HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No:	942 of 2025
Date of Filing:	26.06.2025
Date of First Hearing:	18.08.2025
Date of Decision:	21.08.2026

Santosh Batra W/o Sh. Ashok Batra
R/o H-1004, Microtech Greenburg,
Sector-86, Nawada Fatehpur (112),
Gurgaon.

....COMPLAINANT(S)

VERSUS

TDI Infrastructure Ltd.,
Through its Managing Director/Chairman,
9, Kasturba Gandhi Marg, New Delhi-110001.

....RESPONDENT(S)

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

Hearing: 5th

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Present: - Mr. Kamaljeet Dahiya, Advocate, for the Complainant through VC.
Mr. Shubhnit Hans, Advocate, for the Respondent.

ORDER:

The present complaint was filed by the complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (for short Act of 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 of 2016, or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS:

2. The particulars of the project, the details of 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 table:

S.No.	Particulars	Details
1.	Name of the project	TDI City, Kundli, Sonipat
2.	RERA registered/not registered	Un-registered
3.	Unit/Plot No.	B-B29/32-GF
4.	Unit/Plot Area	897 sq. ft.
5.	Date of Booking by Original Allottee	13.07.2009 (As per pleadings) 30.10.2009 (As per receipt)
6.	Date of Allotment in favour of complainant	05.02.2010

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7.	Date of Builder Buyer Agreement	NA
8.	Due Date of Offer of Possession	12.07.2012 as per pleadings
9.	Possession Clause	NA
10.	Total Sale Consideration	₹22,10,584/-
11.	Amount Paid by the complainant	₹19,93,985/-
12.	Offer of Possession	09.06.2020
13.	Occupation Certificate	NA

B. FACTS OF THE COMPLAINT:

3. Brief facts of the case are that the unit was originally booked by Mrs. Rekha Sachdeva on 13.07.2009 by paying a booking amount of ₹3,00,000/-. The respondent represented that the project would be completed within the stipulated period and possession would be delivered on time. Relying upon these assurances and the respondent's representations through its officials, the complainant agreed to purchase the said unit from the original allottee. Thereafter, the original allottee transferred and assigned all her rights, title, interest and payments made towards the unit in favour of the complainant. The said transfer was duly acknowledged and accepted by the respondent. Accordingly, the respondent issued an Allotment Letter dated 05.02.2010 in favour of the complainant for residential built-up floor

no. B-B29/32-GF, Ground Floor, measuring 897 sq. ft. in TDI City, Kundli, Sonipat , copy of which is annexed as Annexure C-1.

4. The total sale consideration of the unit was fixed as ₹22,10,584/-. Out of this amount, the complainant paid ₹19,93,985/- between 13.07.2009 and 03.02.2014, which is duly reflected in the respondent's Statement of Account dated 29.03.2019 and the payment receipts, copies of which are annexed as Annexures C-2 and C-3. Despite receiving more than 90% of the sale consideration, the respondent failed to execute a Builder Buyer Agreement or any written Agreement for Sale with the complainant. It is further alleged that the respondent collected more than 10% of the sale consideration without first executing such an agreement, contrary to the provisions of Section 13(1) of the RE(RD) Act, 2016. Since no Builder Buyer Agreement was executed, no date for possession was specified. However, it is settled law that where no possession period is agreed, possession must be delivered within a reasonable time. In view of the judgment of the Hon'ble Supreme Court in *Fortune Infrastructure v. Trevor D'Lima*, a period of three years from the date of booking may be treated as a reasonable period. As the booking was made on 13.07.2009, the reasonable due date for possession would be 12.07.2012. The complainant repeatedly approached the respondent between the year 2009 and 2018 to enquire about the progress of the project. However, the

respondent continued to assure the complainant that the project would be completed shortly, but no satisfactory progress or possession was offered.

5. The respondent thereafter issued an Offer of Possession dated 09.06.2020. However, the offer did not disclose whether an Occupation Certificate had been obtained from the competent authority. The complainant submitted that an offer of possession issued without an Occupation Certificate is not a valid offer in the eyes of law. The complainant further submitted that the respondent arbitrarily revised the total sale consideration from ₹22,10,584/- to ₹32,38,571/- in the Statement of Account dated 09.06.2020 without any contractual or legal basis. Similarly, although only ₹21,496.36/- was shown as outstanding in the earlier statement of account, the respondent increased the alleged outstanding amount to ₹10,62,776/- without any justification. These demands are stated to be arbitrary and illegal.

6. The Offer of Possession dated 09.06.2020 is further challenged on the grounds that it was issued without an Occupation Certificate, contains arbitrary financial demands and was made after an unreasonable delay of several years without offering any compensation or interest for delayed possession. The complainant also submitted that the respondent unilaterally increased the built-up area of the allotted unit from 897 sq. ft. to 1200.170 sq. ft. in the Offer of

Possession dated 09.06.2020, resulting in an increase of about 303.17 sq. ft. (approximately 33.79%). According to the complainant, this increase was made without prior notice or written consent and is in violation of Section 14(2) of the RE(RD) Act, 2016. The complainant opted for a construction-linked payment plan under which payments were to be made only after completion of the respective stages of construction. Accordingly, the respondent was required to raise demands only upon completion of each stage. However, the respondent raised payment demands arbitrarily without establishing the progress of construction, thereby violating the agreed payment plan.

7. The complainant further submitted that the respondent made several arbitrary and unlawful financial demands. The basic sale price of the unit was increased from ₹20,49,998/- to ₹27,42,859/- without any contractual basis or the complainant's consent. The respondent also demanded ₹75,000/- towards club membership despite the complainant having declined the optional membership. In addition, the respondent levied charges towards stamp duty (₹1,09,800/-), IFMS of ₹20,000/- and VAT charges of ₹20,502/-, although the complainant submitted that the applicable taxes had already been paid. The respondent also charged interest for alleged delayed payments by the complainant but failed to compensate the complainant for the delay in handing over possession. The respondent continued to raise additional demands and threatened to levy penal interest on the alleged

outstanding amount. It also demanded enhanced EDC/IDC and other statutory charges without producing any proof of payment to the competent authorities. The complainant submitted that the enhanced EDC/IDC charges are presently subject to orders of the Hon'ble Punjab and Haryana High Court and, therefore, such demands are not legally recoverable. Further, these charges were not part of the original allotment terms and were imposed without any legal or contractual basis. Despite repeated requests, the respondent failed to justify these demands.

8. Thereafter, the respondent cancelled the allotment of the unit vide letter dated 04.11.2024, copy of which is annexed as Annexure C-5. The complainant submitted that the cancellation was arbitrary, without any valid reason or prior opportunity of hearing and was issued despite the complainant repeatedly raising grievances regarding the delay in completion of the project. The complainant, therefore, alleged that the respondent acted unfairly and in violation of the provisions of the RE(RD) Act, 2016. The complainant further submitted that despite repeated visits and communications seeking updates on the progress of construction, the respondent never attributed the delay to any force majeure event or any other unavoidable circumstance. Even after more than sixteen years from the date of booking, the project remains incomplete and no valid offer of possession has been made. Accordingly, the complainant is entitled to withdraw from the project and seek refund of the entire amount deposited along with

applicable interest under Section 18 of the RE(RD) Act, 2016 and the Hon'ble Supreme Court in *Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Ors.*, Civil Appeal Nos. 6745-6749 of 2021, has also held that where the promoter fails to hand over possession within the stipulated period, the allottee has an unqualified right to withdraw from the project and claim refund of the amount paid along with the prescribed interest. Therefore, the complainant is entitled to the relief claimed in the present complaint.

C. RELIEF SOUGHT:

9. The complainant in her complaint has sought the following reliefs:

i. To direct the respondent to refund the total paid amount along with interest at the prescribed rate under Rule 15 of the HRERA Rules, 2017 till actual realisation/refund of the entire amount to the complainant;

ii. To declare the offer of possession dated 09.06.2020 as invalid and non-binding being in violation of the RERA Act, 2016;

iii. To quash the demands illegally raised by the respondent along with offer of possession;

iv. To impose penalty upon the respondent as per the provisions of Section 60 of RE(RD) Act;

v. To impose penalty upon the respondent as per provisions of Section 61 RE(RD) Act for contravention of Section 12, 13, 14 and Section 16 of the Act, 2016;

vi. To direct the respondent to provide detailed account statement against the amount collected from the complainant in lieu of interest, penalty for delayed payments;

vii. To grant liberty to the complainant to file separate complaint for compensation before Hon'ble Adjudicating Officer;

viii. To issue directions to make liable the Director, Manager, Secretary or any other officer of the respondent company for the offences mentioned in Section 69 of RE(RD) Act and HRERA Rules, 2017;

ix. To recommend criminal action against the respondent for cheating, fraud and criminal breach of trust;

x. To direct the respondent to pay cost of litigation;

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xi. Any other relief which is deemed fit by this Authority in view of the facts and circumstances of the case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT:

10. On receipt of notice of the complaint, the respondent filed a reply on 16.03.2026, which stated that based on the reputation of the respondent company,

the complainant chose to invest in TDI City, Kundli, Sonipat. The respondent submitted that it has already received Part Completion Certificate in the year 2008, 2013 and 2017, copies of which are annexed as Annexure R-1, Annexure -2 and Annexure R-3 for the area of 927 acres approx. The respondent has submitted that it issued an Offer of Possession to the complainant vide letter dated 09.06.2020, calling upon the complainant to take possession of the unit after clearing the outstanding dues. However, according to the respondent, the complainant neither responded to the said letter nor took possession of the unit.

11. The respondent has contended that the project was launched and construction commenced before the enactment of the RE(RD) Act, 2016. It is submitted that since the Act was not in force at the relevant time, the respondent could not have anticipated the obligations or penalties prescribed under the Act. Accordingly, the respondent argued that the provisions of the RE(RD) Act cannot be applied retrospectively to the present project. The respondent has further submitted that giving retrospective effect to the provisions of the Act would impose unforeseen liabilities upon the promoter, cause financial hardship and adversely affect the construction and development of the project. It is contended that such an interpretation would be unjust, arbitrary and contrary to settled principles governing the retrospective operation of statutes. On the above basis, the respondent has pleaded that the provisions of the RE(RD) Act are prospective in

nature and, therefore, the present complaint, arising out of a project launched prior to the enforcement of the Act, is not maintainable under the provisions of the RE(RD) Act.

12. The respondent has submitted that vide letter dated 09.12.2010, the complainant was requested to furnish the necessary documents required for execution of the Floor Buyer's Agreement within seven days of receipt of the said letter. According to the respondent, despite the opportunity so granted, the complainant failed to submit the requisite documents and did not take any steps for execution of the Floor Buyer's Agreement. The respondent has, therefore, contended that any delay in the execution of the Floor Buyer's Agreement was attributable solely to the complainant's inaction and failure to comply with the respondent's request. In support of this contention, the respondent has placed on record a copy of the letter dated 09.12.2010 as Annexure R-4.

13. The respondent has submitted that despite repeated reminders and demand letters dated 16.07.2011, 15.02.2012 and 20.01.2014, the complainant failed to clear the outstanding dues amounting to ₹12,47,576.99/-. Copies of the aforesaid demand letters have been placed on record as Annexure R-5 (Colly.). It is further submitted by the respondent that an offer of possession was made to the complainant on 09.06.2020, subject to clearance of the outstanding dues. A copy of the offer of possession has been placed on record as Annexure C-4 (Colly.). It is

further submitted that vide letters dated 06.10.2022 and 01.11.2023, the complainant was intimated to complete the requisite formalities for execution of the conveyance deed by furnishing a No Dues Certificate. However, the complainant failed to come forward to complete the said formalities. Copies of the aforesaid letters have been placed on record as Annexure R-6 (Colly.).

14. It is further submitted by the respondent that due to the complainant's failure to clear the outstanding dues, the respondent company issued a cancellation letter dated 04.11.2024, whereby the allotment was cancelled on account of non-payment of the outstanding amount. A copy of the said cancellation letter has been placed on record as Annexure C-5.

15. It is submitted that the amount reflected in the offer of possession dated 09.06.2020, including the applicable charges and taxes, was duly payable in accordance with the terms and conditions governing the allotment. Therefore, the allegation that the respondent arbitrarily enhanced the sale consideration to ₹32,38,571/- or made any unjustified or illegal demand is specifically denied. The amount mentioned in the statement of account and the subsequent demand raised by the respondent were based on the applicable charges and dues payable by the complainant. The present complaint is made only with the intent to harass and extort money from the respondent company.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT:

16. During the course of oral arguments, learned counsel appearing on behalf of both the parties reiterated the facts and submissions as set out in their respective pleadings and reply.

F. ISSUES FOR ADJUDICATION:

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

G. OBSERVATIONS AND DECISION OF THE AUTHORITY:

18. The Authority has gone through the rival contentions. In the light of the background of the matter as captured in this order and also the arguments submitted by both parties, the Authority observes as follows:

i. On consideration of the pleadings and material placed on record, it is observed that the unit was initially booked by Mrs. Rekha Sachdeva on 13.07.2009 and was subsequently transferred in favour of the complainant, which was duly acknowledged by the respondent and an allotment letter dated 05.02.2010 was issued in favour of the complainant. The record further indicates that the complainant had deposited ₹19,93,985/- against the total sale consideration of ₹22,10,584/- i.e. more than 90% of the originally agreed consideration. However, no Builder Buyer Agreement/Agreement for Sale containing a definite period for delivery of possession has been placed on record. Despite the substantial payments made by the complainant, the possession was not offered within a reasonable period and the respondent issued an offer of possession only on 09.06.2020, after a considerable lapse of time from the date of booking. The complainant has also disputed the validity of the said offer on account of the alleged non-availability of the requisite Occupation Certificate and has raised objections regarding the substantial enhancement in the sale consideration, increase in the area of the unit, additional charges, and the alleged outstanding amount. It is further observed that the allotment was ultimately cancelled by the respondent vide letter dated 04.11.2024, whereas the complainant has consistently alleged delay in completion and has sought withdrawal from the project and refund along with interest under Section 18 of RE(RD) Act.

ii. On consideration of the reply filed by the respondent and the documents placed on record, it is observed that the respondent has relied upon the Part Completion Certificates stated to have been issued in the years 2008, 2013 and 2017 and has contended that the project was substantially completed prior to the enactment of the RE(RD) Act. The respondent has relied upon the Offer of Possession dated 09.06.2020, but the same was admittedly subject to payment of the alleged outstanding dues. The respondent has further attributed the non-execution of the Floor Buyer's Agreement and the delay in taking possession to the complainant's failure to furnish documents and clear the alleged outstanding amount. The respondent further took a plea that the provisions of the RE(RD) Act are not applicable because the project was launched prior to its enactment. It is further observed that the respondent issued reminders and thereafter cancelled the allotment on 04.11.2024 on the ground of non-payment of dues.

(iii) The Authority has carefully examined the objection raised by the respondent that the project was allegedly completed prior to coming into force of the RE(RD) Act, 2016 as Part Completion Certificates were obtained by the respondent in the year 2008, 2013 and 2017 respectively. Therefore, the provisions of the Act are not applicable and the present complaint is not maintainable. At the outset, this contention is legally unsustainable on two grounds. Firstly, it is well settled that the RE(RD) Act, 2016 applies not only to projects launched after its enactment but also to ongoing projects, where completion and delivery of possession have not been lawfully achieved. In the present case, the possession has admittedly not been taken by the complainant and more importantly, the Authority has already found that no valid offer of possession has been made till date as the occupation certificate has not been obtained as yet. Therefore, the project, qua the complainant, remains incomplete. Secondly, the obligation of the promoter to hand over the possession in accordance with law is a continuing obligation and failure to do so gives rise to a continuous cause of action. Hence, the rights of the allottees/complainant survive and can be enforced even after the enactment of RE(RD) Act, 2016. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. , Civil Appeal no. 6745-6749 of 2021***, wherein it was held that the RE(RD) Act, 2016 is a beneficial legislation intended to protect the interests of allottees and has retroactive application to ongoing projects. The Court categorically upheld the jurisdiction of the Authority to entertain complaints where the default of the promoter continues even after the Act came into force. The relevant para of which is reproduced herein:

" 37. Looking at the Scheme of Act 2016 and Section 3 in particular of which a detailed discussion has been made, all "ongoing projects" that commence prior to the Act and in respect to which completion certificate has not been issued are covered under the Act. It manifests that the legislative intent is to make the Act applicable not only to the projects which were yet to commence after the Act became operational but also to bring under its fold the ongoing projects and to protect from its inception the inter se rights of the stake holders, including allottees/home buyers, promoters and real estate agents while imposing certain duties and responsibilities on each of them and to regulate, administer and supervise the unregulated real estate sector within the fold of the real estate authority."

Further, in ***M/s Imperia Structures Ltd. v. Anil Patni (2020) 10 SCC 783***, the Hon'ble Supreme Court held that remedies under RE(RD) Act, 2016 are in addition to and not in derogation of other remedies and the Act applies even where agreements were executed prior to its enactment, provided the cause of action survives. Additionally, in ***Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan (2019) 5 SCC 725***, the Hon'ble Supreme Court emphasized that a buyer cannot be compelled to wait indefinitely and is entitled to seek refund where the promoter fails to deliver possession within the agreed timeline. This principle squarely applies in the present case, where there is a delay in handing over possession. It is also pertinent to note that mere issuance of a Part Completion does not extinguish the rights of the allottees/complainant unless lawful and valid possession is actually offered and handed over. In absence thereof, the project cannot be said to be complete in the eyes of law vis-à-vis such allottees.

In view of the above legal position, the Authority holds that the present case involves a continuing default on the part of the respondent. The complainant' right to seek possession or refund subsists even after the enactment of RE(RD) Act, 2016. Furthermore, as per section 34(e) it is the function of the Authority to ensure compliance of obligation east upon the promoters, the allottees and the real estate agents under this Act, and the rules and regulations made thereunder.

Further, it is not specified in the written statement as to whether the unit/plot of the complainant gets covered in said part completion certificates or not? Hence, the provisions of the RE(RD) Act, 2016 are fully applicable to the present case. Accordingly, the objection raised by the respondent regarding non-applicability of the RE(RD) Act, 2016 and maintainability of the complaint is rejected. The Authority has complete jurisdiction and mandate to adjudicate the same on merits.

(iv) Further, 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 allotment letter dated 05.02.2010, it is clear that the complainant is an "allottee" of shop bearing no. B-B29/32-GF, situated in the real estate project, 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.

(v) The complainant as well as the respondent has not specified any deemed date of possession in its respective submissions. In the absence of the specific clause for handing over possession, 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 allotment was made in favour of the complainant on 05.02.2010. 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 05.02.2013.

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(vi) 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. Instead, the respondent purported to cancel the allotment only on 04.11.2024 i.e., after an inordinate delay of more than ten 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.

19. In view of above facts and circumstances, the Authority observed that the respondent, being a builder, ought to have acted fairly by either handing over lawful possession or cancelling the booking and refunding the amount, with or without permissible deductions. However, the respondent failed to take either course of action and has continued to retain the complainant's money since the year 2010 without any valid justification. The Authority observes that the RE(RD) Act, 2016 was enacted to protect the interests of consumers in the real estate sector. The Authority is of the view that the complainant cannot be made to wait indefinitely for handing over the possession. Accordingly, this is a fit case for grant of refund of the amount paid along with interest at the prescribed rate under Section 18(1)(a) of the RE(RD) Act.

20. 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 this 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.

21. 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;

22. 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".*

23. 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. 21.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.80%.

24. Thus, respondent will be liable to pay the complainant interest from the date amounts were paid till the actual realization of the amount. Authority directs respondent to refund to the complainant the paid amount of ₹19,93,985/- along with interest 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 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 and total amount works out to **₹53,46,145/-** as per detail given in the table below:

Sr. No.	Principal Amount in ₹	Date of payment	Interest Accrued till 21.08.2026
1.	₹3,00,000/-	24.09.2009	₹5,48,226/-
2.	₹3,15,000/-	30.10.2009	₹5,72,282/-
3.	₹1,07,508/-	20.03.2010	₹1,90,832/-
4.	₹2,05,000/-	14.06.2010	₹3,58,668/-
5.	₹3,480/-	14.06.2010	₹6,089/-
6.	₹10,000/-	12.07.2010	₹17,413/-
7.	₹2,04,999/-	06.09.2010	₹3,53,571/-
8.	₹5,279/-	06.09.2010	₹9,105/-
9.	₹2,05,030/-	05.08.2011	₹3,33,423/-
10.	₹5,248/-	05.08.2011	₹8,534/-
11.	₹2,05,499/-	15.10.2011	₹3,29,868/-
12.	₹5,309/-	15.10.2011	₹8,522/-
13.	₹2,10,278/-	28.02.2012	₹3,29,078./-
14.	₹2,11,355/-	04.02.2014	₹2,86,549/-
	Total=₹19,93,985/-		**Total=₹33,52,160/-**
	Total Payable to the Complainant	**₹19,93,985/- + ₹33,52,160/-**	**₹53,46,145/-**

J. DIRECTIONS OF THE AUTHORITY:

25. Hence, the Authority hereby passes this order and issue 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) of the Act of 2016:

(i) The respondent is directed to refund the entire paid amount of ₹19,93,985/- with interest of ₹33,52,160/- (**total ₹53,46,145/-**) to the complainant. It is further clarified that the respondent will remain liable to pay interest to the complainant 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 as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

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

(CHANDER SHEKHAR)
MEMBER

21.08.2026
Narinder Kaur
(Law Associate)