

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

Complaint no. : 2949 of 2025
Date of complaint : 11.07.2025
Date of order : 17.07.2026

1. Rakhi Gaur
2. Amit Gaur

Both R/o: Plot No.5, HSIIDC, Industrial Area, Samalkha,
Distt. Panipat, Haryana-132101.

Complainants

Versus

M/s Citra Properties Limited

Registered office: M-62 & 63, First Floor, Connaught
Place, New Delhi-110001.

Respondent**CORAM:**

Shri Arun Kumar

Chairman**APPEARANCE:**

Shri Bhajan Lal Jangra, Advocate

Complainants

Shri Pulkit, 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 thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Project and unit related details

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

S. N.	Particulars	Details
1.	Name and location of the project	"Indiabulls One 09" Sector-109, Gurugram, Haryana.
2.	Nature of the project	Commercial complex
3.	Project area	Licensed area - 5.90 acres Project area - 3.216 acres
4.	DTCP license no.	License no. 43 of 2012 dated 05.05.2012 Valid up to 04.05.2028
5.	Name of licensee	M/s Citra Properties Limited
6.	RERA Registered & validity status	Registered [for Phase -1] Vide registration no. 333 of 2017 dated 24.10.2017 Up to 30.04.2019
7.	Corrigendum/Addendum	Extension No. 05 of 2019 DATED: 28.08.2019
8.	Extension	PROJECT CONTINUATION-RC/REP/HARERA/GGM/333 Of 2017/ 7(3)/2022/5 DATED 30.08.2022 Valid up to 04.05.2023
9.	Unit no.	Shop No. 124, First Floor in Tower-1C (page no. 33 of complaint)
10.	Unit area admeasuring	642.74 sq. ft. (carpet area) & 1102 sq. ft. (super area) (page no. 33 of complaint)
11.	Agreement for sale	25.06.2019 (page no. 31 of complaint)
12.	Possession clause	7. Possession of the unit: 7.1 Schedule for possession of the unit: The promoter agrees and understands that timely delivery of possession of the unit to the allottee(s) and the common areas to

		<i>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. The promoter assures to handover the possession of the unit along by 30.04.2019 ["Completion Time Period"] ...</i> [Emphasis supplied] (As per page no.37 of complaint)
13.	Due date of possession [as per letter by respondent W.r.t commitment to delivery of Tower-1C of the project]	30.10.2021 [30.04.2021 for Tower-1C + 6 months of grace period on account of Covid-19, as per HARERA Notification 2020 dated 26.05.2020] (Note: - As per letter dated 14.07.2020 W.r.t commitment to deliver the project by 30.04.2021 i.e., at page no. 26 of reply)
14.	Basic sale consideration	Rs.50,80,220/- (As per Clause 1.2 of BBA at page no. 34 of complaint)
15.	Total sale consideration [BSP + EDC/IDC +Tax]	Rs.62,19,939/- (As per Clause 1.2 of BBA at page no. 33 of complaint)
16.	Amount paid against the allotted unit	Rs.67,32,081/- [Rs.43,53,944/- + Rs.23,78,137/-] (As mentioned in applicant ledger account at page 63 of complaint Plus Receipts at page 52-61 of complaint)
17.	Occupation certificate	19.07.2024 [For Tower No. 1B, 1C, 2A, 2B & 2C] (As per copy of OC available at TCP, Haryana Official website)
18.	Offer of possession	21.08.2024 (As per page 69-70 of complaint)

B. Facts of the complaint:

3. The complainants have made the following submissions in the complaint:
 - I. That the complainants are joint allottee of unit bearing no. Shop 124 ad-measuring 642.74 Sq. Feet on 1st floor in Tower No. 1C in the project

“Indiabulls One 09, Gurgaon, Haryana comprises of 3 basements, Ground and 21st floor consisting of shops/offices/showrooms/restaurant/food courts/ multiplex & other commercial by virtue of buyer agreement and due to non-performance of the contractual obligation, deficiency in service and unfair trade practice adopted by the respondent the present complaint is being moved before the Authority for seeking direction of physical possession of the booked shop with complete compliance and law and necessary permission from authority. In support of identity.

- II. That the respondent claimed to be a registered company under the provisions of the Company Act and is carrying out its business in the real estate area by constructing and developing the residential and commercial project in the NCR Zone. Further, the respondent represented that booking of the unit/shop in the project namely “Indiabulls One 09, Gurgaon, Haryana to be constructed and developed over the land owned by respondent has been started and the physical delivery of the booked shop will be affected in time bound manner as per agreement.
- III. That the respondent represented that DTCP license no. 43/2012 dated 05.05.2012 for development and construction of the said commercial project has been procured and project will be completed by June 2021 within a period of 48 months.
- IV. That complainants were attracted by the respondent and induced to book the shop/unit in the project “Indiabulls One 09, Gurgaon, Haryana.
- V. That after negotiation the complainants signed a booking application form by making booking amount sum of Rs.2,00,000/- against booking of unit no. Shop 124 in the project “Indiabulls One 09, Gurgaon, Haryana.
- VI. That on the representation and assurances made by the respondent, the complainants jointly booked a commercial unit vide application no. 7400403 dated 05.07.2018 Shop no.124 having carpet area of 642.74

square feet, on First Floor in Tower No. 1C ("Building") along with one basement parking and right in the common areas ("Common Areas") against the total sale consideration sum of Rs.62,19,939/-.

- VII. That subsequent to the booking of the said shop, it is relevant to note that the respondent did not execute any builder buyer agreement until 25.06.2019. A notarized builder buyer agreement dated 25.06.2019 was eventually executed between the complainants and the respondent, with specific details outlined in Clause no.1 and Schedule C of the said agreement.
- VIII. That the complainants opted possession linked payment plan of 30:70 whereby the complainants were agreed to pay 30% amount within 90 days and rest 70 % at the time of completion of super structure & offer of possession of the unit.
- IX. That as per clause no.7 of the buyer agreement the respondent was legally obliged to handover the physical possession of the said shop/ unit by 30.04.2019 from signing of the buyer agreement but the expected dead line for handing over the physical possession stood expired and till date the respondent failed to deliver the shop in grave violation of buyer agreement and RERA Act.
- X. That the complainants had paid the sum of Rs.67,32,081/- to the respondent. That as per the payment receipts issued by the respondent, they had received sum of Rs.67,32,081/- from the complainant but neglected to handover the physical possession and demanding more payment without any justification.
- XI. The complainants had already paid more than 100% sale consideration, however the respondent failed to complete the project as per the time line. That the complainant had been regularly calling and visiting the respondent office since 2019 seeking information about completion and

possession of project writing numerous mails regarding progress of the project and occupation certificate but of no consequence.

- XII. That as stated above, the respondent failed to complete and handover the physical possession of the shop on or before 30.04.2019 if we include the 6 months of grace period from the date of execution of builder buyer agreement dated 01.11.2019 or including any delay due to "force majeure" the possession of the shop is still awaited. There is an inordinate delay of 4 years approx. as on 01.05.2025.
- XIII. That it has come to the knowledge of the complainant, the respondent had obtained occupation certificate on 19.07.2024 issued by the DTCP with certain condition to be fulfilled by the respondent but sewerage work, electricity work are still pending, and the project is still incomplete as it lacks basic infrastructural facilities including internal work hence the shop is not habitable condition.
- XIV. Besides that, the respondent neglected to provide electricity connection, water connection, sewerage connection and sent offer of possession. As submitted above, without basic amenities the booked shop cannot be offered to the complainants.
- XV. That it is relevant to mention here that the respondent has denied the use of the main lift citing ongoing construction relating to the adjoining office building which is part of the project. Additionally, the staircase and walls adjacent to the lift areas are in neglected and unfinished condition. The walls are marred with construction marks, dust and lack basic finishing and maintenance. This not only reflects poorly on the project's promised quality standard but also creates an unsafe and unappealing environment for the customers.
- XVI. That the respondent, at the time of sale, committed to delivering a fully functional and commercially conducive space. However, the current state

of access and maintenance is in stark contrast to such promises, amounting to unfair trade practices and deficiency in services.

- XVII. That the respondent by their acts, conduct and omission had failed to handover the physical possession of the unit in term of builder buyer agreement dated 25.06.2019 on or before 30.04.2019, thus played upon unfair trade practice hence the complainants are entitled to seek delay possession charges in the form of interest for inordinate delay in completion of the construction besides physical possession of the booked shop.
- XVIII. That the RERA law stipulates, if 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. Thus, the cause of action to file the present complaint.
- XIX. That the respondent is liable to pay interest for delay possession from 30.04.2019 (committed date of possession as per builder buyer agreement) till actual delivery of physical possession of the unit/shop.
- XX. That no other suit/case/complaint is pending or decided by any other competent court. That the present complaint is being filed within period of limitation and proper fee has been paid by the complainant.

C. Relief sought by the complainants:

4. The complainants have sought the following relief(s):
- i. Direct the respondent to handover the physical possession of Unit / Shop No. 124 having carpet area of 642.74 square feet, on First Floor in Tower No. 1C ("Building") along with one basement parking and right in the common areas ("Common Areas") with all the basic amenities as per the agreement.
 - ii. Direct the respondent to pay delay possession charges in the form of interest from committed date of handing over the physical possession;

- iii. Direct the respondent to execute the conveyance deed/sale deed in respect of the Unit/Shop no. 124 on 1st Floor, in Commercial Complex named as 'INDIABULLS ONE 09', situated at Sector-109, Gurugram;
 - iv. Direct the respondent not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop.
5. On the date of hearing, the Authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

6. The respondent has contested the complaint on the following grounds:
- a. That at the very outset, it is submitted that the instant complaint filed against the respondent is untenable both in facts and in law and is liable to be rejected on this ground alone.
 - b. That the present complaint is ex facie barred by the law of limitation. As per the complainants' own averments, the alleged cause of action arose on 30.04.2019, whereas the present complaint has been instituted only on 12.06.2025, i.e., after an inordinate delay of nearly six years from the stated cause of action as such liable to be dismissed on the ground of limitation alone.
 - c. That the complainant is estopped by their own acts, conduct, acquiescence, laches, omissions, etc. from filing the present complaint against the respondent.
 - d. That the present complaint is devoid of any merits and has been preferred with the sole motive to harass the respondent. In fact, the present complaint is liable to be dismissed on the ground that the said claim of the complainant is unjustified, misconceived and without any

- basis as against the respondent. That the present complaint is baseless and flagrant abuse of process of law to harass the respondent.
- e. That the complainant has not come before this Authority with clean hands and have suppressed vital and material facts from this Authority.
 - f. That the complainants, vide affidavits dated 08.10.2021, against the waiver of Rs.4,70,454/- payable towards the interest amount, agreed not to raise any claim of any nature whatsoever, against the respondent at any point in time. Hence, once the complainants have waived their right of delay penalty upon waiver of interest, the present complaint is not maintainable and therefore liable to be dismissed.
 - g. That the complainants have concealed that vide letter dated 14.07.2020, they agreed to a revised date of 30.04.2021. The complainants have deliberately concealed material facts and have not approached the tribunal with clean hands. Furthermore, the complainants themselves have stated in para 4 of the complaint that the respondent represented the completion of the said unit by June, 2021.
 - h. That the possession of the unit already stands offered to the complainants on 21.08.2024 which is also evident from the fact that the complainants have themselves placed on record the possession letter in their complaint. As such on the date of filing of the present complaint the possession of the subject unit was already offered.
 - i. That the respondent after completing the construction of the alleged Tower wherein the Subject unit is located applied for grant of occupational certificate before the Director, Town and Planning Department, Chandigarh (Haryana) on 25.09.2023, and the same was granted on 19.07.2024 by the Director, Town and Planning Department, Chandigarh (Haryana). As such the construction of the Tower wherein the unit of the Complainants is located got completed on 25.09.2023 i.e. the

date of submission of the Application for grant of Occupational Certificate.

- j. That till the issuance of the offer of possession letter dated 21.08.2024, the complainants had only paid an amount of Rs.43,53,944/-, and an amount of Rs.23,78,137/- was still pending.
- k. That on 09.04.2025, the respondent had issued the letter dated 09.04.2025 to the complainants for the registration of the conveyance deed. Despite the issuance of the letter dated 09.04.2025, the complainants did not come forward for registration of the conveyance deed. The complainants through their complaint are trying to shift the blame upon the respondent for their own failures.
- l. That it is the complainant who is not coming forward to take possession of their unit and are themselves in violation of Section 19(10) of the RERA Act, 2016.
- m. That the respondent was faced with certain force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. These orders in fact inter-alia continued till the year 2018. Similar orders staying the mining operations were also passed by the Hon'ble High Court of Punjab & Haryana and the National Green Tribunal in Punjab and Uttar Pradesh as well. The stopping of mining activity not only made procurement of material difficult but also raised the prices of sand/gravel exponentially. It was almost for 2 (Two) years that the scarcity as detailed aforesaid continued, despite which, all efforts were made and materials were procured at 3-4

times the rate and the construction of the project continued without shifting any extra burden to the customer. It is to be noted that the development and implementation of the said Project have been hindered on account of several orders/directions passed by various authorities/forums/courts.

- n. That additionally, even before normalcy could resume, the world was hit by the Covid-19 pandemic. That the COVID-19 pandemic resulted in serious challenges to the project with no available labourers, contractors, etc. for the construction of the project. The Ministry of Home Affairs, GOI vide notification dated 24.03.2020, bearing no. 40-3/2020-DM-I (A) recognized that India was threatened with the spread of the COVID-19 pandemic and ordered a complete lockdown in the entire country for an initial period of 21 days which started on 25.03.2020. By various subsequent notifications, the Ministry of Home Affairs, GOI further extended the lockdown from time to time. Various State Governments, including the Government of Haryana, have also enforced various strict measures to prevent the pandemic including imposing curfew, lockdown, stopping all commercial activities, stopping all construction activities. Despite, after above stated obstructions, the nation was yet again hit by the second wave of the Covid-19 pandemic and again all the activities in the real estate sector were forced to stop. It is pertinent to mention that considering the widespread of COVID-19, firstly night curfew was imposed followed by weekend curfew and then complete curfew. During the period from 12.04.2021 to 24.07.2021 various activities including construction activity was banned in the state.
- o. Further, the Haryana Real Estate Regulatory Authority Gurugram also vide its circular / notification bearing no. No.9/3-2020 HARERA / GGM (Admn), dated 26.05.2020 extended the completion date / revised

completion date or extended completion date automatically by 6 months, due to outbreak of COVID-19 (corona virus).

- p. That the respondent that a bare perusal of the complaint will sufficiently elucidate that the complainant has miserably failed to make a case against the respondent. That the complainant has merely alleged in his complaint about delay on part of the respondent in handing over of possession but have failed to substantiate the same.
7. All other averments made in the complaint are denied in toto.
8. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the parties.

E. Jurisdiction of the Authority:

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

E.I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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 allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11.....

(4) The promoter shall-

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

Section 34-Functions of the Authority:

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

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

F. Findings on the objection raised by the respondent:**F.I Objection regarding force majeure circumstances.**

13. The respondent has raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by the Hon'ble Punjab and Haryana High court, Hon'ble NGT, shortage of labour, demonetisation, outbreak of Covid-19 pandemic. Since there were circumstances beyond the control of respondents, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which his construction activities came to stand still, and the said period be excluded while calculating the due date. All the pleas advanced in this regard are devoid of merits. Firstly, in the present case, the complainants were allotted a shop bearing no. 124 on 1st floor in Tower-1C admeasuring 642.74 sq. ft. (carpet area)/ 1102 sq. ft. (super area) vide agreement for sale executed interse parties on 25.06.2019. By virtue of the letter dated 14.07.2020, the promoter has assured the complainants to deliver the possession of the said unit by 30.04.2021. Therefore, the due date of handing over possession comes out to be

30.04.2021. Further, as per HARERA notification no.9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion 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 05.09.2020 i.e., after 25.03.2020. As far as grace period of 6 months as is concerned, the same is allowed. Therefore, the due date of possession comes out to be 30.10.2021 (including grace period). Secondly, the respondent has submitted that due to various orders of the Authorities and Courts, the construction activities came to standstill. The Authority observes that though there have been various orders issued to curb the environment pollution, water shortage, labour shortage etc, but these were for a short period of time and are the events happening every year and the respondent was very much aware of these events. And lastly, the event of demonetization was in accordance with government policy and guidelines. Therefore, the Authority is of the view that the outbreak of demonetization cannot be used as an excuse for non-performance of a contract. The due date of handing over of possession comes out to be 30.10.2021 and grace period of 6 months on account of force majeure has already been granted in this regard and thus, no period over and above grace period of 6 months can be given to the respondent-builders. Thus, the respondent/ promoter cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrongs.

G. Findings on the relief sought by the complainants:

- G.1 Direct the respondent to handover the physical possession of Unit / Shop No. 124 having carpet area of 642.74 square feet, on First Floor in Tower No. 1C ("Building") along with one basement parking and right in the common areas ("Common Areas") with all the basic amenities as per the agreement;**

G.II Direct the respondent to pay delay possession charges in the form of interest from committed date of handing over the physical possession;

14. 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.

15. In the present complaint, the complainants intend to continue with the project and are seeking handover of the physical possession along with delay possession charges, as provided under the proviso to Section 18(1) of the Act. Section 18(1) proviso reads as under:

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."

(Emphasis supplied)

16. Clause 7.1 of the agreement for sale provides for handing over of possession and is reproduced below:

7. Possession of the unit:

7.1 Schedule for possession of the unit: *The promoter agrees and understands that timely delivery of possession of the unit 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. The promoter assures to handover the possession of the unit along by 30.04.2019 ["Completion Time Period"] ...*

(Emphasis supplied)

17. **Due date of handing over possession:** The Authority observes that at the time of execution of buyer's agreement, the RERA Registration certificate of the project had lapsed and an application for grant of extension of the RERA Registration certificate was filed by the respondent-promoter before the Authority. Therefore, the due date of handing over of possession cannot be considered as 30.04.2019, as mentioned in buyer's agreement, as the said date was before the execution of buyer's agreement dated 25.06.2019.

18. Further vide letter dated 14.07.2020, the respondent/ promoter assures the complainants to deliver the project by 30.04.2021 for Tower 1C. The relevant para of the said letter is reproduced for reference:

*In spite of the on-going situation, the company, committed to all its customers, is humbled and grateful for your continued patronage, support and encouragement, and we have attempted to tackle and see our way through these turbulent times by taking all actions necessary to mitigate the risk **and ensure our commitment to deliver the project by 30.04.2021 for Tower 1C**, taken into account the above stated delay, which is and has been beyond our control.*

19. Therefore, the Authority is of the view that by virtue of the letter dated 14.07.2020, the promoter has proposed to deliver the possession of the said unit by 30.04.2021. Hence, the due date of handing over possession comes out to be 30.04.2021. Further, as per HARERA notification no.9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion 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 30.04.2021 i.e., after 25.03.2020. As far as grace period of 6 months as is concerned, the same is allowed. Therefore, the due date of possession comes out to be 30.10.2021 (including grace period of 6 months).

20. **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.

21. The legislature in its wisdom in the subordinate legislation under the provision 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.
22. 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., 17.07.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
23. The definition of term 'interest' as defined under Section 2(z) 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:
- "(z) "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—*
- 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 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;"*
24. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/ promoter which is the same as is being granted to it in case of delayed possession charges.
25. On consideration of the circumstances, the documents, submissions made by the parties and based on the findings of the authority regarding contraventions as per provisions of Rule 28, the Authority is satisfied that

the respondent is in contravention of the provisions of the Act. By virtue of letter dated 14.07.2020, the promoter has proposed to deliver the possession of the said unit by 30.04.2021. Therefore, the due date of handing over possession comes out to be 30.04.2021. As far as grace period of 6 months as is concerned, the same is allowed as detailed above in para 18-19. Therefore, the due date of possession comes out to be 30.10.2021 (including grace period). The occupation certificate was granted by the concerned authority on 19.07.2024 and thereafter, the possession of the subject unit was offered to the complainants on 21.08.2024. Copies of the same have been placed on record. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. The Authority is of the considered view that there is delay on the part of the respondent to offer of possession of the allotted unit to the complainants as per the terms and conditions of the buyer's agreement dated 25.06.2019 executed between the parties.

26. 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 19.07.2024. The respondent offered the possession of the unit in question to the complainants only on 21.08.2024, so it can be said that the complainants came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainants should be given 2 month's time from the date of offer of possession. These 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 of possession is in habitable condition. It is further clarified that the delay possession charges shall be payable from the due date of possession till the expiry of 2 months from the date of offer of possession (21.08.2024) which comes out to be 21.10.2024.

27. 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 get delayed possession charges at the prescribed rate of interest i.e., 10.80% p.a. w.e.f. 30.10.2021 till the expiry of 2 months from the date of offer of possession (21.08.2024) which comes out to 21.10.2024 as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act, *ibid*.

G.III Direct the respondent to execute the conveyance deed/sale deed in respect of the Unit/Shop no. 124 on 1st Floor, in Commercial Complex named as 'INDIABULLS ONE 09', situated at Sector-109, Gurugram;

28. The complainants are seeking direction to respondent to execute the conveyance deed of the shop in favour of them. The respondent has offered the possession of the subject unit on 21.08.2024. Whereas the possession was offer after obtaining of occupation certificate on 19.07.2024. As per clause 10 of the agreement for sale dated 25.06.2019, the respondent shall prepare and execute along with allottee(s) a conveyance deed to convey the title of the said unit in favour of the allottee(s) but only after receiving full payment of total price of the unit and the relevant clause of the agreement is reproduced for ready reference: -

10. Conveyance of the unit:

The promoter, on receipt of total price of the unit, shall execute a conveyance deed in favour of allottee(s) preferably within three months but not later than six months from possession.

Provided that, the unit is equipped with all the specifications, amenities, facilities as per the agreed terms and conditions and common area as provided under Rule 2(1)(f) of Rules, 2017. However, in case, the allottee(s) fails to deposit the stamp duty and/ or registration charges, other ancillary charges within the period mentioned in the notice, the allottee(s) authorizes the promoter to withhold the registration of the conveyance deed in his/ her favour till such stamp duty, registration charges, other ancillary charges are paid by the allottee(s) to the promoter.

29. It is to be further noted that Section 11 (4) (f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the unit along with the undivided proportionate share in common areas to the association of the allottee(s) or competent authority as the case may be as provided under Section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of occupation certificate.
30. As far as the relief of transfer of titled is concerned the same can be clearly said to be the statutory right of the allottee(s) as per Section 17(1) of the Act provide for transfer of title and the same is reproduced below:

"Section 17: Transfer of title.

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

31. As occupation certificate of the unit has been obtained from the competent authority on 19.07.2024. Therefore, there is no reason to withheld the execution of conveyance deed which can be executed with respect to the unit. Accordingly, the Authority directs the respondent to execute the registered conveyance deed of the subject unit in favour of the

complainants, after payment of applicable stamp duty charges and administrative charges up to Rs.15,000/- as fixed by the local administration, if any, within 90 days from the date of this order.

G.IV Direct the respondent not to impose any holding charges and maintenance charges till the date of actual handing over the physical possession of the shop;

- **Holding charges:**

32. The respondent is not entitled to claim holding charges from the complainant(s)/allottee(s) at any point of time even after being part of the builder buyer's agreement as per law settled by *Hon'ble Supreme Court in Civil appeal nos. 3864-3899/2020 decided on 14.12.2020.*

- **CAM Charges & Maintenance Charges**

33. The Authority has decided this in the complaint bearing no. **4031 of 2019** titled as *Varun Gupta V/s Emaar MGF Land Ltd.* wherein the authority has held that since maintenance charges are applicable from the time a flat is occupied, its basic motive is to fund operations related to upkeep, maintenance, and upgrade of areas which are not directly under any individual's ownership. Further, the respondent is right in demanding advance maintenance charges at the rates' prescribed in the builder buyer's agreement at the time of offer of possession. However, the respondent shall not demand the advance maintenance charges for more than one year from the allottee even in those cases wherein no specific clause has been prescribed in the agreement or where the AMC has been demanded for more than a year.

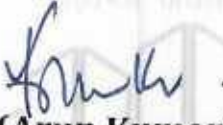
34. Further, it is pertinent to note that, as per Section 11(4)(d) of the Act, of the Haryana Real Estate (Regulation and Development) Act, 2016, the promoter shall be responsible for providing and maintaining the essential services, on reasonable charges, till the taking over of the maintenance of the project by the association of the allottees.

H. Directions of the Authority:

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

- i. The respondent is directed to pay interest to the complainants against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e., 30.10.2021 till the expiry of 2 months from the date of offer of possession (21.08.2024) which comes out to 21.10.2024, as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules and Section 19(10) of the Act, *ibid.*
- ii. The arrears of the interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per Rule 16(2) of Rules, *ibid.*
- iii. The complainants are directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed.
- iv. The rate of interest chargeable from the complainants/ allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent-promoter which is same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delay possession charges as per Section 2(za) of the Act.
- v. The respondent is directed to handover the physical possession of the allotted unit to the complainant complete in all aspect of buyer's agreement.

- vi. The respondent is further directed to execute the registered conveyance deed, in favour of the complainants, in terms of Section 17 (1) of the Act of 2016 within a period of 90 days after payment of requisite stamp duty and administrative charges by the complainants.
- vii. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement. The respondent is not entitled to claim holding charges from the complainant(s)/allottee(s) at any point of time even after being part of the builder buyer's agreement as per law settled by *Hon'ble Supreme Court in Civil appeal nos. 3864-3899/2020 decided on 14.12.2020.*
36. Complaint as well as application, if any, stand disposed of accordingly.
37. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026

HARERA
GURUGRAM