

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

Complaint no.: 6238 of 2025
Date of complaint: 03.12.2025
Date of order: 17.07.2026

Archana Dubey
R/O: - 1335, Sector-46, Gurugram, Haryana-
122003.

Complainant**Versus**

M/s Ocus Skycrapers Realty Ltd.
Regd. Office: C-94, First Floor, Shivalik, New
Delhi-110017.

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Shri Diwakar Sharma (Advocate)
Shri Lokesh Bhola (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 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	OCUS 24K, Sector 68, Gurugram
2.	DTCP License	76 of 2012 dated 01.08.2012
3.	HRERA Registration	Registered vide registration no. 220 of 2017 dated 18.09.2017
4.	Unit no.	G-119 (page 98 of complaint)
5.	Unit admeasuring	419 sq. ft.. Super area (G-119) (page 98 of complaint)
6.	Allotment letter	30.04.2013 (page 98 of complainant)
7.	Builder Buyer agreement for unit no. G-119	16.12.2013 (page 31 of complaint)
8.	Possession clause	11(a) Schedule for possession of the said unit The company based on its present plans and estimates and subject to all just exceptions endeavors to complete construction of the said building/said unit within a period of 60 months from the date of agreement unless there shall be delay or failure due to department delay or due to any circumstances..... (page 44 of complaint)
9.	Due date of possession	16.12.2018 (calculated 60 months from the date of agreement)
10.	Total sale Consideration	Rs.60,95,402/- (page 37 of complaint)
11.	Amount Paid	Rs.67,77,618/- (page 219 of reply)
12.	Offer of possession for unit G-119	18.07.2019 (page 131 of complaint)
13.	Possession Letter for unit G-119	10.05.2022 (page 133 of complaint)
14.	Occupation certificate	17.07.2019 (page 18 of reply)

15.	Completion certificate	25.07.2023 (page 20 of reply)
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B. Facts of the complaint:

3. The complainant has made the following submissions: -

- I. That the present complaint is being instituted by Mr. Shishir Dubey as the duly Authorized Representative of his sister, the complainant, Ms. Archana Dubey, who is the allottee of the commercial units bearing G-215 admeasuring 479 sq. ft. and G-119 admeasuring 419 sq. ft. in the project known as "OCUS 24K" bearing Project ID RERA-GRG-424-2019 situated at Sector 68, Gurugram, Haryana, developed and promoted by the respondent herein.
- II. That in the due course of their business, the respondent had launched a commercial project namely "OCUS 24K" situated at Village Badshahpur, Sector-68, Gurugram, Haryana. The project bears Project ID RERA-GRG-424-2019, as per registration certificate issued to the respondent. Despite the project being under development since 2011, the respondent did not care to get it registered with this authority until 2019.
- III. That in 2011, on the impressive projection of the respondent and its brokers, the complainant had booked a commercial space bearing G-215 (hereinafter referred to as "the Unit") admeasuring 479 sq. ft. in the aforesaid project "Ocus 24K" of the respondent situated at Village Badshahpur, Sector-68, Gurugram, Haryana. Upon deposit of a sum of Rs. 3,00,000/- vide cheque no. 080376 and a sum of Rs. 1,80,000/- vide cheque no. 080377 and a sum of Rs. 2,60,702/- vide cheque no. 080396, the respondent company issued the provisional allotment letter dated 28.07.2012 to the complainant.
- IV. That subsequently, the complainant also paid a sum of Rs. 5,00,000/- to the respondent though cheque no. 016261. At the time, the transactions pertaining to the allotted unit were being managed by the complainant's

father who was a senior citizen suffering from various geriatric problems and would normally comply with any demands raised by the respondent. The complainant did not realize that the respondent had unilaterally and arbitrarily changed the allotment of her unit. While the complainant had initially booked unit G-215 admeasuring 479 sq. ft. situated near the front of the project site, the respondent dishonestly and fraudulently changed the allotment of the complainant and made a provisional allotment of unit bearing G-119 admeasuring 419 sq. ft. towards the rear side of the project site by issuing a vide provisional allotment letter dated 30.04.2013 surreptitiously and even utilized the amount of Rs. 5,00,000/- through cheque no. 016261 towards booking of the said unit. It is pertinent to mention that the complainant did not sign any application for the allotment of said unit. Furthermore, the respondent played fraud upon the complainant and did not adjust the amount of Rs. 7,40,702/- paid towards Unit G-215 against the account of the subsequently allotted Unit G-119. The respondent thus dishonestly usurped the entire amount paid by the complainant towards the initial allotment of unit G-215. The complainant discovered this fraudulent scheme of the respondent only when complainant's father became seriously ill and the complainant began to manage the allotted unit on her own in 2025.

- V. That along with the provisional allotment letter, the respondent raised a demand of Rs. 62,725/- for 10% of basic sale price vide demand letter dated 30.04.2013 to which the complainant complied by making payment of Rs. 62,725/- vide cheque no. 407363 dated 08.05.2013 to the respondent.
- VI. That shortly after, the respondent raised another demand of Rs. 11,25,450/- vide demand letter dated 10.06.2013 to which the complainant complied by making payment of Rs. 11,25,450/- through cheque no. 016267 dated 25.06.2013 to the respondent.

- VII. That thereafter, the respondent raised another demand of Rs. 13,65,930/- vide demand letter dated 17.05.2014 to which the complainant complied by making payment of Rs. 13,65,930/- through cheque no. 937406 dated 31.05.2014 to the respondent.
- VIII. That the complainant had made payments towards her instalment, EDC & IDC and Location PLC tantamount to Rs. 4,50,000/- (through cheque no. 963959 dated 23.04.2015. The respondent dishonestly and fraudulently charged a preferred location charge to the complainant even though the complainant had earlier been allotted unit G-215 admeasuring 479 sq. ft. towards the front side of the project site whereas the subsequently allotted unit G-119 admeasuring 419 sq. ft. was towards the rear side of the project site where the respondent dumped its construction rubble and made the complainant's unit inaccessible. The dumped construction rubble has been lying in front of the complainant's unit even till date of filing this complaint. Shortly after, the respondent raised another demand of Rs. 4,33,606/- vide demand letter dated 13.05.2015 to which the complainant complied by making payment of Rs.4,33,606/- through cheque no. 963960 dated 26.05.2015 to the respondent.
- IX. That upon casting of floor slab, the complainant paid Rs. 5,67,022/- through cheque no. 414961 dated 27.06.2017 to the respondent.
- X. That to further clear the outstanding dues, the complainant paid Rs. 12,66,663/- through cheque no. 414967 dated 11.12.2018 to the respondent.
- XI. That by 2019, the complainant had paid Rs. 57,71,396/- to the Respondent towards unit G-119. However, as per final statement of account dated 19.11.2019, the respondent acknowledged a total payment of Rs. 57,11,183/- towards Basic Sale Price, VAT Security @1.5%, VAT @1.05%,

- Location PLC @ 5%, EDC & IDC. This amount is exclusive of the amount of Rs. 7,40,702/- paid towards unit G-215 and never adjusted subsequently.
- XII. That the said statement showed an outstanding of Rs 6,47,000/- towards the aforementioned payment heads. Furthermore, it sought a sum of Rs. 2,62,000/- on behalf of Ocus Skyscrapers Realty Limited towards electricity connection charges, sinking fund and IFMS. Furthermore, it also sought Rs. 79,330/- on behalf of Athem Facility Private Limited towards advance CAM Charges & GST with effect from 01.08.2019 to 31.07.2020 and prepaid meter card deposit.
- XIII. That the complainant promptly paid Rs. 6,47,000/- to respondent through cheque no. 626243 dated 30.11.2019. She also paid Rs. 2,62,000/- to respondent through cheque no. 626242 dated 30.11.2019. She further paid Rs. 79,330/- to the maintenance agency Athem Facility Private Limited through cheque no. 626241 dated 30.11.2019.
- XIV. That even though the total sale consideration of Unit G-119 was Rs. 60,95,402/-, the complainant had to pay an amount of Rs. 67,59,726/- towards the total sale consideration and all the incidental charges to the respondent towards all possible payment heads. Thus, the respondent charged excess amount of Rs. 6,64,324/- over and beyond the agreed total sale consideration as per buyers' agreement dated 16.12.2013. The complainant has also paid an amount of Rs. 7,40,702/- to the respondent towards allotment of unit G-215 which was never adjusted by the respondent towards the unilateral and arbitrary allotment of subsequent unit G-119.
- XV. That the respondent issued an offer of possession dated 18.07.2019 to the complainant. However, despite payment of all charges by 03.12.2019 itself, the respondent failed to issue possession letter of the unit to the complainant until 2022. After much deliberation and persistent efforts by the

complainant, the respondent finally issued possession letter dated 03.05.2022 to the complainant.

- XVI. That despite issuance of possession letter, the complainant was shocked to witness that the unit and the construction of the project premises as a whole was incomplete. Furthermore, the construction material and rubble were strewn across the project premises rendering it unfit for any form of commercial use and unsafe to even approach the said unit.
- XVII. That despite various follow-ups, the respondent failed at finishing the construction and cleaning up the rubble and kept offering only hollow assurances to the complainant that it would take corrective actions.
- XVIII. That on account of fraudulent forfeiture of payments made towards allotment of unit G-215, the inordinate delays by the respondent at offering proper possession of the unit G-119, and the blockage of unit entrance by massive piles of construction rubble, broken bricks, scattered debris etc. the complainant suffered huge financial losses both towards invested amount as well as business opportunities.
- XIX. That the respondent has obtained occupation certificate dated 17.07.2019 through fraud and misrepresentation even though the project was not fit for use at all. Furthermore, through similar fraud and misrepresentation, the respondent succeeded at obtaining a completion certificate dated 25.07.2023 for the project even though the construction and development of the project was far from complete. It is for this reason that despite payment of all dues, the respondent could not issue possession letter to the complainant until May 2022. The complainant's authorized representative has captured videos and geo-tagged/time-stamped photographs of the premises on various dates since delivery of possession showing uninstalled scaffolding material, the blockage of unit entrance by massive piles of construction rubble, broken bricks, scattered debris etc. and other signs of

incomplete infrastructure within the premises, which are enclosed herewith. These videos and photographs clearly demonstrate the grossly unfinished nature of the site.

- XX. That a plain reading of the current site condition, as documented through photographs and firsthand inspection, reveals that construction activity is still ongoing in the project even in September 2025, i.e., more than six and a half years after the claimed date of issuance of the occupation certificate.
- XXI. That the act of handing over possession in such an uninhabitable condition is not only arbitrary and unethical but also done with the mala fide intent to evade continuing obligations under the RERA Act. The only logical inference from this discrepancy is that the respondent has procured the occupation certificate fraudulently through deliberate misrepresentation and concealment of facts. There is no conceivable way that the project could have obtained a valid OC in 2019 while still remaining under active construction in 2025.
- XXII. That despite payment of the entire sale consideration and despite issuance of possession letter dated 03.05.2022, the respondent has failed to execute a conveyance deed in favour of the complainant with regards to the allotted unit, till date.
- XXIII. That despite all these shortcomings, the respondent continues to charge maintenance to the complainant even though the unit is inoperable due to the respondent's own actions of construction material and rubble scattered in front of the complainant's unit.
- XXIV. That the procurement of the occupation certificate based on falsehood is a direct contravention of Section 11(4)(h) of the RERA Act and also constitutes a criminal offence under Sections 406, 417, 420, and 468 of the IPC, apart from being a gross abuse of the regulatory mechanism meant to protect allottees.

C. Relief sought by the complainant:

4. The complainants have sought following relief(s):
- I. Direct the respondent to fulfil its contractual obligations and to deliver proper possession of the unit G-119 to the complainant.
 - II. Direct the respondent to pay interest of @ 11% p.a. (SBI MCLR + 2%) on Rs. 67,59,726/- paid towards Unit G-119 w.e.f. promised date of delivery, i.e., 16.12.2018 till realization.
 - III. Direct the respondent to waive the maintenance demanded till date of filing the complaint and to cease any demand towards maintenance from the complainant until delivery of proper possession of unit G-119 to the complainant.
 - IV. Direct the respondent to execute the conveyance deed in favour of the complainant for the allotted unit G-119.
 - V. Direct the respondent to complete all remaining construction work, remove all rubble and debris, and render the project fully fit for lawful commercial use with immediate effect.
 - VI. Initiate an inquiry into the fraudulent procurement of the occupation certificate and refer the matter to the appropriate enforcement and civic authorities for criminal investigation and cancellation of the OC if found to be procured by fraud.
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. That the respondent has contended the complaint on the following grounds:
- I. That the complainant in a blatant attempt to mislead this Authority has represented that the subject units in question are situated in the same project of the respondent however, it is relevant to point out that the respondent has developed two projects in which the complainant has booked the subject units separately. The respondent has developed a project namely "Ocus Medley" situated at Village Dhankot and Kherki Majra, Sector 99 Gurugram, Haryana in which the complainant has booked the unit bearing No.G-215 (subsequently changed to G-179) and the respondent has developed a project namely "Ocus

24K" situated at Village Badshahpur, Sector-68, Gurugram, Haryana in which the complainant has booked unit bearing No.G-119 respectively.

- II. That the Ocus 24K Project of the respondent is complete in all aspect and in light of the same, the respondent has received the occupation certificate, dated 17.07.2019 as well as completion certificate, dated 25.07.2023 from the Directorate of Town and Country Planning, Haryana and the same is indicative of the fact that the Ocus 24K Project of the respondent is operational and functional since March,2019.
- III. That the present complaint is barred by limitation since the units were booked by the complainant in the year 2012 and the offer of possession for unit no.G-119 in the Ocus 24K Project was given on 18.07.2019. The complainant has made complete payment on 02.12.2019, subsequent to which the possession was duly handed over to the complainant on 03.05.2022 and the complainant had signed no objection with respect to all claims, if any against the respondent. The present complaint has been instituted by the complainant only in December, 2025. That three years for filing the present complaint has expired on 03.05.2025 and the present complaint has been filed after a delay of approximately 8 months and 25 days from the expiry of limitation period, therefore the present complaint is liable to be dismissed on this ground alone.
- IV. That the complainant in the year 2012 had approached the respondent and showed her interest and willingness to invest in the project of the respondent. Thereafter, being fully satisfied of the aspects of the Ocus 24K Project being developed by the respondent, the complainant booked a unit in the said project. It is pertinent to mention here that after all the inquiries and inspections, the complainant had paid advance for the booking in the said project
- V. Thereafter on 02.05.2012, the complainant made an application for allotment of the Unit bearing no.G-119 having a super area of 419 square feet on the Ground Floor of the Ocus 24K Project. The complainant paid an amount of

Rs.16,88,175/- (including service tax) towards the part payment of total consideration amount of the said unit in the Ocus 24K Project. Subsequently, a builder buyer agreement, dated 16.12.2013, was executed between the parties for the Unit No.G-119, situated on the Ground Floor, admeasuring super area 419 square feet for a total sale consideration of Rs.60,95,402/-, excluding taxes and other charges.

- VI. That Clause 8 of the said agreement provides that the complainant agree and understands that the time is of the essence with respect to the payment of the total price and other charges, deposits and amounts payable by the complainant as per the said agreement and/or as demanded by the respondent from time to time and also to perform/observe all the other obligations of the complainant under the said agreement. It was further agreed between the parties that the respondent is not under any obligation to send any reminders for the payments to be made by the complainant as per the schedule of payments and for the payments to be made as per demand by the respondent or other obligations to be performed by the complainant.
- VII. That the complainant is a chronic defaulter and has defaulted in making payment against the demands for the said unit as per the agreed terms and conditions under the said agreement, against which the respondent had also issued several reminder letters to the complainant for clearing the outstanding dues as per the "payment plan." The respondent had addressed following letters to the complainant without there being under any obligation, calling upon the complainant to make payment of the balance consideration for the said Unit:
- VIII. That the complainant is a chronic defaulter as the complainant has failed and neglected to make timely payments with respect to the said unit despite numerous reminders addressed to the complainant. The above default has been committed by the complainant, despite knowing the fact that timely payment of

the consideration of the said unit is a matter of essence as per clause 8 of the said agreement.

- IX. That in order to deliver the second unit to the complainant, the respondent was constructing the said project at a fast pace. The respondent had completed the said project and applied for occupational certificate on 11.03.2019 and the same was granted on 17.07.2019. It is relevant to point out that the said project is complete within the time stipulated in the said agreement and that the said project was complete and ready since 11.03.2019.
- X. That the said project of the respondent was complete and ready since March, 2019 and all the amenities and facilities are being provided by the respondent as they have been proposed at the time of making the booking of the second unit.
- XI. That the respondent sent the letter for offer of possession, dated 18.07.2019 to the complainant alongwith final statement of account which reflected the outstanding payment of Rs.9,89,130/- towards the second unit. The respondent issued a reminder vide email, dated 29.08.2019, the respondent, referring to the receipt of the possession letter, dated 18.07.2019, requested the complainant to pay outstanding dues towards the said unit and to complete the documentation formalities in order to offer the possession of the second unit to the complainant.
- XII. That after numerous reminders, the complainant finally paid the total consideration (including CAM charges and interest on delayed payment) towards the second unit on 02.12.2019 which is reflective in the statement of account of the second unit accordingly.
- XIII. That the respondent even called out the complainant to come forward to take possession of the second unit subject to completion of all requisite formalities as well as registration of conveyance deed, vide email, dated 05.07.2021.
- XIV. That subsequently, on 03.05.2022, the complainant upon completing the requisite formalities, took the physical possession of the second unit. The complainant had acknowledged the possession letter on 10.05.2022 and had

acknowledged that the complainant has taken physical possession of the second unit from the respondent. The complainant further confirmed that all liabilities and obligations of the respondent towards complainant as per the second agreement stood discharged.

- XV. That the complainant after taking over the possession of the second unit, vide email, dated 10.10.2022, requested the respondent to arrange the water connection for the purpose of opening of shop at the second unit on 28.08.2022. Subsequently, the complainant had opened a tea shop at the second unit.
- XVI. That the respondent has already received the occupation certificate dated 17.07.2019 and subsequently completion certificate, dated 25.07.2023 for the Ocus 24K project from the concerned authorities.
- XVII. That despite taking over possession of the second unit and further, giving no objection towards all claims and liabilities of the respondent, way back in May, 2022, the complainant has chosen to file the present frivolous and baseless complaint, just to extort monies from the respondent in a most unlawful and illegal manner.
- XVIII. That the complainant has concealed crucial and material fact from the authority that the complainant is in the possession of the second unit since 03.05.2022 and has made random part payments towards maintenance of the said unit. The complainant has stopped making payment towards maintenance charges since July 2022 and is a chronic defaulter, who has not paid maintenance charges to the tune of Rs.3,10,256/- as on 27.01.2026. The complainant has also failed to make payment towards the electricity charges since June, 2023 and has not paid electricity charges to the tune of Rs.58,645/- as on 27.01.2026. The present complaint is an afterthought and counterblast to avoid payment of aforesaid maintenance charges by getting favorable orders from the Authority.
- XIX. That the Ocus 24K project of the respondent is complete and the same is ready in all aspect contrary to what is being alleged by the complainant. All the

allegations made by the complainant regarding incomplete and unfinished work are baseless and without any merit. The entire project has been completed by the respondent way back in 2019 and the said project is fit to use by all the occupants. That number of allottees are already using and occupying the respective units in the said project.

7. All the averments made in the complaints 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 submissions made by the parties.

E. Jurisdiction of the authority

9. The authority has complete territorial and 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.

F. Relief sought by the complainant.

F.I Direct the respondent to pay interest @ 11% on Rs. 67,59,726/- paid towards G-119 w.e.f. date of issuance of OC i.e. 16.12.2018 till realization.

13. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the Proviso to Section 18(1) of the Act. Section 18(1) Proviso reads as under:

"Section 18: - Return of amount and compensation
18(1). If the promoter fails to complete or is unable to
give possession of an apartment, plot, or building, —
.....

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

(Emphasis supplied)

14. Clause 11 of the buyer agreement provides for handing over of possession and is reproduced below:

"..The company based on its present plans and estimates and subject to all just exceptions endeavors to complete construction of the said building/said unit within a period of 60 months from the date of agreement unless there shall be delay or failure due to department delay or due to any circumstances..."

(Emphasis supplied)

15. **Due date of possession and admissibility of grace period:** The respondent/promoter proposed to hand over the possession of the said unit

within a period of 60 months from the date of agreement. The buyer agreement executed on 16.12.2015, therefore, the due date of handing over possession comes out to be 16.12.2018.

16. Admissibility of delay possession charges at prescribed rate of interest:-

The complainant is seeking delay possession charges, 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, *ibid*. 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."

17. The legislature in its wisdom in the subordinate legislation under the provision of Rule 15 of the Rules, *ibid* 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.

18. 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%.

19. The definition of term 'interest' as defined under Section 2(z) of the Act provides that the rate of interest chargeable from the allottee by the promoter,

in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

"(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—
the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.*

the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"

20. Therefore, interest on the delay payments from the complainants 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.
21. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondents are in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 11(a) of the buyer's agreement executed between the parties, the possession of the subject apartment was to be delivered within a period of 60 months from date of agreement which comes out to be 16.12.2018. Occupation certificate was granted by the concerned authority on 17.07.2019 and thereafter, the possession of the subject unit was offered to the complainants on 18.07.2019. Copies of the same have been placed on record. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject unit and there is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 16.12.2013 to hand over the possession within the stipulated period.

22. Section 19(10) of the Act obligates the allottees to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 17.07.2019. The respondent offered the possession of the unit in question to the complainant only on 18.07.2019, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 month of reasonable time is being given to the complainants keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.

23. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 16.12.2018 till offer of possession (18.07.2019) after obtaining occupation certificate plus two months i.e., 18.09.2019 at prescribed rate i.e., 10.80 % p.a. as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules.

F.II Direct the respondent to fulfill its contractual obligation and to deliver proper possession of the unit G- 119 to the complainant.

24. As per the documents on record, the complainant itself has placed on record the Possession Letter dated 10.05.2022 (Annexure-26), wherein it is specifically stated that the allottee has taken physical possession of the unit. Therefore, no further directions are required in this regard.

F.III Direct the respondent to waive the maintenance demanded till date of filing the complaint and to cease any demand towards maintenance

from the complainant until delivery of proper possession of unit G-119 to the complainant.

25. The complainant herein is seeking direction to waive off the maintenance charges till the date of filing of the complaint and to cease demand until delivery of proper possession. As already dealt in F.II the complainant is in possession of the subject unit as per the possession certificate dated 10.05.2022. However, w.r.t to the maintenance charges the issue has already been dealt with by the Authority in complaint bearing no. **4031 of 2019 titled as "Varun Gupta Vs. Emaar MGF Land Limited" decided on 12.08.2021**, wherein it was held that the respondent is right in demanding maintenance charges at the rates' prescribed in the builder buyer's agreement at the time of offer of possession. However, the respondent shall not demand the maintenance charges for more than one year from the allottee even in those cases wherein no specific clause has been prescribed in the agreement or where the maintenance charge has been demanded for more than a year.

F.IV Direct the respondent to execute the conveyance deed in favour of the complainant for the allotted unit G-119.

26. As per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under obligation to get the conveyance deed executed in favour of the complainant. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. The respondent is directed to get the conveyance deed of the allotted unit executed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.

F.V Direct the respondent to complete all remaining construction work, remove all rubble and debris, and render the project fully fit for lawful commercial use with immediate effect.

F.VI Initiate an inquiry into the fraudulent procurement of the occupation certificate and refer the matter to the appropriate enforcement and civic authorities for criminal investigation and cancellation of the OC if found to be procured by fraud.

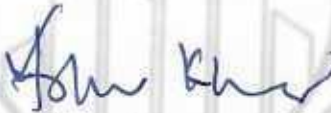
27. The complainant herein is seeking relief with regard to the completion of the project construction work and initiation of an enquiry into the alleged fraudulent procurement of the Occupation Certificate. As per the documents on record, the respondent obtained the occupation certificate on 17.07.2019 and the completion certificate on 25.07.2023, both issued by the DTCP. Accordingly, the complainant may approach the competent licensing authority, i.e., the Director, Town and Country Planning, or the competent civil court for seeking appropriate relief in this regard, as this issue falls within the jurisdiction of the said authorities.

G. Directions of the Authority

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

- I. The respondent is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of a delay from the due date of possession, i.e., 16.12.2018 till the date of offer of possession (18.07.2019) plus two months i.e., 18.09.2019, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order as per Rule 16(2) of the Rules, *ibid*.
- II. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/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.
- III. The respondent/promoter is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainant.

- IV. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- V. The respondent/promoter shall not charge anything from the complainant which is not the part of the flat buyer's agreement dated 16.12.2013.
- VI. The respondent is directed to execute the conveyance deed in favor of the complainants subject to the payment of applicable stamp duty, registration and other statutory charges as per applicable local laws within a period of three months in terms of the Section 17 of the Act, 2016.
29. Complaint stands disposed of.
30. File be consigned to registry.



Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026

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