

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

Complaint no.: 6545 of 2025

Date of filing: 26.12.2025

Date of order: 17.07.2026

1. Anil Kumar Bhardwaj

2. Lalita Bhardwaj

Both R/o: - 30, Daylesford Grove,
Slough, Berkshire, SL1 5AX, UK

Complainants

Versus

1. Identity Build-tech Private Limited

Corporate Office: - 606, 6th Floor,
Indra Prakash, 21 Barakhamba Road,
New Delhi, 110001, India.

2. Agro Gold Chemicals India Pvt. Limited

Corporate Office: B-1/1345,
Vasant Kunj, New Delhi 110070

3. Ansal Housing Limited

Corporate Office: 2nd Floor, Ansal
Plaza, Sector-1, Vaishali, Ghaziabad

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Shri Sanjeev Kumar Bhardwaj (Advocate)

None

Shri Sudhanshu Tomar

Shri Karan Atri

Complainants

Respondent no.1

Respondent no.2

Respondent no.3

ORDER

1. This complaint has been filed by the complainant/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 provision of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project 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.No.	Particulars	Details
1.	Name of the project	Ansal Highland Park, Sector 103, Gurugram
2.	Total project area	11.70 acres
3.	Nature of the project	Group Housing Project
4.	DTCP license no. and validity status	32 of 2012 dated 12.04.2012 valid up to 11.04.2020
5.	Name of licensee	M/s Indentity Buildtech Pvt. Ltd. M/s Agro Gold Chemicals India LLP
6.	RERA Registered/ not registered	Registered vide no. 16 of 2019 dated 01.04.2019 valid upto 30.11.2021
7.	Acknowledgement of amount received by Ansal housing for Unit no. T8-1502 in Ansals Amantre	17.03.2016 (page 20 of complaint)
8.	Transfer letter from Ansal housing for Unit no. T8-1502 (Ansal Amantre) to Unit no. Glsgw-0704 (Ansal Highland Park)	Undated (page 21 of complaint)
9.	Unit no.	Glsgw-0704 (page 29 of complaint)
10.	Unit area admeasuring	1215 sq. ft. (carpet area) (page 29 of complaint)
11.	Builder buyer's agreement executed between Indentity Buildtech Pvt. Ltd and	20.12.2019 (as submitted by complainant and respondent no.1)

	complainants for unit no. Glsgw-0704	
12.	Possession Clause	5. <i>The Vendors shall abide by the time schedule for completing the Project as disclosed at the time of registration of the Project with the Authority and towards handing over the Apartment alongwith parking (if applicable) to the Vendee and the common areas to the association of vendees or the competent authority, as the case may be, as provided under Rule 2(1)(f) of the Rules, 2017</i> (page 35 of complaint)
13	Due date of possession	30.11.2021 (as per the registration certificate)
14.	Sale consideration	Rs.85,36,523/- (page 51 of complaint)
15.	Amount Paid	Rs.66,24,865/- (as per the customer ledger page 55 of complaint issued by Ansal Housing)
16.	Occupation Certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint.

3. The complainant has made the following submissions: -

- I. That a residential apartment bearing Unit No. T8-1502 (was booked in an upcoming residential project titled "Ansals Amantre" situated at Sector 88A, Gurugram, Haryana. The said Flat-1 was booked by Mr. Anil Kumar Bhardwaj, along with co-applicant Mrs. Lalita Bhardwaj with Ansals Housing Limited. The complainant applied for an apartment (4BHK+4T) in Project-1 having a Super area 2665 sq. ft. (carpet area of 1660 sq. ft. along with 461 sq. ft.) of balcony area. towards the booking amount, the complainant paid a sum of Rs.5,00,000/- to respondent no. 3 vide Cheque No. 066104 dated 14.03.2016. In acknowledgment thereof, Receipt No. 625744 dated 17.03.2016 was issued by respondent no. 3.

- II. That the complainant made payments to the respondent on various dates, aggregating to a total sum of Rs.48,24,865/- during the period 07.07.2016 to 31.10.2019.
- III. That respondent no. 3 expressed its inability to complete the project "Ansals Amantre" and requested the complainant to apply for transfer of the amount paid towards Unit no. T8-1502 to another project, namely "Ansals Highland Park", Sector 103, Gurugram. Pursuant thereto, the complainant applied for transfer of funds to Unit No. GLSGW-0704 , admeasuring 1940 sq. ft., in the project "Ansals Highland Park", owned by M/s Identity Buildtech Pvt. Ltd. (Respondent No. 1), a wholly owned subsidiary of Ansals Housing Limited. The complainant received an allotment letter for the Flat-2.
- IV. That the agreement for sale in respect of flat-2 was executed between the respondents and the complainant on 20.12.2019. In terms of the said agreement, the amount of Rs.48,24,865/- earlier paid by the complainant towards Flat-1 was duly transferred, adjusted, and recorded therein as part of the consideration payable for Flat-2.
- V. That the complainant paid a further sum of Rs.18,00,000/- to respondent no. 3, against which Receipt No. 666523 dated 02.01.2020. The complainant has duly honored all the payment demands raised by the respondents. However, despite receipt of the last instalment from the complainant, there has been no substantial progress in construction at the project site, and consequently, the respondents have failed to offer possession of Flat-2 to the complainant till date
- VI. That as per the terms of the Agreement for Sale, Clause 5 (Time is the Essence), the respondents were legally and contractually bound to adhere to the time schedule for completion of the project and for handing over possession of the apartment. The said clause categorically mandates

compliance with the timelines disclosed at the time of registration of the project with the RERA Authority. In accordance with the aforesaid clause, the respondents were obligated to hand over physical possession of the flat to the complainants on or before 30.11.2021, being the committed date disclosed at the time of registration of Project-2 under the provisions of the Act, 2016. However, despite the complainants having complied with all their contractual obligations, the respondents have failed to complete the project within the stipulated time, have not obtained any occupancy certificate, and have not offered possession of the Flat till date. The said acts and omissions constitute a clear breach of the Agreement for Sale, violation of the provisions of RERA, and deficiency in service, thereby entitling the complainants to appropriate reliefs under law.

- VII. That as per the terms of the Agreement for Sale, Clause 9.2, the respondents are contractually and statutorily liable to compensate the complainants for delay in handing over possession of the apartment. The said clause expressly provides that in the event of failure on the part of the respondents to deliver possession of the apartment within the stipulated time, the complainants shall be entitled to receive delay possession compensation in accordance with the provisions of Section 18 of the Act, 2016. That under Section 18(1) of the RERA Act, where a promoter fails to complete or is unable to give possession of an apartment in accordance with the terms of the agreement for sale, the allottee is entitled to interest for every month of delay till handing over of possession, at the rate prescribed under the Rules. Despite the admitted delay beyond the committed possession date of 30.11.2021, the respondents have neither offered possession nor paid any delay compensation/interest to the complainants till date. The said failure constitutes a continuing breach of the agreement for sale, violation of statutory obligations under RERA, and further entitles the Complainants to

delay compensation/interest from 30.11.2021 till actual handing over of possession or refund, as the case may be.

- VIII. That the complainant had requested the respondents to provide the updated and correct Customer Ledger, which was eventually furnished by the respondents on 09.12.2025. Upon perusal of the said customer ledger, the complainant was shocked to observe that the respondents have illegally and arbitrarily debited an amount of Rs.5,08,035/- towards alleged "interest payable" by the complainant for the period 16.09.2021 to 09.12.2025.
- IX. That as per the agreement for sale, a sum of Rs.37,11,658/- was payable by the complainant only at the time of offer of possession. Out of the said amount, the complainant had already paid Rs.18,00,000/- on 02.01.2020, much prior to the due date.
- X. That in view of Clause 9.2 of the agreement for sale, no interest or penal charges could have been levied upon the complainant, particularly when the delay in offering possession is solely attributable to the Respondents. On the contrary, under the said clause read with Section 18 of the Act, 2016, it is the respondents who are liable to pay delay interest/compensation to the complainant.
- XI. That no demand letter, notice, or statement of account was ever issued to the complainant prior to levying the interest, rendering the unilateral debit not only contractually impermissible but also arbitrary, illegal, and void ab initio.
- XII. That the wrongful reflection of the interest amount in the customer ledger amounts to misrepresentation of accounts, unfair trade practice, and violation of the provisions of RERA, and is clearly intended to coerce the complainant. The illegal entry of Rs.5,08,035/- is liable to be

deleted/removed forthwith, and the Customer Ledger is required to be corrected accordingly.

XIII. That the complainant is entitled to receive delay possession interest on the amount of Rs.18,00,000/-, which was paid prior to its contractual due date, from the date of its payment i.e., 02.01.2020 till the date of handing over of possession of Flat-2.

XIV. That the respondents have failed to abide by the terms and conditions stipulated in the agreement for sale. The cause of action to file the present complaint first arose on the date when the respondents abandoned the project "Ansals Amantre" and further failed to hand over possession of the Flat within the stipulated time as per the Agreement for Sale and continues to subsist till date, as the respondents have neither completed the project nor delivered possession of the Flat for occupation.

XV. That the complainants, on their part, have diligently discharged all their contractual obligations under the Application Form and Agreement for Sale, whereas the respondents have failed and neglected to perform their corresponding obligations, thereby committing breach of contract and deficiency in service

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):

- i. Direct the respondents to hand over possession of Unit No. GLSGW-0704 (Flat-2), complete in all respects, along with Occupancy Certificate and all statutory approvals;
- ii. Award interest for delayed possession w.e.f. 30.11.2021 till actual possession, in terms of Section 18 of RERA
- iii. Award interest on the amount of Rs.48,24,865/-, paid by the complainant during the period 07.07.2016 to 31.10.2019 towards the unit booked in the project "Ansals Amantre", which was subsequently abandoned by the respondents, from the date of each respective payment till the date the said amount became due and was adjusted/transferred to the subsequent

- project "Ansals Highland Park" on 14.11.2019, in terms of the Real Estate (Regulation and Development) Act, 2016.
- iv. Award interest on the amount of Rs.18,00,000/-, paid on 02.01.2020 much prior to its due milestone of possession, with effect from 02.01.2020 till the due date of actual handing over of possession, in terms of the Real Estate (Regulation and Development) Act, 2016.
 - v. Award compensation for mental agony and harassment caused to the complainants,
 - vi. Award litigation costs in favor of the complainants
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.
6. The present complaint was filed on 26.12.2025 in the Authority. The respondent no.1 was granted several opportunities to put in appearance and file reply. However, despite specific opportunities respondent failed to file reply. In view of the same, the matter was proceeded ex-parte against the respondent no.1 vide proceedings dated 17.07.2026.

D. Reply by the respondent no.2.

7. The respondent no.2 has contested the complaint on the following grounds:-
- I. That the respondent no. 2 i.e. M/s Agro Gold Chemicals India LLP. is praying for deletion of its name from the arrays of the respondents being not the necessary party.
 - II. That the respondent no. 2 has got absolutely no role in the development of the project. The complainants have paid the consideration amount to the M/s Ansal Housing Construction Pvt. Ltd.
 - III. The respondent no. 2 is not the necessary party and is therefore liable to be deleted from the arrays of the parties.
 - IV. That earlier the respondent no. 2 was a Private Limited company i.e. M/s Agro Gold Chemicals India Pvt. Ltd. which was later on converted into a

limited liability partnership as per the provisions of the Companies Act in the year 2013.

- V. That the respondents No. 3 i.e. 'Ansal Housing and construction Ltd.' are developing a project named as 'Ansal Highland Park, Sector 103, Gurugram, Haryana'. The respondent No. 1 i.e. Identity Buildtech Pvt. Ltd. is the Wholly owned subsidiary of Ansal Housing Limited formerly known as Ansal Housing and Construction Ltd. i.e. the respondent No. 3 in the present complaint.
- VI. That the respondent no. 2 i.e. M/s Agro Gold Chemicals India LLP. entered into an addendum to collaboration/development agreement dated 01.12.2020 with the respondent no. 1 i.e. M/s Identity Buildtech Pvt. Ltd. which is the wholly owned subsidiary of Ansal Housing Limited formerly known as Ansal Housing and Construction Ltd. i.e. the respondent no. 3. The agreement dated 01.12.2020 was duly registered with the Sub-registrar Kadipur, Gurugram, Haryana on 09.12.2020. The said addendum was in continuation of the agreement for collaboration dated 25.01.2008 and another agreement dated 12.09.2012.
- VII. That as per the term C of the said agreement dated 01.12.2020, the respondent no. 2, was allotted 32,681 sq. ft. area to be developed by the respondent no. 1 and 3, in lieu of respondent no. 2's land admeasuring approx. about 0.89 acres. The area of 32,681 sq. ft. is in the shape of 18 flats in different towers of the project in question and possession of the same was to be handed over to the respondent No. 2 on or before 31.12.2022 by the respondents No. 1 & 3, with all necessary permissions and compliance. The area allotted is in the form of 18 flats/units in the said project named as 'Ansal Highland Park, Sector 103, Gurugram, Haryana', the details of which are given in para C of the said agreement dated 01.12.2020.

VIII. That as per para H of the said agreement dated 01.12.2020, the entire project was to be completed on or before 31.12.2022 and the possession of all these 18 units was to be handed over to the respondent No. 2 i.e. M/s Agro Gold Chemicals India LLP on or before 31.12.2022 after completion of the project and after taking all necessary permissions and compliances. The term H of the said agreement is reproduced herein below:

"The Developer as now provided a tentative date of 31st December, 2022 for the completions of the project. The owner hereby agrees to not raise any such demand for handing over the units or allotment of Unit and/or claim any financial loss and/or any compensation suffered for delay in handing over the units until this tentative date. But in case the developer/first party fails to hand over the possession of the units already allotted by the first party to the second party then with effect from 1st January, 2023, the first party/developer shall pay a consolidated amount of Rs. 3,50,000/- (Rupees Three Lacs Fifty Thousand only) per month to the second party in lieu of delayed possession/rent towards the allotted units from 1st January, 2023. It is also agreed that the lump sum payment of Rupees Three lacs Fifty thousand paid monthly on or before 7th day of each English Calendar month and in case, there is any default, then the first party shall also pay interest upon the unpaid amount @ 14% per annum".

- IX. That the respondent no. 1 and 3 are having the ownership of the majority of land in the project, except the land admeasuring about 0.89 acres which is owned by the respondent no. 2 which is more particularly mentioned in the collaboration agreement dated 01.12.2020. In lieu of the land the respondents no. 1 and 3 have allotted flats to the respondent no. 2 as mentioned above.
- X. That the respondents no. 1 and 3 are intentionally and deliberately not disclosing the above mentioned facts to this Authority just to mislead the public at large, its flat allottees and also to this Hon'ble authority and various other consumer courts/ authorities where the flat allottees have filed their cases for deficiency in service on part of the respondent no. 1 and 3. The respondents no. 1 & 3 are not disclosing the actual status and limited

role of respondent no. 2 only because of their mala fide and dishonest intentions.

- XI. That the respondent no. 1 and 3 have intentionally and deliberately misused the name of the respondent no. 2 in an illegal and unlawful manner. The respondent no. 1 and 3 are duty bound to give correct information and facts to the public at large. The respondent no. 1 & 3 instead of mentioning these correct facts and giving correct information to their home buyers, are rather giving misleading facts whereby trying to misuse the name of the respondent No. 2 which has not caused unnecessary harassment to the respondent No. 2 only but also to various home buyers and also to various consumer courts, RERA, Gurugram and maybe to other authorities/ courts where the home buyer might have approached against the respondents No. 1 & 3 for their deficiency in service.
- XII. That the respondents no. 1 and 3 have also failed to abide by the terms and conditions settled between them and the respondent no. 2 as settled vide addendum to collaboration/development agreement dated 01.12.2020.
- XIII. That because of all these reasons, the respondent no. 2 has filed a civil suit bearing CS (COMM) No. 150/2025, titled as *M/s Agro Gold Chemicals India LLP. Vs. Indentity Buildtech Private Limited*, against the respondents No. 1 & 3 and their director Mr. Kushagr Ansal, before the Hon'ble District and Sessions Court (commercial) at Patiala House courts, New Delhi. The said suit was withdrawn because of arbitration clause in the agreements entered in between the Respondents. Since the respondents no. 1 and 3 have continuously failed to abide by the terms of the agreement entered in between the Respondents No. 2 & 1 therefore the respondent no. 2 has already initiated the proceedings for appointment of arbitrator. In continuation of the same, the respondent no. 2 has filed an arbitration petition bearing No. ARB. P. 1579/2025 titled as *M/s Agro Gold Chemicals*

India LLP. Vs. Identity Buildtech Pvt. Ltd. & Ors., before the Hon'ble High Court of Delhi. The Hon'ble High court of Delhi vide its order dated 19.12.2025, was pleased to appoint arbitrator to adjudicate the dispute and claim of the respondent no. 2.

- XIV. That under the facts and circumstances, the respondent no. 2 has got absolutely no role to play under the present compliant. The respondent no. 2 is not the necessary party. The project in question is developed by the respondents no. 1 and 3. The present complainant or any other flat allottees must have given money to the respondents No. 1 and 3 and therefore the respondent no. 2 is neither the necessary party and nor has got any role to play in respect of the deficiency in service as alleged by the complainant.
- XV. That the respondent no. 2 is neither the promoter nor the real estate agent and therefore the respondent no. 2 is not the necessary party in the present complaint. That the respondent no. 2 is also not a real estate agent or the person of any other category who can be held liable for development of the present project. The role and capacity of the respondent no. 2 is limited to the extent of the terms and conditions of the agreement dated 01.12.2020.
- XVI. That the respondent no. 2 has absolutely got no role in selling the project/ flats, execution of any documents with the flat buyers or in respect of any other role for development of the project in question. Needless to mention here that the money/ consideration amount is/was also paid to the respondents no. 1 and 3 by the complainant and other flat buyers.
- XVII. That in similar circumstances this Authority in case titled as Sh. Ankur Dhanuka Vs. Godrej Projects Development Limited & Anr. Bearing Complaint No. 1757 of 2018 has held as under:

'20. The respondent submitted that respondent no. 3 to 6 who are individual land owners to whom the RERA, 2016 does not apply as they are neither real estate agents nor promoters as defined under section 2(zm) and 2(zk) of the Act. In light of Page 16 of 30 Complaint No. 1757 of 2018 the above, the respondent no. 3 to 6 are liable to be

deleted from array of parties. The aforesaid submission of the respondent is allowed'.

XVIII. That in view of the above facts and circumstances appropriate order for deletion of the name of the respondent No. 2 may be passed. It is respectfully submitted that the appropriate orders shall also save unnecessary harassment and precious time of the complainant and other flat buyers, and the things shall be straight forward and as per law

E. Reply by the respondent no.3

8. The respondent no.3 has contested the complaint on the following grounds: -

- I. That the answering respondent is a developer and has built multiple residential and commercial buildings within Delhi/NCR with a well-established reputation earned over years of consistent customer satisfaction.
- II. That the complainants had approached the answering respondent for booking a unit in an upcoming project Ansal Highland Park, Gurugram. Upon the satisfaction of the complainant regarding inspection of the site, title, location plans, etc. an Apartment Buyer Agreement dated 20.12.2019 was signed between the parties.
- III. That the complaint specifically admits to not paying necessary dues or the full payment as agreed upon under the builder buyer agreement. The complainant cannot be allowed to take advantage of his own wrong.
- IV. That the complaint in the year 2025 and the cause of action accrue in 2023 as per the complaint itself. Therefore, the complaint cannot be filed before the HRERA Gurugram as the same is barred by limitation.
- V. That the agreement which was signed in the year 2019 without coercion or any duress cannot be called in question today. The builder buyer agreement provides for a penalty in the event of a delay in giving possession. Clause 37 of the said agreement provides for Rs. 5/ sq foot per month on super area for any delay in offering possession of the unit as mentioned in Clause 31 of

the agreement. Therefore, the complainant will be entitled to invoke the said clause and is barred from approaching the Hon'ble Commission in order to alter the penalty clause by virtue of this complaint more than 10 years after it was agreed upon by both parties.

- VI. That the complaint itself discloses that the said project does not have a RERA approval and is not registered. If the said averment in the complaint is taken to be true, the Authority does not have the jurisdiction to decide the complaint.
- VII. That the respondent had in due course of time obtained all necessary approvals from the concerned authorities. The permit for environmental clearances for proposed group housing project for Sector 103, Gurugram, Haryana on 20.02.2015. Similarly, the approval for digging foundation and basement was obtained and sanctions from the department of mines and geology were obtained in 2012. Thus, the respondents have in a timely and prompt manner ensured that the requisite compliances be obtained and cannot be faulted on giving delayed possession to the complainant.
- VIII. That the respondent has adequately explained the delay. The delay has been occasioned on account of things beyond the control of the answering respondent. The builder buyer agreement provides for such eventualities and the cause for delay is completely covered in the said clause. The respondent ought to have complied with the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 20032 of 2008, dated 16.07.2012, 31.07.2012, 21.08.2012. The said orders banned the extraction of water which is the backbone of the construction process. Similarly, the complaint itself reveals that the correspondence from the respondent specifies force majeure, demonetization and the orders of the Hon'ble NGT prohibiting construction in and around Delhi and the COVID -

19 pandemic among others as the causes which contributed to the stalling of the project at crucial junctures for considerable spells.

IX. That the answering respondent and the complainant admittedly have entered into a builder buyer agreement which provides for the event of delayed possession. Clause 32 of the builder buyer agreement is clear that there is no compensation to be sought by the complainant/prospective owner in the event of delay in possession.

X. That the answering respondent has clearly provided in clause 35 the consequences that follow from delayed possession. It is submitted that the complainant cannot alter the terms of the contract by preferring a complaint before the HRERA Gurugram.

9. All other averments made in the complainant were denied in toto.

10. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

F. Jurisdiction of the Authority:

11. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

F.I Territorial Jurisdiction:

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

F.II Subject-matter Jurisdiction:

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

Section 11(4)(a)

Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the 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.

14. 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.

G. Findings on the relief sought by the complainants.

- G.I Direct the respondents to hand over possession of Unit No. GLSGW-0704 (Flat-2), complete in all respects, along with Occupancy Certificate and all statutory approvals.**
- G.II Award interest for delayed possession w.e.f. 30.11.2021 till actual possession, in terms of Section 18 of RERA.**
- G.III Award interest on the amount of Rs.48,24,865/-, paid by the complainant during the period 07.07.2016 to 31.10.2019 towards the unit booked in the project "Ansals Amantre", which was subsequently abandoned by the respondents, from the date of each respective payment till the date the said amount became due and was adjusted/transferred to the subsequent project "Ansals Highland Park" on 14.11.2019, in terms of the Real Estate (Regulation and Development) Act, 2016.**
- G.IV Award interest on the amount of Rs.18,00,000/-, paid on 02.01.2020 much prior to its due milestone of possession, with effect from 02.01.2020 till the due date of actual handing over of possession, in terms of the Real Estate (Regulation and Development) Act, 2016.**
15. The complainant submits that he initially booked Unit no. T8-1502 in the project "Ansals Amantre" and paid a total amount of Rs.48,24,865/- Owing to

the respondents' inability to complete the said project, the amount paid was transferred to Unit no. GLSGW-0704 in the project "Ansals Highland Park". Thereafter, the complainant paid an additional amount of Rs.18,00,000/- and duly complied with all payment obligations. Pursuant thereto, an Agreement for Sale dated 20.12.2019 was executed between complainants and respondent no.1, under which possession of the allotted unit was contractually due on or before 30.11.2021. However, the respondents have failed to complete the project, obtain the occupation certificate and hand over possession of the unit.

16. On the other hand, respondent no. 2 submitted that it is neither the promoter nor the developer of the project and has no role in its development, marketing, sale, execution of documents, or receipt of consideration from the complainant. It states that the project is being developed by respondent nos. 1 and 3, whereas respondent no. 2 is merely the owner of approximately 0.89 acres of land. Under the Collaboration/Development Agreement dated 01.12.2020, respondent no. 2 was allotted 18 flats in lieu of its land.
17. Respondent no. 3 further submitted that the complaint is not maintainable on the ground that the complainant has failed to pay the entire consideration under the agreement for sale and cannot take advantage of his own default and the agreement for sale was voluntarily executed in 2019 which specifically governs the consequences of delayed possession through the agreed contractual clauses.
18. Upon perusal of the submissions made by the parties and documents on record, the Authority observes that the complainant was initially allotted Unit No. T8-1502 in the project "Ansals Amantre" by respondent no. 3. In support thereof, the complainants have placed on record a transfer letter issued by respondent no. 3, whereby the amount paid towards the surrendered unit no.

T8-1502 was transferred at the complainant's request, to unit no. GLSGW-0704 in Ansal Highland Park, Sector 103, Gurugram respondent no.1 project.

19. Thereafter, a builder buyer agreement dated 20.12.2019 was executed between respondent no. 1 (Identity Buildtech Private Limited) and the complainants in respect of Unit no. GLSGW-0704 for a total sale consideration of Rs.85,36,523/- against which the complainants have paid Rs.66,24,862/-.

20. In the present complaint, the complainant is seeking delay possession charges on Rs.48,24,865/- for the period 07.07.2016 to 31.10.2019, interest on the amount of Rs.18,00,000/- from 02.01.2020 till handing over of possession and further delay possession charges from 30.11.2021 till the date of handing over possession.

21. In this regard, the Authority observes that prior to the execution of the builder buyer agreement dated 20.12.2019 for Unit No. GLSGW-0704, respondent no. 3 had issued a transfer letter in favour of the complainant, which has been placed on record as Annexure P/2 by the complainants. The said transfer letter specifically provides that, upon transfer of the entire amount paid towards the surrendered unit, the complainant shall have no right, title, or interest whatsoever in the surrendered unit. The relevant portion of the said letter is reiterated below:

"4. That after the full amount paid by you in the surrendered unit is transferred as requested, you shall have no right/interest in any manner whatsoever in the surrendered unit."

22. From the above, it is evident that upon execution of the builder buyer agreement dated 20.12.2019, the complainant accepted the terms contained in the transfer letter, surrendered it's all right in respect of the earlier unit and did not raised any objection to the same. Consequently, the complainants cannot claim delay possession charges in respect of the surrendered unit for

the period prior to execution of the builder buyer agreement dated 20.12.2019.

23. So far as respondent no. 2 is concerned, the Authority observes that respondent no. 2 has specifically submitted that it is neither the promoter nor the developer of the project and has no role in its development, marketing, sale, execution of documents, or receipt of consideration from the complainant. As per the documents on record no agreement has been executed between respondent no.2 and complainants nor any payment has been made to the respondent no.2. Accordingly, in view of the facts and documents available on record, no responsibility towards the complainant arises against respondent no. 2.

24. Similarly, respondent no. 3 had issued the transfer letter in favour of the complainant in respect of the earlier surrendered unit, pursuant to which the amount paid towards the said unit was transferred to Unit No. GLSGW-0704. Thereafter, the builder buyer agreement dated 20.12.2019 in respect of Unit no. GLSGW-0704 was executed between respondent no. 1 and the complainants. Accordingly, in view of the findings detailed hereinabove, no responsibility towards the complainants arises against respondent no. 3. The liability, if any, in respect of the delayed possession of the subject unit arises against respondent no. 1, being the promoter under the builder buyer agreement dated 20.12.2019.

25. Section 18 of the Act, 2016 provides for the delay period interest. Sec. 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."*

26. Clause 5 of the buyer's agreement provides for handing over of possession and is reproduced below:

5.

The Vendors shall abide by the time schedule for completing the Project as disclosed at the time of registration of the Project with the Authority and towards handing over the Apartment alongwith parking (if applicable) to the Vendee and the common areas to the association of vendees or the competent authority, as the case may be, as provided under Rule 2(1)(f) of the Rules, 2017.

27. **Due date of handing over possession and admissibility of grace period:**

As per clause 5 of the agreement to sell, the possession of the allotted unit was supposed to be offered as per the time schedule for completing the project as disclosed at the time of registration of the project. As per the registration certificate the respondent/promoter has submitted completion date as 30.11.2021. Hence, the due date of possession comes out to be 30.11.2021.

28. **Admissibility of delay possession charges at prescribed rate of interest:**

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

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

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

29. 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.

30. 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%**.

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

"(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;"*

32. 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 them in case of delayed possession charges.

33. On consideration of the circumstances, the documents, submissions made by the parties and based on the findings of the authority regarding contravention as per provisions of Rule 28(2), the Authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 5 of the buyer's agreement executed between the parties on 20.12.2019, the

possession of the subject unit was to be delivered by 30.11.2021. The respondent has failed to handover possession of the subject unit till date of this order. 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 complainant as per the terms and conditions of the buyer's agreement dated 20.12.2019. Further no OC/part OC has been granted to the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

34. Therefore, the Authority finds a delay in the handing over the possession of the subject unit by the respondent no.1 in accordance with the agreed terms between the parties. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such, the complainants are entitled to delay possession charges at rate of the prescribed interest @10.80% p.a. from the due date of possession i.e. 30.11.2021 till valid offer of possession plus 2 months after obtaining OC or actual handing over of possession whichever is earlier as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

G.V Award compensation for mental agony and harassment caused to the Complainants.

G.VI Award litigation costs in favor of the complainants.

35. The complainant is also seeking relief w.r.t. compensation and litigation cost. Hon'ble Supreme Court of India in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (2021-2022(1) RCR(C) 357*), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12,14,18 and Section 19 which is to be decided by the adjudicating officer as per Section 71 and the quantum of compensation &

litigation expense shall be adjudged by the adjudicating officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, for claiming compensation under Sections 12, 14, 18 and Section 19 of the Act, the complainants may file a separate complaint before Adjudicating Officer under Section 31 read with Section 71 of the Act and Rule 29 of the Rules.

H.Directions of the Authority.

36. 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 no.1 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. 30.11.2021 till valid offer of possession plus 2 months after obtaining OC or actual handing over of possession whichever is earlier as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules
- ii. The arrears of such interest accrued from due date of possession till the date of order by the Authority shall be paid by the respondent no.1 to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
- iii. The respondent no.1 shall not charge anything from the complainants which is not the part of the agreement to sell.
- iv. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period and after clearing all the outstanding dues, if any.

- v. The rate of interest chargeable from the allottee by the respondent no.1, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent no.1/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.
- vi. The respondent no.1 is directed to offer the possession of the allotted unit within 30 days after obtaining occupation certificate from the competent authority. The complainants w.r.t. obligation conferred upon them under section 19(10) of Act of 2016, shall take the physical possession of the subject unit, within a period of two months of the occupancy certificate.
37. Complaint as well as applications, if any, stand disposed off accordingly.
38. File be consigned to registry.


(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

17.07.2026