preceding paragraph demonstrate that, admittedly, physical possession of unit was not delivered till 2023. Complainant herein has already taken possession of unit in year 2023 but is pressing for her claim qua delay interest. In these circumstances, provisions of Section 18 of the RE (R&D) Act, 2016 clearly come into play by virtue of which while exercising the option of taking possession of the plot, the complainant is also entitled to receive interest from the respondent on account of delay caused in delivery of actual possession.

66. Section 18 (1) of the Act, Section 18 (1) proviso reads as under:-

“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".

67. As per Section 18 of the RE (R&D) Act, 2016, interest shall be awarded at such rate as may be prescribed. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

68. Rule 15 of HIREA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: "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"

69. Consequently, as per website of the State Bank of India, i.e., <https://sbi.co.in>, the highest marginal cost of lending rate (in short MCLR) as on date i.e.,



23.07.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.

70. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR) + 2 % which as on date works out to 10.80% (8.80% + 2.00%) from the deemed date of possession to date of actual handing over of possession, i.e. 09.04.2021 to 29.11.2023.

71. Complainant herein is claiming delay interest at the rate of 18%. It is pertinent to mention here that the legislature in its wisdom in the subordinate legislation under the provisions of 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.

72. Authority has got calculated the interest on total paid amount as per detail given in the table below:

Sr. No.	Principal Amount (in ₹)	Date of due date of possession or whichever is later	Interest Accrued till 29.11.2023 (in ₹)
1.	1,22,45,572	09.04.2021	34,96,530
2.	9542	24.04.2021	2,682

Total=	1,22,55,114/-		34,99,212/-
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73. In respect of relief clause (iii), (iv), (v), it is observed that complainant has not been able to substantiate the fact that payments in respect of these heads/charges were made under protest. No objection of any kind was raised by the complainant at the time of making these payments during year 2020-2021. In respect of maintenance charges, it is observed that complainant had executed maintenance agreement with maintenance agency on 14.09.2020 whereby clause 1.2 provides that complainant-allottee shall be deemed to have taken possession as on 90th day from the expiry of period mentioned in offer of possession letter and he shall become liable to pay maintenance charges. Moreover, complainant had paid the amount towards maintenance charges without any objection. Said clause is reproduced below for reference:-

"Clause 1.2 The Billing cycle for the Maintenance Services shall start from 91st day of the expiry of period mentioned in Offer of Possession Letter or execution of Conveyance Deed whichever is earlier (hereinafter called "the Commencement Date"). It is understood and acknowledged by the Parties that for the purposes of this Agreement, in the event the UNIT BUYER/USER has failed to take possession of the said Unit till the expiry of aforesaid period, the UNIT BUYER/USER shall be deemed to have taken possession as on the 90th day from the expiry of period mentioned in Offer of Possession Letter and he/she/it shall become liable to pay Maintenance Charges w.e.f. the Commencement Date."



After execution of conveyance deed and handing over of physical possession, the transactions qua illegality of charges cannot be re-opened. No relief per se to these charges is awarded to complainant for want of proper proof/documents.

74. In respect of relief clause (vi) and (vii), it is observed that the complainant is also seeking relief of compensation for mental stress and harassment. For this the complainant- allottee is entitled to claim compensation under Sections 18(3) of the RERA Act. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "*M/s Newtech Promoters and Developers Pvt Ltd. V/s State of U.P. & 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 learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. Therefore, the complainant is free to approach the Adjudicating Officer for seeking the aforementioned reliefs.

75. In respect of relief clause (viii), (ix), (x), it is observed that these reliefs are neither argued nor pressed upon during hearing by complainant. Moreover, it is an admitted fact that construction has already started on plot of complainant way back in year 2023. Hence, no relief/direction is passed against these reliefs.



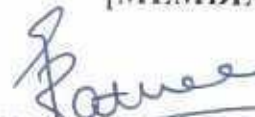
I.DIRECTIONS OF THE AUTHORITY

76. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(1) of the Act of 2016:

- i. Respondent no. 1 and 3 are directed to pay delay interest of ₹ 34,99,212/- to the complainant towards delay already caused in handing over the possession within 90 days from the date of this order.

77. **Disposed of.** File be consigned to record room after uploading on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S. SACHDEV
[CHAIRMAN]