

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM.**

Complaint No. 3377 of 2025

Date of Decision: 19.05.2026

Smt. Kamlesh Radhu, R/o House No. H-105, Connaught Circus,
New Delhi-11001.

.....Complainant.

Versus

M/s Experion Developer Private Limited, registered office at F-9,
First Floor, Manish Plaza-1, Plot No. 7, MLU, Sector-7, Dwarka,
New Delhi-110075 and Plot No. 18, Second Floor, Institutional
Area, Sector 32, Gurugram, Haryana-122001.

.....Respondent.

APPEARANCE

For Complainant: Mr. K. K. Kohli, Advocate.
For Respondent: Mr. Venket Rao, Advocate.

ORDER

This is a complaint filed by Smt. Kamlesh Radhu,
(allottee), under section 31 of The Real Estate (Regulation and
Development) Act, 2016 (in brief The Act of 2016) against M/s
Experion Developer Private Limited (promoter).

2. The brief facts of the complainant's case are that the
latter (complainant) booked a Unit No. 1204, Block/Tower WT 03
Floor 12, measuring 2802 sq. ft. (revised) area in the respondents'

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project namely, "Wind Chants at Parkland, Phase 3" located in Sector-112, Gurugram on 31.07.2012. The builder's buyer agreement (BBA) was executed between the parties on 26.12.2012. The total sale consideration of the said unit was Rs.2,14,77,989/-. The total amount paid by the complainant till date was Rs.1,76,79,207/-. The due date of possession as per BBA was 27.12.2016. The promised date of handing over possession was 25.07.2018. The delay in handing over possession till date i.e. 31.07.2025 was 8 years and 3 months.

3. That the respondent took the money from her (complainant) and utilized the same for some other purposes/ making investments in some other properties but not executing the project for which the money was collected from the allottee. She (complainant) suffered extreme hardship, including prolonged uncertainty, mental harassment, loss of opportunity and financial strain, having paid over Rs.1.80 crore in 2016 and still not being granted unencumbered possession. Additionally, she was compelled to seek legal recourse and attend repeated hearings due to the respondent's unjust actions.

4. That the respondent has acted in contravention of Section 11 (4) (a) read with Section 18 (1) of the Act of 2016. It

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(respondent) company has resorted to unfair practices by way of making incorrect, false and misleading statements over the possession and thereby violated provisions of Section 12 of Act of 2016. The respondent has failed to provide requisite facilities, amenities and services, as agreed at the time of booking. The respondent by using its dominant position is dictating its unreasonable demands to the complainant without showcasing any proficient progress. The respondent had substantially failed to discharge its obligations imposed upon them under the Act of 2016 and rules and regulations made thereunder.

5. That from Section 71 of Act, 2016 it is clear that an Adjudicating Officer is empowered to adjudge compensation under Section 12, 14, 18 & 19 of the Act. That as per Section 18 (3), if the promoter fails to discharge any other obligation imposed on it under this Act or the Rules or regulations made there under or in accordance with the terms and conditions of the agreement for sale, it shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

6. Contending all this, the complainant has prayed for following reliefs: -

- I. To award compensation towards mental agony, physical torture and pain suffered by the complainant

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at the hands of the respondent, to the tune of Rs.20,00,000/-.

- II. To award compensation towards legal fee and expenses for prosecution, to the tune of Rs.3,00,000/-.
- III. To award compensation towards the loss of rent, to the tune of Rs.77,25,000/-.
- IV. To pass any other order/reliefs as it may deem fit.

7. The respondent contested the claim of complainant by filing a written reply. The respondent denied and rebutted all the averments and contentions as raised by the complainant. It is averred that this complaint is not maintainable in the eyes of law, being devoid of merits and is fit to be dismissed in limine. The delayed possession interest has already been awarded to the complainant; therefore, compensation cannot be allowed.

8. That the present complaint is barred by law of limitation as the due date of possession as decided by the Authority in complaint bearing no. 4598 of 2023 is 27.12.2016. The possession of the subject unit was offered to the complainant vide offer of possession dated 25.07.2018.

9. That Section 18 of the Act, 2016 does not provide for compensation in case of allottee wishes to continue with the project. It is a settled position of law that interest awarded in case of delayed possession charges or refund is compensation in

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nature. There is no evidence with respect to the payment of litigation cost as well as alleged mental agony, emotional pain and physical torture caused to the complainant.

10. Denying all averments, respondent prayed for dismissal of complaint.

11. Both of the parties filed affidavits in support of their claims.

12. I have heard learned counsels appearing for both of parties and perused the record.

13. According to learned counsel for complainant, due date of possession as per BBA was 27.12.2016 but respondent failed to deliver possession at agreed time, causing loss to his client i.e. complainant. It is agreed by learned counsel for complainant that his client approached the Authority seeking delay possession compensation for delay of delivery of the possession and that complaint has been allowed by the Authority vide order dated 18.03.2025, copy of which has been put on file. The respondent in that case has been directed to pay interest at the prescribed rate i.e. 11.10% per annum for every month of delay on the amount paid by the complainant from the due of endorsement letter i.e. 27.12.2016 till 25.09.2018 i.e., expiry of 2

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months from the date of offer of possession (25.07.2018), apart from some other reliefs.

14. It is contended by learned counsel for the complainant that despite said order of the Authority, it is for the Adjudicating Officer to allow compensation for delay in handing over possession, in view of section 72 of Act of 2016. Learned counsel reminded that this Forum (AO) has jurisdiction to allow compensation in view of Sections 12, 14, 18 and 19 of said Act. Section 18 (3) prescribes for liability of promoter to pay compensation to the allottees, if same (promoter) fails to discharge any other obligation imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale. Learned counsel claims that respondent (promoter) failed to discharge its obligation of handing over possession, in agreed time as per terms and conditions of BBA and hence, liable to pay compensation.

15. As per Section 18 (1) of Act of 2016, if promoter fails to complete or unable to give possession of an apartment, plot or building, -

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein, (b)-----, he shall be liable on demand to the

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allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot or building, as the case may be, with interest at such rate as may be prescribed in this behalf **including compensation, in the manner as provided under this Act.**

16. It is worth mentioning here that complainant did not wish to withdraw from the project but prayed for delayed possession compensation, by filing a complaint with the Authority. The said complaint has already been allowed. Proviso added to sub section (1) of 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 handing over of possession, at such rate as may be prescribed. The parliament did not intend to provide compensation other than DPC in case allottee does not intend to withdraw from the project.

17. Upholding that the claim of compensation and interest can be allowed only in case the allottee seeks to withdraw from the project as per Section 18 (1) of Act of 2016, following was held by Uttar Pradesh Real Estate Appellate Tribunal in case **"Greater Noida Industrial Development Authority vs. Ranjan Misra"** Appeal No. 70 of 2023 decided on 20.04.2023-----;

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"13.9. If were closely examine the above two provisions, it comes out that in a case where the Allottee exists the projects, the Act expressly provides INTEREST AND COMPENSATION both, but in cases where the Allottee tends to stay in the project the Allottee is only entitled for interest of every month till the handing over of the possession. Thus, the intention of the legislature was to provide Compensation only to those Allottees who exit the project and not to those who tends to stay in the project."

18. When complainant has already been allowed delayed possession compensation by the Authority for delay in handing over possession of allotted unit, there is no reason to allow separate compensation for same cause of action i.e. delay in delivering of possession. Complaint in hands is thus dismissed.

19. File be consigned to record room.

Announced in open court today i.e. on 19.05.2026.

(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate
Regulatory Authority,
Gurugram.


Smt. Kamlesh Radhu vs. M/s Experion Developers Pvt. Ltd.

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Present: None for complainant.
Mr. Venket Rao, Advocate for respondent.

Due to overwork, order is not ready.

To come for order on 19.05.2026.


(Rajender Kumar)
Adjudicating Officer,
20.04.2026

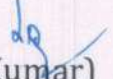
Smt. Kamlesh Radhu vs. M/s Experion Developers Pvt. Ltd.

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Present: Mr. K. K. Kohli, Advocate for complainant.
Mr. Venket Rao, Advocate for respondent.

Complaint is disposed of, vide separate order today.

File be consigned to record room.


(Rajender Kumar)
Adjudicating Officer,
19.05.2026