

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

Complaint no.: 3645 of 2025
Date of filing: 01.08.2025
Date of order: 17.07.2026

Sajid Ali Khan
R/o: - Flat No- 1201A, 13th floor, Tower B3,
Amarpali Leisure Park, Sector Techzone 4,
Greater Noida West, Noida Extension, Gautam
Budha Nagar, Uttar Pradesh- 201306

Complainant**Versus**

M/s Ocean Seven Buildtech Private Limited
Corporate Office: - 505-506, Tower B-
4, Spaze, I-TECH Park, Sector -49,
Gurugram.

Respondent**CORAM:**

Shri Arun Kumar

Chairman**APPEARANCE:**

Ms. Chahat Arya (Advocate)
Shri Arun Yadav (Advocate)

Complainant
Respondent

ORDER

1. The present 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 to the allottee as per the agreement for sale executed inter-se them.

A. Project and unit related details

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

S. No.	Particulars	Details
1.	Name of the project	The Venetian, Sector 70, Gurugram, Haryana.
2.	Project area	5.10 Acres
3.	Nature of the project	Affordable housing project
4.	DTCP license no.	103 of 2019 dated 05.09.2019
	License valid till	04.09.2024
5.	HRERA registered/ not registered	Registered vide no. 39 of 2020 dated 20.09.2024
6.	Building plan approval dated	07.02.2020 (As per DTCP website)
7.	Environment clearance dated	Not obtained
8.	Allotment letter	09.03.2021 (Page 14 of complaint)
9.	Unit no.	1701, Tower-1, floor-17 (Page 14 of complaint)
10.	Unit admeasuring	556.280 sq. ft. of carpet area along with 90 sq. ft. of balcony area (Page 14 of complaint)
11.	Builder buyer agreement	23.10.2021 (page 22 of complaint)
12.	Possession clause	5.2 Possession Time <i>The Company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from the date of the receiving of license ("Commitment Period"), but subject to force majeure clause of this Agreement and timely payment of installments by the Allottee(s)...</i> (Emphasis Supplied)
13.	Possession clause (As per Affordable Housing Policy, 2013)	1(IV) of the Affordable Housing Policy, 2013

		<i>All such projects shall be required to be necessarily completed within 4 years from the approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.</i>
14.	Due date of possession	Cannot be ascertained
15.	Total consideration	Rs. 22,70,120/- (page 27 of complaint)
16.	Amount paid by the complainant	Rs.8,59,811 /- (alleged by complainant on page 7 of complaint) Rs. 5,73,207/- (as per the payment receipts on record page 13 and 15 of complaint)
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered

B. Facts of the complaint.

3. The complainant has made the following submissions in the complaint: -

- a. The Complainant applied for the allotment of a two-bedroom flat in the project "The Venetian" being developed in the revenue estate of Village Badshahpur, Sector-70, Gurugram, by the respondent. Accordingly, the complainant paid a sum of Rs.1,13,506/- towards the booking amount.
- b. Pursuant to the aforementioned application, the respondent informed the complainant that he was a successful applicant in the draw conducted and had been allotted 2BHK Flat No. 1701 in Tower 1, having a carpet area of 556.28 sq. ft. and a balcony area of 90 sq. ft. in the said project. The total cost to be paid by the complainant towards the aforesaid unit was Rs. 22,70,120/- Simultaneously, the complainant was asked to pay an instalment of Rs.4,59,701/- as an initial tranche towards the allotment of the said unit.

- c. That, in terms of the payment plan, the respondent has contravened Section 13(1) of the Real Estate (Regulation & Development) Act, 2016, which states that a promoter shall not accept a sum exceeding 10% of the cost of the unit as an advance or application fee without first entering into a written agreement for sale. The respondent's actions are, therefore, in complete violation of the aforementioned section.
- d. That an Allotment/Buyer's Agreement dated 23.10.2021 was executed between the respondent and the complainant in respect of the aforesaid unit/flat, which was later registered before the Sub-Registrar, Badshahpur on 29.11.2021. Thereafter, the respondent raised a further demand of Rs.2,86,604/- via a letter dated September 2021, which was paid by the complainant via cheque dated 29.11.2021.
- e. That according to Clause 5.2 of the buyer's agreement, the respondent was obligated to hand over possession of the said unit within five years from the date of receiving the license. However, to the utter dismay of the complainant and despite having made timely payments in response to the respondent's demands the respondent has failed to deliver possession of the unit within the committed period.
- f. Furthermore, the respondent is in clear violation of the Affordable Housing Policy, 2013, which mandates that the project must be completed within a period of four years from the date of commencement. In the present case, the project was granted a license in 2019, therefore, the completion deadline expired in 2023.
- g. That the respondent obtained Building Plan approval on 07.02.2020 (as per the DTCP website). Therefore, it is evident that the respondent has breached both the terms of the buyer's agreement and the provisions of the Affordable Housing Policy, 2013.

- h. Thereafter, the complainant made several communications to the respondent enquiring about the possession of the unit; however, no response was received from the respondent.
- i. That on 15.02.2024, the complainant approached the respondent, conveyed his grievances, and requested the cancellation of the allotted unit along with a refund of the amount paid. In furtherance of the complainant's request for refund, the respondent procured all the original documents from the complainant vide letter dated 15.02.2024, which was treated as a prerequisite for processing the said refund, as the possession of the subject unit, which was purported to be 'ready-to-move-in,' remained uncertain and in a state of ambiguity.
- j. Through an email dated 10.03.2024, the complainant reiterated his concerns and again requested a refund. Two reminder emails were subsequently sent on 05.04.2024 and 26.04.2024. In response, the respondent reverted via email dated 26.04.2024 stating: "Our bank account is currently frozen. We will initiate the refund process once it is unfrozen."
- k. That, till date, neither possession has been offered to the complainant by respondent, nor has respondent provided any timeline for refund of the total amount paid till date of Rs.8,59,811/-
- l. That Despite having paid more than 25% of the sale consideration amount, the complainant has not been offered possession even after more than three years.
- m. Further, this Hon'ble Authority, in the matter of Sumitra Yadav vs. M/s Ocean Seven Buildtech Pvt. Ltd. – Complaint No. 449 of 2024, along with a catena of judgments concerning the same project, has directed the refund of amounts paid by the allottees/complainants, along with applicable interest, in accordance with the provisions of the Real Estate (Regulation and

Development] Act, 2016, as implemented under the Haryana Real Estate Regulatory Authority (HRERA).

- n. That the Authority, while adjudicating such complaints, has consistently relied upon Sections 18(1)(a) and 19(4) of the Act, which lay down the liability of the promoter to return the amount received from the allottee in the event of delay in possession or failure to deliver the project within the stipulated time.
- o. Moreover, HRERA has upheld the principle that an allottee cannot be indefinitely burdened due to the inordinate delay and breach of contractual obligations by the promoter and thus is entitled to exit the project and seek refund with interest and compensation where appropriate. The Authority has further emphasized that such relief is not a matter of discretion but a statutory right of the aggrieved allottee under RERA.
- p. The Complainant has repeatedly followed up regarding the possession status, but to date of filing the present complaint, the Respondent has: (a) Failed to offer possession of the said unit; (b) Failed to pay any interest or delay possession charges, as mandated by the RERA Act, which is applicable and binding on the parties.
- q. That due to the illegal and unlawful act of the Respondent, the Complainant suffers mental agony, pain and physical harassment.
- r. That the complainant has been constantly pursuing and following up with the respondent, that in consideration of no response received from the respondent till date, that in the way the respondent has committed fraud on the complainant by misappropriating the funds paid by the complainant.
- s. That the actions of the respondent amounts to unfair trade practice and deficiency in service by breaching the terms and conditions of the Allotment Letter. The respondent has also betrayed the trust imposed upon by the complainant.

- t. That the complainant has suffered great hardship and mental agony due to the acts of the respondent. The respondent has used the money collected from the complainant for the purposes other than the construction of the project. The complainant is seeking adequate relief for being deprived of the money by the respondent, which was paid for the residential unit.
- u. That the cause of action accrued in favor of the complainant who booked his unit based on the representations of the respondent. Since the refund of money has not been given to the complainant till date, the cause of action is still continuing.

C. Reliefs sought by the complainant: -

4. The complainant has sought following relief(s):
- Direct the respondent to refund the entire amount paid of Rs. 8,59,811/-, along with the prescribed rate of interest.
 - Direct the respondent to pay Rs. 5,00,000/-, towards damages for deficiency in service, restrictive and unfair trade practice and towards physical and mental torture, agony and hardship suffered by the Complainant.
 - Direct the respondent to pay Rs. 2,00,000/-, towards cost of litigation.
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 is contesting the complaint on the following grounds:
- That the complaint filed by the complainant is grossly misconceived, wrong, unjustified and untenable in law besides being clearly extraneous and irrelevant and is liable to be dismissed.
 - That the complainant has no locus standi to file the present complaint. it is submitted that complainant is estopped from filling the present complaint by his own act, conduct, omissions, admissions, acquiescence and laches.

- c. That the complaint filed by the complainant is not maintainable before this Authority as there is arbitration clause 16.2 and according to said clause in case of any dispute between the parties, the matter shall be referred for arbitration as per Arbitration and Conciliation Act, 1996 and an arbitrator shall be appointed by the company. Builder buyer agreement was signed and accepted by the complainant. Therefore, the complainant can't go back with the agreement entered between the parties.
- d. That the complainant has not approached to the Authority with clean hands and suppressed true and material facts. The complainant has intentionally not disclosed the correct facts before this court.
- e. That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely instalments as per the agreement. The complainant is a defaulter under Section 19(6) & 19(7) of the Act, 2016.
- f. The complainant has been engaged in unlawful conduct, including but not limited to making false and baseless allegations, spreading misinformation, and engaging in defamatory practices. These actions go beyond the realm of contractual disputes and suggest a deliberate attempt to harm the reputation and business interests of the respondent.
- g. That the complainant's motives are marred by malafide intentions. The present complaint, founded on false, fabricated, and erroneous grounds, is perceived as an attempt to blackmail the respondent. The complainant, in reality, is acting as an extortionist, seeking to extract money from the respondent through an urgent and unjustified complaint. This action is not only illegal and unlawful but also goes against the principles of natural justice.
- h. There is every apprehension that the complainant in collusion with any staff member of the respondent company including ex-employee or those who held positions during that time may put forth the altered and fabricated

document which is contradictory to the Affordable Housing Policy should not be considered binding on the company in any manner whatsoever.

- i. That in case cancellation notice by the respondent has been issued to the complainant and given time has been expired and thereafter the complainant by manipulation and in collusion with the bank or any staff of respondent company and got the funds transferred in the respondent company account and got the receipt from the company, it does not mean that cancellation has been revived in any manner whatsoever.
- j. That the complainant has consistently delayed making payments in accordance with the clearly outlines payment plan attached to both the application and the builder buyer agreement. Despite numerous attempts by the respondent including telephonic calls, emails and registered mail the complainant has not responded positively to the requests for timely payments. The complainant has failed to pay the required instalments on time despite several attempts through telephonic calls, emails and various letter therefore the unit of the complainant deemed cancelled in above noted circumstances as per norms and conditions laid down in affordable housing policy, 2013 and agreement for sale.
- k. That the respondent asserts its right to re-allot the cancelled unit of complainant to a genuine buyer who shall be interested in the project and having trust and faith on the respondent. Therefore, the complainant has not paid the outstanding instalments with interest for that very reason. The respondent has cancelled its unit and allotted same to some other buyer who has faith and trust in the budge and company and agreed for the timely payment of the instalments.
- l. That the complainant has been engaged in defamatory conduct on various platforms and public places. These actions are not only detrimental to the reputation of the respondent company but also constitute a clear violation of

- ethical standards. The complainant's defamatory activities, which are well-documented, have caused irreparable harm to the respondent's business, its promoters, and its ongoing and future projects.
- m. The respondent firmly believes that the complainant's actions are driven by malafide intentions. The complainant has engaged in unlawful conduct, including but not limited to making false and baseless allegations, spreading misinformation, and engaging in defamatory practices. These actions go beyond the realm of contractual disputes and suggest a deliberate attempt to harm the reputation and business interests of the respondent.
- n. That this Authority lacks jurisdiction to adjudicate upon the present complaint. Both the parties have executed an Arbitration Clause, clearly outlined in the agreement, empowering either party to seek resolution through arbitration. As per the said arbitration clause, any disputes arising out of the agreement shall be submitted to an arbitrator for resolution.
- o. That the complainant and respondent have unequivocally agreed to resolve any dispute through arbitration. This agreement to sell is fortified by Clause 16.2, all or any disputes arising out of or touching upon or relating to the terms of this agreement to Sell/Conveyance deed including the interpretation and validity of the terms hereof and the respective rights and obligations of the parties, which cannot be amicably settled despite best efforts, shall be settled through arbitration. The Arbitration Proceedings shall be governed by the Arbitration and conciliation Act, 1996 or any statutory amendments/modifications thereof for the time being in force. The arbitration proceedings shall be held at the office of the company in Gurgaon by a sole arbitrator who shall be appointed by the company. The cost of the arbitration proceedings shall be borne by the parties equally. The language of arbitration shall be in English. In case of any proceeding, reference etc. touching upon the arbitration subject including any award, the territorial

jurisdiction of the courts shall be Gurgaon, Haryana as well as of Punjab and Haryana High court at Chandigarh. That the respondent has not filed his first statement before this court in the subject matter.

- p. Clause Number 16.2 of the Agreement: The respondent assert that the agreement between the complainants and respondent is governed by Clause 16.2, which both parties are obligated to abide by. This clause is paramount in determining the rights and responsibilities of the parties involved, and we urge the Authority to consider its implications in the resolution of this matter.
- q. The complainant's assertions lack merit, as the complaint is filed on false, fabricated, and erroneous grounds. Contrary to the complainant's claims, it is our position that the complainants have failed to make timely payments as agreed, and their actions have been defamatory in nature, causing significant harm to respondent company, its promoters, and ongoing/future projects. Consequently, the Respondent has filed a counterclaim against the complainant, seeking redress for the losses incurred.
- r. In light of the above, the respondent respectfully request that this Hon'ble Authority may kindly be dismiss the present complaint for lack of jurisdiction and refer the matter to arbitration, as per the Arbitration Clause contained in the agreement. Furthermore, the Respondent assert his rights under Clause 16.2 of agreement to sale and reserve the right to pursue remedies available under the law.
- s. In light of the aforementioned arbitration agreement, we respectfully urge this Hon'ble Authority to exercise its discretion and stay the proceedings of the present suit. Pursuant to Clause 16.2 of the agreement to sale, we request that the complainant be directed to resolve the matter through arbitration proceedings as already initiated by the respondent company outlined in the agreement.

- t. That the complainant is bound to make the charges of GST and all other applicable charges as these charges are government charges and the respondent has no authority to waive off, exempt or to give any benefit to the complainant. These charges are transferred to Govt. directly and the respondent never keep the same with them.
 - u. As per clause 5(iii)(b) of the Affordable Housing scheme and as per the agreement the possession of flat is to be offered within a period of 4 years from the date of issuance of environment clearance certificate. As per the clause mentioned above in the complaint the final EC is CTE/CTO which has been received by the respondent on February 2018.
7. All other averments made in the complaint were denied in toto.
8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the complainant.

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, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction.

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

Section 11

.....

(4) 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.
13. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357** and reiterated in case of **M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022** wherein it has been laid down as under:

"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended

to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

14. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

F. Findings on objections raised by the respondent.

F.I Objection regarding complainant is in breach of agreement for non-invocation of arbitration.

15. The respondent has submitted that the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute. The authority is of the opinion that firstly in the instant case, the buyer's agreement has not been executed between the parties. Secondly, the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in ***National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506***, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by applying same

analogy the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.

16. Further, in *Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017*, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in agreements between the complainants and builders could not circumscribe the jurisdiction of a consumer. Further, while considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court in *case titled as M/s Emaar MGF Land Ltd. V. Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018* has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India and accordingly, the authority is bound by the aforesaid view. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within his right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and RERA Act, 2016 instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily

G. Findings on the relief sought by the complainant.

G.I Direct the respondent to refund the entire amount paid of Rs.8,59,811/-, along with the prescribed rate of interest.

17. The complainant was allotted a unit bearing no. 1701, Tower-1, floor-17 admeasuring carpet area of 556.280 sq. ft. along with balcony with area of 90 sq. ft. in the project of respondent named "The Venetian", Sector 70, Gurugram

under the Affordable Housing Policy, 2013 vide allotment letter dated 09.03.2021. Further, builder buyer agreement was executed between the parties with respect to the subject unit on 23.10.2021. As per clause 1(iv) of the policy of 2013, all projects under the said policy shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Thus, the possession of the unit was to be offered within 4 years from the approval of building plans (07.02.2020) or from the date of environment clearance (not obtained yet) whichever is later. Therefore, the due date of possession cannot be ascertained as environment clearance has not been obtained by the respondent from the competent authority. As per the documents on record, the complainant has paid an amount of Rs.5,73,207/- to respondent. Due to failure on the part of the respondent in obtaining environment clearance from the concerned authority and inordinate delay on part of the respondent to start construction of the project in question, the complainant is seeking refund of the amount paid along with interest.

18. Clause 5 (iii)(b) of the Affordable Housing Policy, 2013 as amended by the State Government on 22.07.2015 provides that if the licensee fails to get environmental clearance even after one year of holding draw, the licensee is liable to refund the amount deposited by the applicant along with an interest of 12%, if the allottee so desires. The relevant provision is reproduced below for ready reference:

"The flats in a specific project shall be allotted in one go within four months of the sanction of building plans. In case, the number of applications received is less than the number of sanctioned flats, the allotment can be made in two or more phases. However, the licensee will start the construction only after receipt of environmental clearance from the competent authority.

The licensee will start receiving the further installments only once the environmental clearance is received. Further, if the licensee, fail to get environmental clearance even after one year of holding

of draw, the licensee is liable to refund the amount deposited by the applicant along with an interest of 12%, if the allottee so desires."

19. Also, the respondent has raised an objection that complainant-allottee is a wilful defaulter and has failed to make payment of the instalments and has thus violated provisions of Section 19(6) & (7) of the Act. In this regard, the Authority observes that as per clause 5(iii)(b) of the Affordable Housing Policy, 2013, the licence will start receiving the further instalments only once the environmental clearance is received. As delineated hereinabove, the respondent has failed to obtain environmental clearance till date, thus, it is not entitled to receive any further payments. Hence, the objection raised by the respondent is devoid of merits.
20. Further, as per amendment dated 09.07.2018 in Affordable Group Housing Policy, 2013, the rate of interest in case of default shall be as per rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017. Rule 15 of the rules is 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 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. Thus, the complainant-allottee is entitled to refund of the entire amount deposited along with interest at the prescribed rate as per aforesaid provisions laid down under Affordable Housing Policy, 2013.

23. Hence, the respondent/promoter is directed to refund the entire paid-up amount as per clause 5(iii)(b) of the Affordable Housing Policy, 2013 as amended by the State Government on 22.07.2015, along with prescribed rate of interest i.e., @10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual realization of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 *ibid*.

G.II Direct the Respondent to pay Rs. 5,00,000/-, towards damages for deficiency in service, restrictive and unfair trade practice and towards physical and mental torture, agony and hardship suffered by the Complainant.

G.III Direct the Respondent to pay Rs. 2,00,000/-, towards cost of litigation.

24. The complainant is seeking relief w.r.t compensation and legal expense. Hon'ble Supreme Court of India in case titled as *M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & rs. 2021-2022(1) RCR (C), 357* 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.

H.Directions of the Authority.

25. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the authority under section 34(f) of the Act:

- i. The respondent is directed to refund the entire paid-up amount by the complainant as per clause 5(iii)(b) of the Affordable Housing Policy, 2013

as amended by the State Government on 22.07.2015, along with prescribed rate of interest i.e., @10.80% p.a. as prescribed under rule 15 of the Rules, 2017 from the date of each payment till the actual realization of the amount.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order failing which legal consequences would follow.

26. Complaint as well as applications, if any, stand disposed of accordingly.

27. File be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026

HARERA
GURUGRAM