HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No:	**823 of 2025**
Date of Filing:	**19.06.2025**
Date of First Hearing:	**05.08.2025**
Date of Decision:	**07.08.2026**

Reema Dang C/o Tribhawan Parkash Dang,
R/o Flat No.302, Tower-55, Emaar Emerald Premier Floors,
Sector-65, Golf Course Extension Road, Gurgaon, Haryana-122001.

....COMPLAINANT(S)

VERSUS

TDI Infrastructure Ltd.
10, Shaheed Bhagat Singh Marg,
Gole Market, New Delhi-110001.

....RESPONDENT(S)

CORAM: **Sh. Chander Shekhar** **Member**

Cob

Hearing: **5th**

Present: - Ms. Yamini Naryal, Advocate, Proxy for Mr. Gaurav Bhardwaj, Advocate, for the Complainant through VC.
Ms. Samriti, Advocate, Proxy for Mr. Shubhnit Hans, Advocate, for the Respondent.

ORDER:

The present complaint has been filed by the complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (for short Act, 2016) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 for violation or contravention of the provisions of the Act, 2016 and 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 the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over of the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the Project	Rodeo Drive, TDI City, Kundli, Sonipat
2.	Name of the Promoter	TDI Infrastructure Ltd.
3.	RERA Registered/Not Registered	Un-registered
4.	Unit No.(Shop)	SF-133
5.	Unit Area	302.655 sq. ft.
6.	Date of Allotment	01.01.2007

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7.	Date of Builder Buyer Agreement	03.08.2019 (copy attached as Annexure P/1 of complaint)
8.	Due Date of Offer of Possession	Within 24 months from the sanctioning of building plans along with a grace period of 6 months (as per Clause 1 of Article 4)
9.	Total Sale Consideration	₹16,00,000/-
10.	Amount Paid by the Complainant	₹8,00,000/- As mentioned in pleadings
11.	Offer of Possession	02.05.2018 and 13.07.2019
12.	Occupation Certificate	Not obtained

B. FACTS OF THE COMPLAINT

3. Brief facts of the complaint are that the complainant came to know about the project namely "Rodeo Drive", located in TDI City, Kundli, Sonepat, through advertisements by M/s TDI Infrastructure Limited. Believing on the representations made by the respondent company, the complainant decided to book a shop/commercial unit in the said project by filling the application form and paying an amount of ₹3,20,000/- as booking amount on 01.01.2007. A copy of the receipts highlighting the payments is annexed as Annexure P-2 (Colly).

4. Thereafter, a Buyer's Agreement was executed between the parties in the year 2007 for the unit bearing no. SF-133, located on 2nd Floor, measuring to a super area of 400 sq. ft. for a Total Sale Consideration of

₹16,00,000/-. As per Article 4(1) of the agreement, the respondent undertook to complete construction and handover the possession within a period of 24 months from the date of sanction of building plans along with a grace period of 6 months. The due date of handing over of possession was in the year 2009. A copy of the Buyer's Agreement is annexed as Annexure P-1.

5. The complainant paid an amount of ₹8,00,000/- as per the demands raised by the respondent. Around the month of August, 2008, the complainant visited the project site but was shocked to see that the project was still in the inception stage even after one and a half years from the date of booking. The complainant approached the respondent highlighting the said issue. The respondent falsely assured that the project will be delayed by a few months and will be handed over in one year. The complainant also made it clear to the respondent that no further payments will be made till some construction milestones are achieved.

6. After the lapse of the due date of handing over of possession, the complainant again visited the project site only to find out that there was no progress in construction. The same was again communicated to the respondent, but all efforts went in vain. The complainant regularly followed up with the representatives of the respondent company but only false assurances were made by the respondent.

7. In the year 2012, the complainant once again approached the respondent to raise objections regarding the lack of construction at the

project site. However, despite the complainant's repeated representations, no construction had commenced or progressed at the project site. Thereafter, in the year 2016, the original documents pertaining to the unit in question were misplaced by the complainant. The complainant approached the respondent to handover a copy of the relevant documents, but the respondent demanded that an FIR be lodged in this regard along with publication in the newspaper. Further, the respondent demanded payment for issuance of the said copies. The complainant made a written request to the respondent on 28.09.2013, a copy of which is annexed as Annexure P-3. The respondent took three long years to handover the Buyer's Agreement and sent forged payment receipts and a forged Buyer's Agreement. The booking was made in the year 2007 and the agreement was also executed in the year 2007. However, the respondent sent the agreement bearing date 03.08.2019.

8. Thereafter, the respondent sent an offer of possession for fit outs dated 02.05.2018, annexed as Annexure P-4, wherein it was mentioned that the respondent had applied for the Occupation Certificate and was planning to handover the possession to the complainant and the complainant was asked to clear the dues in 30 days to avoid a penalty. The complainant visited the office of the respondent to communicate that the complainant cannot be forced to pay the dues when the project is delayed and the Occupation Certificate has also not been received yet.

9. The respondent also created a charge on the unit in question in favour of Capital India Finance Limited (CIFL) which is evident from the letter dated 06.06.2019. The said letter is annexed as Annexure P-5. The respondent again sent an offer for fit outs on 13.07.2019, which was again not a valid offer of possession. The respondent also demanded an amount of ₹5,91,382.43/- through the said letter. Further, the respondent informed about the decrease of the unit by 97.35 sq. ft. which was unacceptable to the complainant. A copy of the said letter is annexed as Annexure P-6.

10. The complainant kept requesting the respondent to refund the principal amount with interest but no steps were taken by the respondent. The complainant wrote a letter dated 27.01.2020, annexed as Annexure P-7, seeking refund of the amount paid by the complainant along with interest. However, the respondent started demanding common area maintenance charges from the complainant. The complainant responded to the said demands vide letter dated 16.03.2020, annexed as Annexure P-8, stating that the common area maintenance charges cannot be imposed on her and the amount paid be refunded along with interest.

11. The complainant again sent a letter dated 10.01.2021, annexed as Annexure P-9, demanding refund. However, all efforts went in vain. The respondent wrongfully retained the hard earned money of the complainant for nearly 18 years which has resulted into financial hardship and mental distress to the complainant. Hence, the present complaint has been filed.

C. RELIEF SOUGHT

12. The complainant in her complaint has sought following reliefs:

i. To direct the respondent to refund the paid amount of ₹8,00,000/- along with interest at the prescribed rate from the date of receipt of each payment till the actual date of refund.

ii. Any other relief, the Authority finds appropriate based on the facts of the case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

13. On receipt of notice of the complaint, the respondent filed reply on 05.03.2026 along with statement of account on 05.08.2026 which briefly states that due to the reputation of the respondent company, the complainant had voluntarily invested in the project of the respondent company namely, 'Rodeo Drive' located at TDI City, Kundli, Sonipat, Haryana. Part Completion Certificate with respect to 927 acres approx. with respect to the township has already been received on 23.01.2008, 18.11.2013 and 22.09.2017. The details of such certificates are provided as herein below:

i. Part completion certificate issued vide Memo no. 5DP-2007/1772 dated 23.01.2008 for land measuring 109.5 acres annexed as Annexure R-2.

ii. Part completion certificate issued vide Memo no. CC-70-JE(BR)-2013/57692 dated 18.11.2013 for land measuring 415 acres annexed as Annexure R-3.

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iii. Part completion certificate issued vide Memo no. CC-70-PA (SN)-2017/23751 dated 22.09.2017 for land measuring 573.394 acres annexed as Annexure R-4.

14. It has further submitted that the occupation certificate for said commercial site measuring 6.558 acres was received on 12.06.2019 which is a part of residential plotted colony measuring 1097.894 acres(TDI City) and the respondent company has applied for obtaining occupation certificate of balance area of commercial colony on 22.07.2023.

15. When the respondent company commenced the construction of the said project, the RE(RD) Act was not in existence. Therefore, the respondent company could not contemplate any violations and penalties thereof, as per the provisions of the RE(RD) Act, 2016. Therefore, the provisions of the RE(RD) Act are to be applied prospectively. Thus, the present complaint is not maintainable and falls outside the purview of provisions of RE(RD) Act.

16. The complainant was offered fit out possession on 02.05.2018 and 13.07.2019 asking the complainant to take over possession of the shop after clearing outstanding dues but the complainant failed to pay the dues and for taking possession. But the complainant failed to do the same. The respondent finally sent a cancellation letter dated 15.11.2022. Instead of opting for a refund after deduction of 10% earnest money, the complainant

has chosen to file the present complaint. Accordingly, the present complaint is not maintainable and is liable to be dismissed.

17. The respondent submitted that the present complaint has been filed with mala fide intent to obtain undue monetary benefits and to take advantage of the respondent's alleged wrongs as the complainant invested in the respondent's project solely for investment purposes, with the expectation of earning profits and speculative gains. The present complaint is barred by the principle of delay and laches, as the complainant failed to take any action for several years despite having the opportunity to do so. Therefore, the complaint deserves to be dismissed at the threshold.

18. There has been a default on the part of the complainant in making payments towards the booking made in the said project of the company. It is further submitted that the handing over of possession has always been tentative and subject to force majeure conditions. The complainant was well aware of the fact that the project was under construction and shall be completed in near future. At this stage, the claim of refund along with interest can not be accepted because it would stall the whole of the project. Hence, he has prayed to dismiss the complaint in toto.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

19. During the course of oral arguments, learned counsel for the complainant pressed for refund of the amount deposited along with interest,

submitting that there is no likelihood of the complainant obtaining possession in the near future, as the construction of the project remains incomplete as of today and the respondent has obtained occupation certificate dated 12.06.2019 for Ground Floor and First Floor(partly) of the project in question. He further submitted that the complainant no longer wishes to continue with the project and is interested in refund of the amount paid along with applicable interest. He has also denied receipt of cancellation letter issued by the respondent. He has further argued that unit area has been illegally decreased.

20. Learned counsel for the respondent reiterating the submissions made in the written statement, admitted that occupation certificate for ground floor and first floor(partly) has been received on 12.06.2019 and the project in which the subject shop was booked by the complainant has been at a standstill for the past 3-4 years. He stated that although the basic structure of the shops has been completed, the construction is still not complete and the occupation certificate is yet to be obtained for the remaining area which is already applied before competent authority on 22.07.2023.

F. ISSUE FOR ADJUDICATION

21. Whether the complainant is entitled to refund of the amount deposited by her alongwith interest in terms of Section 18 of Act of 2016?

G. OBSERVATIONS AND DECISION OF THE AUTHORITY

22. The Authority has duly examined the contentions and submissions presented by both the parties. Based on the factual matrix outlined above and a review of the arguments advanced, the Authority makes the following observations:

(i) With regard to the plea raised by the respondent that the provisions of RE(RD) Act, 2016 are applicable with prospective effect only and therefore the same were not applicable as on 01.01.2007 when the allottee/complainant was allotted a shop bearing No. SF-133, in the project namely "Rodeo Drive Mall' situated at Kundli, Sonepat. It is observed that the issue regarding operation of RE(RD) Act, 2016 whether retrospective or retroactive has already been decided by the Hon'ble Supreme Court in its judgment dated 11.11.2021 passed in ***Civil Appeal No. (s) 6745-6749 OF 2021 titled as Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others.*** Relevant part is reproduced below for reference:-

"51. Thus, it is clear that the statute is not retrospective merely because it affects existing rights or its retrospection because a part of the requisites for its action is drawn from a time antecedent to its passing, at the same time, retroactive statute means a statute which creates a new obligation on transactions

or considerations already passed or destroys or impairs vested rights.

52. The Parliament intended to bring within the fold of the statute the ongoing real estate projects in its wide amplitude used the term "converting and existing building or a part thereof into apartments" including every kind of developmental activity either existing or upcoming in future under Section 3(1) of the Act, the intention of the legislature by necessary implication and without any ambiguity is to include those projects which were ongoing and in cases where completion certificate has not been issued within fold of the Act.

53. That even the terms of the agreement to sale or home buyers agreement invariably indicates the intention of the developer that any subsequent legislation, rules and regulations etc. issued by competent authorities will be binding on the parties. The clauses have imposed the applicability of subsequent legislations to be applicable and binding on the flat buyer/allottee and either of the parties, promoters/home buyers or allottees, cannot shirk from their responsibilities/liabilities under the Act and implies their challenge to the violation of the provisions of the Act and it negates the contention advanced by the appellants regarding contractual terms having an overriding effect to the retrospective applicability of the Authority under the provisions of the Act which is completely misplaced and deserves rejection.

54. From the scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the on-going projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016."

Further, the same legal position was laid down by the Hon'ble Bombay High Court in "***Neel Kamal Realtors Suburban Pvt. Ltd. & Anr. Vs. Union of India and others" 2018(1) RCR (Civil) 298 (DB)***, wherein it was laid down as under: -

"122. We have already discussed that the above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting/existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports. As regards Article 19(1)(g) it is settled principles that the right conferred by sub-clause (g) of Article 19 is expressed in general language and if there had been no qualifying provisions

like clause (6) the right so conferred would have been an absolute one."

Thus, it is clear from the above said law that the provisions of the Act are retroactive in nature and are applicable to an act or transaction in the process of completion. Thus, the rule of retroactivity will make the provisions of the Act and the Rules applicable to the acts or transactions, which were in the process of the completion even though the amendment/contract/agreement have taken place before the Act and the Rules became applicable.

(ii) The respondent in its reply has contended that the complainant is a "speculative buyer" who has invested her hard earned money in the project for monetary returns and taking undue advantage of RE(RD) Act, 2016 as a weapon during the present down side conditions in the real estate market and therefore she is not entitled to the protection of the Act of 2016. In this regard, the Authority observes that "any aggrieved person" can file a complaint against a promoter, if the promoter contravenes the provisions of the RE(RD) Act, 2016 or the rules or regulations. In the present case, the complainant is an aggrieved person who has filed a complaint under Section 31 of the RE(RD) Act, 2016 against the promoter for violation/contravention of the provisions of the RE(RD) Act, 2016 and the Rules and Regulations made thereunder. Here, it is important to emphasize upon the definition of term "Allottee" under Section 2(d) of the RE(RD) Act of 2016, reproduced below: -

Section 2(d) of the RERA Act:

> *(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;*

In view of the above-mentioned definition of "allottee" as well as upon careful perusal of the receipt dated 01.01.2007, it is clear that the complainant is an "allottee" of shop bearing no. SF-133, situated in the real estate project "Rodeo Drive Mall", TDI City, Sonipat. The concept/definition of investor is not provided or referred to in the RE(RD) Act, 2016. As per the definitions provided under Section 2 of the RE(RD) Act, 2016, there will be "promoter" and "allottee" and there cannot be a party having a status of an investor. Further, the definition of "allottee" as provided under RE(RD) Act, 2016 does not distinguish between an allottee who has been allotted a shop, plot, apartment or building in a real estate project for self-consumption or for investment purpose. The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as ***"M/s Srushti Sangam Developers Ltd. Vs Sarvapriya Leasing (P)Ltd. And Anr."*** had also held that the concept of investors is not defined or referred to in the RE(RD) Act. Thus, the contention of the promoter/respondent that the allottee being investor is not entitled to protection of this Act also stands rejected.

(iii) The respondent has further relied upon its application dated 27.07.2017 submitted to the Director, Town and Country Planning, Haryana, seeking grant of an Occupation Certificate for the commercial component measuring 6.558 acres forming part of the larger licensed colony, as well as the Part Occupation Certificate dated 12.06.2019 issued in respect of the said commercial site. The respondent has also placed reliance upon its subsequent application dated 22.07.2023 seeking grant of an Occupation Certificate for the remaining commercial area and has contended that the complainant's unit falls within the said area. However, these documents, rather than advancing the respondent's case, demonstrate that the Occupation Certificate in respect of the area wherein the complainant's unit is stated to be situated has admittedly not been granted till date. The respondent's own pleadings reveal that an application for grant of Occupation Certificate was initially made as early as 27.07.2017, yet despite the lapse of several years, only a Part Occupation Certificate was issued on 12.06.2019 in respect of a limited portion of the commercial project, compelling the respondent to submit yet another application on 22.07.2023 for the remaining area. The fact that such application continues to remain pending clearly establishes that the project, insofar as the complainant's unit is concerned, has not attained the stage of lawful completion or occupation. In the absence of a valid Occupation Certificate covering the complainant's unit, the project continues to remain an ongoing project governed by the provisions of the RE(RD) Act, 2016. This observation also dovetails with *Newtech Promoters & Developers Pvt. Ltd. vs. State of U.P in Civil Appeal No. (s) 6745-6749 OF 2021.*

23. Upon consideration of the pleadings and material placed on record, the Authority observes that the complainant has alleged that she booked the commercial unit bearing no. SF-133 in the respondent's project

"Rodeo Drive", TDI City, Kundli, in the year 2007 and paid a total sum of ₹8,00,000/- towards the sale consideration. It is the complainant's case that despite the respondent's contractual obligation to hand over the possession within the stipulated period, the project remained incomplete and no valid offer of possession was made within time. The complainant has further alleged that the respondent repeatedly assured completion of the project, issued offers for fit-outs without obtaining the Occupation Certificate, reduced the super area of the allotted unit, created a charge over the unit in favour of a financial institution and continued to raise unwarranted demands instead of refunding the deposited amount. Aggrieved by the prolonged delay, the alleged deficiencies in service and the respondent's failure to refund the amount despite repeated representations, the complainant has approached this Authority seeking refund along with interest under the provisions of the RE(RD) Act, 2016.

24. In the written statement filed by the respondent, it has been expressly admitted that the offer of fitout possession of the booked shop were made to the complainant on 02.05.2018 and 13.07.2019, accompanied by demands for payment and such offers were issued without obtaining the requisite Occupation Certificate for the project in question. Therefore, these offers are not valid in the eyes of law. With respect to the status of handing over of the possession, it is submitted that the respondent had applied for grant of occupation certificate with respect to the remaining part of the

project in question but the same is still awaited. With regard to delay caused in handing over the possession, it is submitted that the deemed date of possession was tentative and the complainant herself was defaulted in making payments of total sale consideration despite reminders. Though no reason/factor attributed for causing delay in offer of possession has been specified in the written statement. Later, the respondent had cancelled the booking on 15.11.2022 without the complainant's consent. Despite issuing cancellation, the respondent has not refunded the amount received from the complainant after making lawful deductions.

25. The complainant as well as the respondent has not specified any deemed date of possession in its respective submissions. The Authority observed that although the complainant has pleaded that possession was to be handed over within 24 months from the date of sanction of the building plans, along with a grace period of six months, neither the complaint nor the documents placed on record disclose the date on which the building plans were sanctioned. In the absence of the date of sanction of the building plans, the contractual due date for handing over possession cannot be ascertained. In the absence of any document to reply upon, it is not possible to precisely ascertain the date on which possession of the said unit/shop was to be delivered to the complainant. In ***Appeal No. 273 of 2019, TDI Infrastructure Ltd. v. Manju Arya,*** the Hon'ble Appellate Tribunal referred to the observations of the Hon'ble Supreme Court in ***M/s Fortune***

Infrastructure (now known as M/s Hicon Infrastructure) & Anr. vs. Trevor D'Lima & Ors., 2018 STPL 4215 SC, wherein it was held that a period of three years constitutes a reasonable time for completion of construction and delivery of possession. In the present case, the complainant has mentioned that the builder buyer agreement was executed in the year 2007 but exact date is not specified. The Authority observes that neither party has placed on record any cogent evidence establishing the exact date of execution of the Buyer's Agreement. The complainant herself has pleaded that the original documents relating to the allotted unit were misplaced and she had requested the respondent to furnish copies thereof. The complainant has further alleged that the respondent subsequently supplied a copy of the Buyer's Agreement dated 03.08.2019, though the booking and execution of the agreement had allegedly taken place in the year 2007. The Authority further observes that the respondent has pleaded that offers of possession were issued to the complainant on 02.05.2018 and 13.07.2019. However, these alleged offers of possession precede the date of the Buyer's Agreement relied upon by the respondent, i.e., 03.08.2019, rendering the respondent's own stand inconsistent and questionable. This discrepancy casts serious doubt on the authenticity and evidentiary value of the documents relied upon by the respondent as well as complainant. In these circumstances and in the absence of any reliable material to conclusively establish the date of execution of the Buyer's Agreement, the Authority considers it appropriate to take the date of the first payment receipt/booking amount, i.e., 01.01.2007, as the relevant date for determining the deemed date of possession. Accordingly, taking a period of three years from the date of booking/allotment as a reasonable time for completion of development work and delivery of possession, the deemed date of possession is computed as 01.01.2010.

The respondent has failed to fulfil its contractual obligations within this reasonable period and has not provided any cogent justification for the delay. Fact remains that the possession has not been offered to the complainant till date for the reason that the project is lying incomplete and any offer of possession made to the complainant without obtaining the Occupation Certificate is invalid in the eyes of law. Further, the respondent, in its pleadings, has asserted that a cancellation letter was issued to the complainant on 15.11.2022 and that the unit/shop therefore stands cancelled. In this regard, the Authority observes that as per the terms of the allotment and observations made above, the respondent was obligated to hand over the possession of the shop on or before 01.01.2010. Admittedly, offers of fitout possession were made on 02.05.2018 and 13.07.2019 after a delay of almost 8 years and that too without receiving occupation certificate. Hence, no valid offer of possession was made within the stipulated period. Instead, the respondent purported to cancel the allotment only on 15.11.2022 i.e., after an inordinate delay of more than twelve years from the committed date of possession and that too without refunding any portion of the amount deposited by the complainant. As per the terms and conditions governing cancellation, upon cancellation of the allotment, the respondent was duty bound to refund the amount deposited by the complainant after deducting 10% of the earnest money with such cancellation. However, no evidence has been placed on record to show that any refund was ever made to the complainant. In the absence of compliance with the contractual terms relating to cancellation, the respondent cannot be permitted to contend that the unit/shop stands validly cancelled or that the complainant is disentitled from asking for a refund. Accordingly, the contention of the respondent in this regard is untenable, devoid of merit and is hereby rejected. Further, the Hon'ble Apex Court in ***Fortune Infrastructure (now known as Hicon Infrastructure) & Anr. v. Trevor D'Lima & Ors., (2018) STPL 4215 SC*** has observed that a promoter cannot indefinitely delay possession or evade liability by relying on technicalities and that a reasonable period of three years from the date of allotment is an acceptable timeframe for completion and delivery of possession. In the present case, the respondent failed to honour its contractual obligations of offering possession within stipulated time without any reasonable justification. The respondent in its written statement has not attached any documentary evidence to prove the fact that the development works are lying complete at the project site and the complainant can peacefully enjoy the physical possession of the unit/shop in the upcoming years. The respondent has also failed to produce any acknowledgment or proof of refund of the complainant's deposited amount nor any credible record of communication subsequent to the alleged cancellation. On the other hand, the complainant has unequivocally stated in her complaint that she is interested in seeking refund of the paid amount along with interest on account of inordinate delay caused in delivery of possession. Accordingly, the Authority holds that the contractual relationship between the parties continues to subsist and the respondent's objection to the maintainability of the complaint is hereby rejected.

26. Besides this, Hon'ble Supreme Court in the matter of **"*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others*" in Civil Appeal no. 6745-6749 of 2021** has highlighted that the allottee has an unqualified right to seek refund of the deposited amount if delivery of possession is not done as per terms agreed between them. Para 25 of the said judgement is reproduced below:

> "25. *The unqualified right of the allottee to seek refund referred under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner*

provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

This decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession.

27. In these circumstances, the Authority finds this case to be a fit case for allowing refund along with interest in favour of the complainant in terms of the provisions of Section 18(1)(a) of the RE(RD) Act, 2016.

28. 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;*

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

> *"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%: Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public".*

30. Consequently, as per the 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. 07.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.80%.

31. Thus, the respondent will be liable to pay the interest to the complainant from the date the amounts were paid till the actual realization of the amounts. The Authority directs the respondent to refund the paid amount of ₹8,00,000/- along with interest to the complainant 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 date the amounts were paid till the actual realization of the amount. The Authority

has got calculated the total amount along with interest calculated at the rate of 10.80% till the date of this order as per detail given in the table below:

Sr. No.	Principal Amount in ₹	Date of payment	Interest Accrued till 07.08.2026
1.	₹3,20,000/-	01.01.2007	₹6,77,849/-
2.	₹1,60,000/-	14.02.2007	₹3,36,842/-
3.	₹1,60,000/-	18.02.2007	₹3,36,652/-
4.	₹1,60,000/-	16.04.2007	₹3,33,954/-
	Total=₹8,00,000/-		**Total=₹16,85,297/-**
	Total Payable to the Complainant	**₹8,00,000/- + ₹16,85,297/-**	**₹24,85,297/-**

H. DIRECTIONS OF THE AUTHORITY

32. 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/respondent as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) The respondent is directed to refund the entire paid amount along with interest to the complainant i.e. **₹24,85,297/-**. It is further clarified that the respondent will remain liable to pay interest to the complainant till the actual realization of the amount.

Gth

(ii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of

Haryana Real Estate (Regulation and Development) Rules, 2017, failing which legal consequences would follow.

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

(CHANDER SHEKHAR)
MEMBER

07.08.2026
Narinder Kaur
(Law Associate)