

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

Complaint no.: 3141 of 2024
Date of complaint: 26.07.2024
Date of decision: 07.04.2026

Kasvi Jalota
R/o: D-69, 1st floor, Sector 47
Noida, Uttar Pradesh

Complainant

Versus

M/s Millenium Diplomats Private Limited
Regd. Office At: - 1004 II-I, Jmd Megapolis, Sector 48,
Sohna Road, Gurugram

Respondent

CORAM:

Shri Arun Kumar
Shri Phool Singh Saini

**Chairman
Member**

APPEARANCE:

Ms. Gaurav Rawat (Advocate)
Shri Shanker Wig (Advocate)
Ms. Sanya Arora (Advocate)

Complainant

Respondent

ORDER

1. The present complaint has been filed by the complainant/allottee 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 provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Project and unit 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. N.	Particulars	Details
1.	Name of the project	"Diplomats Golf link", Sector 110 Gurugram
2.	Nature of the project	Affordable group housing
3.	DTCP license	100 of 2019 dated 05.09.2019 valid up to 04.09.2024
4.	RERA registered or not registered	33 of 2021 dated 10.08.2021 valid up to 04.09.2024
5.	Unit no.	703, 7 th floor and T-3
6.	Unit admeasuring	(As per page no. 17 of the complaint) 548.21 sq. ft. (carpet area) and 100 sq. ft. (balcony area)
7.	Allotment letter	(As per page no. 17 of the complaint) 09.03.2022
8.	Date of agreement for sale	(As per page no. 18 of the complaint) 20.04.2022
9.	Possession clause	(As per page no. 8 of the written submissions filed by the complaint) 7. POSSESSION OF THE APARTMENT FOR RESIDENTIAL: 7.1 Schedule for possession of the said apartment for residential- The promoter agrees and understands that timely delivery of possession of the apartment for residential along with 1 two wheeler parking to the allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of

		<i>Rules, 2017 is the essence of the agreement.</i> (As per page no. 14 of the written submissions filed of the complaint)
10.	Possession clause of Affordable Housing Policy	<i>(iv)</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.
11.	Building Plans	28.07.2016 (Information taken from the planning branch)
12.	Environment clearance	27.09.2016 (Information taken from the planning branch)
13.	Due date of possession	04.09.2024 (As per the possession clause)
14.	Total Sale Consideration	Rs.24,02,482/- (As per page 30 of the complaint)
15.	Amount paid by the complainant	Rs.15,04,435/- (As per SOA on page no. 30 of the complaint)
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered
18.	Final opportunity letter	12.11.2024 (As per page no. 9 of the reply)
19.	Newspaper publication	04.12.2024 (As per page no. 11-13 of the reply)
20.	Stay by the Rera Court to not to create the third-party rights	06.03.2025

21.	Demand letter	18.12.2024 (As per page no. 15 of the reply)
22.	Cancellation letter	Not placed on record

B. Facts of the complaint

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

- i. That the complainant had booked a residential flat bearing no. 703 in tower-3, admeasuring carpet area of 548.21 sq. ft .in the project titled "Diplomatic Golf Link "of the respondent company, situated at Sector 110 Gurgaon, on 14.01.2022 and subsequently, Builder buyer Agreement was executed on 28.04.2022, as per which, the Total sale consideration of the unit was Rs. 24,26,510/- out of which the complainant has paid a sum of Rs. 15,04,435/- in time bound manner as per the payment plan.
- ii. That the respondent was liable to handover the possession of the unit on or before 04.09.2024 as RERA Registration certificate, however, the respondent failed to do the same. Even the Hon'ble Court recorded the same in order dated 06.03.2025 and passed the direction- The planning branch to immediate check the site and to put up the matter for initiating necessary penal proceedings against the respondent for not completing the project within the time line despite being affordable housing project.
- iii. The complainant on 19.01.2022 booked the unit bearing no. 703, Tower-3, having carpet area 548.21 Sq. Ft. Thereafter an allotment letter dated 09.03.2022 was duly issued by the respondent.
- iv. That the said unit was booked under the construction linked payment plan reference page no. 27 of the complaint. When complainant in order to inspect the actual construction update visited the site of the project was shocked to see that construction milestone was achieved as the demand were raised.

- v. That the complainant had filed the present complaint on 26.07.2024 being aggrieved by the inevitable delay in completion of the project and stagnant work progress, even after paying a substantial amount of Rs. 15,04,435/- .However, during the pendency of the present case, the complainant has found out a new fact in the dispute and wishes to amend the relief as sought earlier.
- vi. That during the pendency of the complaint respondent issued final reminder on 12.11.2024, cancellation letter on 12.11.2024 and newspaper publication on 04.12.2024. thereafter, application under section 36 was filled and Hon'ble Court was pleased to stay the cancellation and directed the respondent not to create third party rights on 05.12.2024.
- vii. That, at the time of application for the residential apartment in the project of Diplomat Golf Link on 19.01.2022, the respondent raised a demand of Rs. 1,21,326. The complainant made a payment of Rs. 1,15,124 on the same date, leaving a balance of Rs. 6,202. Subsequently, at the time of allotment on 05.02.2022, a demand of Rs. 4,85,300 was raised by the respondent. The complainant paid Rs. 4,91,280 on 03.02.2022, resulting in an excess payment of Rs. 222.
- viii. That, on 31.08.2022, at the time of foundation, the respondent demanded Rs. 2,91,180. The complainant paid Rs. 2,91,402/- on 22.02.2023, fully settling the amount with an excess payment of Rs. 222. On 15.06.2023, during the casting of 25 slabs, the respondent raised a demand for Rs. 1,45,591/-, which remained due until the complainant met the demand on 29.10.2023 with a payment of Rs. 1,45,700, leaving a balance of Rs. 1,45,482.
- ix. That, further, on 25.09.2023, at the time of casting of 50 slabs, the respondent raised another demand for Rs. 1,45,591/-. The complainant settled this amount on 29.03.2024 with a payment of Rs. 3,15,338, covering the demands

for both 50 slabs on 25.09.2023 and 75 slabs on 30.01.2024. Additionally, on 30.01.2024, the respondent raised a demand of Rs. 1,69,856 for the casting of 75 slabs, resulting in a total balance of Rs. 3,15,338, which was paid by the complainant on 29.03.2024.

- x. That, on 05.05.2024, for the casting of 100 slabs, the respondent raised a demand of Rs. 1,45,591, which was duly paid by the complainant on 02.05.2024.
- xi. That, it is contended that the respondent has inappropriately raised demands before the completion of the project work. According to the Schedule 'C' (Construction Link Payment Plan), specifically clause 8, demands should only be raised at the time of casting of 125 floors/roof or 21 months from the date of the first draw (Out of 228 floors plus 25% of internal finishing work, including pipes and UPVC fittings). Hence, the demands raised by the respondent at this juncture are unauthorized and premature.
- xii. That, despite repeated questioning, no solid answer was provided by the respondent as to why these demands were raised. The responses received via email were extremely vague and dissatisfactory. Additionally, the respondent stated that the only reason for the complainant to pay the demand was that everyone else was paying it. This approach appears to be an attempt to bully the complainant into paying the unauthorized and premature demands.
- xiii. That however, the complainant wants to continue with the project, and now seeks the possession of the said unit along with Delay in possession Charges along with other reliefs with the permission of the Learned Authority.
- xiv. That on page no. 43 of complaint email is annexed where complainant duly raised the objection to the demand letter dated 05.05.2024, as on ground

realty work has not been completed and mention that further willing to pay the legitimate amount as per payment plan.

- xv. That despite repeated emails and reminders respondent failed to provide any satisfactory response to the complainant, having no option left complainant filed complaint on 01.07.2025 challenging the conduct of the respondent.
- xvi. That on 26.09.2024 even complainant got the loan approval letter from HDFC Bank for sum of Rs. 11,00,000/-. Letter annexed herewith. Vide email dated 25.09.2024, complaint asked for the documents as asked by the HDFC Bank but same are not provided till date.
- xvii. That during the pendency of the complaint respondent send final reminder letter dated 12.11.2024 stating As per the payment plan, you were required to make the payment of Rs. 319878/-(with interest) against your unit. It is very disappointing and disheartening that you have not deposited the said amount despite repeated telephonic calls and the reminder letters issued by us requesting you to deposit the same amount. You are fully aware that timely payment is the essence of booking. Moreover, we hope that as a Prudent Customer, you can understand that non-payment of instalments) is hampering progress of the project which needs to be constructed in a time bound manner. As a gesture of goodwill and keeping the customer's interest at large, you are hereby given a last and final opportunity to pay balance of Rs. 319878/-(with interest) which is due against your unit within 07 days on receipt of this letter/ Email, to avoid cancellation of your unit, through cheque or demand draft in favour of " MDPI.-Diplomats Golf Link Master. "And for RTGS, giving below the bank details: Account Name: MDPI, Diplomats Golf Link Master Account Number: 50200057701838 IFSC Code: HDFC0000622 Bank: HDFC Bank Branch Name: Sector-31, Gurugram,

Haryana. Please note that in case you fail to make the aforesaid payment within 07 days from the date of this letter, your allotment shall stand cancelled automatically without any further notice or communication from our side, and you shall have no right, title or interest of any nature whatsoever in the said booking. Consequently, the company shall be free to deal with cancelled booking in any manner as it may like. It is submitted that respondent in its reply claimed the said reminder letter dated 12.11.2024 as cancellation letter but from the bearing reading of the said alleged cancellation letter is clear that same is the reminder not cancellation.

- xviii. Furthermore, there is no cancellation letter that has been brought on record by the respondent and even as per affordable housing policy 15 days' time period is required to be given to make the payment but in present case as per above mention letter only 7 days time mentioned in violation of affordable housing policy.
- xix. It is submitted that as per affordable housing policy respondent builder is required to make the publication first in the newspaper thereafter in case of default continue cancellation letter can be issued in present case respondent failed to follow the due process as laid down under affordable housing policy. Furthermore, till date no proof of creation of third party rights has been brought on record.
- xx. However, during the pendency of the present case, the complainant has found out a new fact in the dispute and wishes to amend the relief as sought earlier.
- xxi. That during the pendency of the complaint respondent issued final reminder on 12.11.2024, cancellation letter on 12.11.2024 and newspaper publication on 04.12.2024. thereafter, application under section 36 was filled and Hon'ble Court was pleased to stay the cancellation and directed the

respondent not to create third party rights on 05.12.2024. Hence, the complainant filed application for amendment of relief on 08.08.2025. furthermore, it is respectfully submitted that vide said application complainant has only sought amendment in relief not changed any substantial part of the complaint as claimed by the respondent in there reply. 19. It most respectfully submitted that respondent trying to mislead the Hon'ble Authority by placing reliance on the documents not brought up on record.

- xxii. Written submissions as well as application for the amendment of relief both are taken on record and perused further.

C. Relief sought by the complainant: -

4. The complainant has sought following relief(s):

- i. Direct the respondent to hand over the possession of the said unit and to pay delayed possession charges till date of actual physical possession as the possession is being denied to the complainants by the respondent and to get the conveyance deed executed in favour of the complainant and not to create any third party rights.
- ii. Direct the respondent to set aside final reminder/cancellation letter and public notice.
- iii. Direct the respondent to obtain the occupation certificate with respect to the said unit and provide the copy of same.
- iv. Direct the respondent to not to charge anything which is not the part of the payment plan as agreed upon and restrain the respondent from raising any fresh demand with respect to the project till reaching the milestone as per payment plan.

5. To 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 has contested the complaint on the following grounds.
- i. That the complainant applied for a unit in the project on 19.01.2022, and the respondent allotted unit no. T-703 in Tower -T on through a transparent process by way of draw of lots. The construction at the project sites is at full swing and the same has been communicated to the complainant various times. The Affordable Housing Policy mandates that payment obligations must be fulfilled within a stipulated timeline. Clause 5 specifically allows developers to cancel an allotment if payments are not received within 15 days of the due date. The policy emphasizes strict adherence to the payment schedule to ensure smooth project execution.
 - ii. That the respondent adhered to these provisions in cancelling the complainant's allotment after providing ample opportunities for payment and issuing notices. A cancellation notice was subsequently published in a widely circulated newspaper on 04.12.2024. At every stage, reminders were issued to the complainant to ensure compliance. Despite these efforts, the complainant failed to fulfill payment obligations, leading to the cancellation of the unit.
 - iii. That the total sale consideration of the unit T-703 allotted to the complainant was Rs. 24,26,510,- and the complainant has paid only Rs. 15,04,435,-, leaving an unpaid balance of Rs. 9,22,075,-. Due to the complainant's failure to make the payment of the due installment, the respondent was compelled to publish in two newspapers with respect to the cancellation of the allotment of Unit T-703 on 04.12.2024, following due process as prescribed

- under the Haryana Affordable Housing Policy, 2013 and after providing sufficient notice to the complainant.
- iv. That out of the total towers in the project, seven towers have already been completed, and construction in Tower T is progressing at full pace. The funds from allottees are critical for ensuring timely completion of the entire project.
 - v. That the complainant alleges that demands raised by the respondent were excessive and premature. However, this is factually incorrect. All demands were in line with the construction-linked payment plan approved under the Affordable Housing Policy, 2013.
 - vi. That the delay in making payment of the instalment is on the part of the complainant and the same cannot be made at the whims and fancies of the complainant, that more so the interest on delay payment is a legal demand and cannot be waved off.
 - vii. That at the time of filing of the complaint (27.07.2024), the complainant had only prayed for:
 - i. Clarity and communication regarding demands;
 - ii. That demands be raised only as per payment plan/timelines;
 - iii. That no premature interest or arbitrary demand be raised in future.
 - viii. Therefore, it is respectfully submitted that the aforesaid reliefs were limited to directions pertaining to the manner of raising payment demands, and did not extend to any relief relating to possession of the unit or execution of the conveyance deed.
 - ix. That during the pendency of the present proceedings, the complainant committed repeated defaults in payment, whereupon the unit was duly cancelled on 12.11.2024 after following the prescribed procedure and due process of law.

- x. That subsequently to the aforesaid cancellation, the complainant has sought to introduce reliefs of an entirely different character, including possession of the unit, execution of the conveyance deed, along with setting aside of the valid cancellation, deletion/quashing of demands, grant of delayed possession compensation, and restraint against creation of third-party rights. These reliefs arise from a premature cause of has not even arisen as on date.
- xi. That as such, the complainant's attempt to introduce possession-related reliefs is legally untenable because the statutory timeline for possession is entirely dependent on the Affordable Housing Policy 2013, and the complainant has suppressed this material fact in order to create a false cause of action. No cause of action relating to delay, possession or conveyance deed has arisen yet and the relief sought in the amendment application are untenable and be dismissed in this regard. A complainant cannot seek relief for possession or delay compensation when the agreed/legal due date for possession is still in the future. Moreover the complainant is herself a defaulter in making timely payment and the unit was cancelled in this regard. Once cancellation has occurred due to the complainant's own breach, no question of seeking loan documentation, NOC, tripartite agreement, possession, or execution of deed arises. The complainant cannot revive a cancelled unit through an amendment application. Such relief is wholly irrelevant and beyond the jurisdictional scope of this complaint.
- xii. The present amendment application attempts to transform the complaint from a mere challenge to premature demand/communication issues into a possession and cancellation dispute, which is impermissible. Such an amendment would prejudice the rights of the respondent, as the defence

- was built on the original cause of action only. These demands are extraneous, irrelevant, and wholly unconnected with the subject matter of the original complaint, and therefore beyond the jurisdiction of this Hon'ble Authority in the present proceedings. The complainant, having defaulted in payment, cannot by way of amendment seek to revive a cancelled unit.
- xiii. Allowing such amendment would defeat the valid cancellation, and amount to granting fresh reliefs that were never sought earlier would convert a complaint of minor contractual grievances into a full-fledged claim for possession, DPC, execution of deed, and setting aside cancellation a relief which has not yet arisen and cannot be adjudicated.
- xiv. That the alleged due date of possession, as mentioned in the complaint, is 08.03.2026. It is respectfully submitted that, as per the Renewal of Licence Document No. 100 of 2019 dated 05.09.2019, which was approved on 03.10.2025, the project licence stands validly renewed up to 04.03.2026.
- xv. Accordingly, the stage for claiming possession or alleging any delay has not yet arisen, and the present complaint is premature. The Complainant is attempting to mislead this Hon'ble Authority by wrongly calculating the due date of possession in order to seek reliefs at a premature stage. Such an attempt to introduce possession-related reliefs is legally untenable, as the statutory timeline for possession is governed entirely by the Affordable Housing Policy, 2013, and no cause of action relating to delay in possession, execution of conveyance deed, or any allied relief has arisen till date.
- xvi. Moreover the complainant is herself a defaulter in making timely payment and the unit was cancelled in this regard. Once cancellation has

occurred due to the complainant's own breach, no question of seeking loan documentation, NOC, tripartite agreement, possession, or execution of deed arises. The complainant's allegation regarding lack of communication is false and misleading, as all emails and queries raised by the complainant were duly replied to by the respondent. It was only when the complainant persistently repeated the same issues despite detailed clarifications already having been provided, and no fresh grievance subsisted, that no further responses were sent.

- xvii. That once a query or issue raised by an allottee has already been duly clarified, explained, and responded to, the respondent is not legally obligated to repeatedly provide the same explanation in response to identical and repetitive communications. Silence or non-response in such circumstances cannot, by any stretch of imagination, be construed as deficiency in service. Deficiency in service arises only when a party fails to discharge a legal or contractual obligation. Refraining from responding to repetitive and already-answered queries, which do not raise any new grievance or issue, does not amount to neglect, arbitrariness, or lack of communication, but is a reasonable and justified course of action to prevent unnecessary repetition and misuse of correspondence.
- xviii. That all payment demands raised by the respondent were strictly in accordance with the payment schedule approved under the Real Estate (Regulation and Development) Act, 2016 the total sale consideration of the unit is Rs. 24,26,510/- out of which the complainant has only paid a sum of Rs. 15,04,435/-. The respondent was bound to raise demands strictly as per the payment plan milestones agreed between the parties. All demands were validly raised upon achievement of the relevant

- timelines. The complainant's payments, however, were habitually delayed and substantially lagged behind the progress of construction. Each demand was raised only upon the occurrence of the relevant payment milestone and in conformity with the terms of the allotment and the RERA-approved schedule. At no point were any demands raised arbitrarily, prematurely, or contrary to the approved payment plan.
- xix. That the complainant has nowhere in the original complaint mentioned that any particular demand was illegal, excessive, or contrary to the RERA-approved payment schedule. The allegations raised are therefore vague, unsubstantiated, and devoid of particulars. Therefore, it is respectfully submitted that the aforesaid reliefs were limited to directions pertaining to the manner of raising payment demands and did not extend to any relief relating to possession of the unit or execution of the conveyance deed.
- xx. Further, a bare perusal of the order dated 06.03.2025 by the Hon'ble Authority stating that "The respondent was directed not to create third-party rights against the unit of the complainant till next date of hearing." The only direction passed by this Hon'ble Authority was that the respondent shall not create any third-party rights in respect of the said unit till the next date of hearing. At no point does the said order restrain or prohibit the respondent from cancelling the unit, nor does it stay or set aside the cancellation already effected in accordance with due process of law.
- xxi. In view of the foregoing facts and submissions, it is most respectfully prayed that this Hon'ble Authority may be pleased to dismiss the complaint as well as the application seeking amendment of reliefs, being wholly misconceived, premature, and legally untenable, with costs, and

pass such other order(s) as this Hon'ble Authority may deem fit and proper in the facts and circumstances of the present case.

xxii. Written submissions as well as reply of application for the amendment of relief both are taken on record and perused further.

7. 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 parties.

E. Jurisdiction of the Authority

8. 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

9. 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

10. 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.

11. 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. Findings on the relief sought by the complainant.

F.I Direct the respondent to hand over the possession of the said unit and to pay delayed possession charges till date of actual physical possession as the possession is being denied to the complainants by the respondent and to get the conveyance deed executed in favour of the complainant and not to create any third party rights.

F.II Direct the respondent to set aside final reminder/cancellation letter and public notice.

12. The above-mentioned relief sought by the complainant are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
13. The complainant was allotted unit no. 703 on 7th floor in tower 3 in the project "Diplomats Golf link" by the respondent/builder for a total sale consideration of Rs.24,02,482/- under the Affordable Group Housing Policy 2013. The complainant has paid a sum of Rs.15,04,435/-. The complainant is willing to retain the allotted unit in question. The buyer's agreement was also executed on 20.04.2022 interse parties. That as per the Affordable Group Housing Policy 2013, the possession of the unit was to be offered with 4 years from approval of building plans (28.07.2016) or from the date of

environment clearance (27.09.2016). Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Therefore, the due date of possession comes out to be 27.03.2021. However, in the present case in hand, the complainant stepped into the shoes of an allottee on 09.03.2022 when the unit was allotted and the buyer agreement was executed on 20.04.2022. Consequently, the complainant was not an allottee on 27.03.2021 and, therefore, no delay vis-à-vis the complainant can be attributed to the respondent as on that date. In these circumstances, the due date of possession qua the complainant is required to be determined in terms of the possession clause contained in the Buyer's Agreement dated 20.04.2022. The clause 7.1 of the buyer's agreement is reproduced below:-

7.1 Schedule for possession of the said apartment for residential-

The promoter agrees and understands that timely delivery of possession of the apartment for residential along with 1 two wheeler parking to the allottee(s) and the common areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017 is the essence of the agreement.

14. In terms of Clause 7.1 of the Buyer's Agreement, the due date for handing over possession of the unit falls on 04.09.2024. Accordingly, in the facts and circumstances of the present case, the due date for possession is to be determined in accordance with the provisions of the Buyer's Agreement, and therefore the due date of possession is 04.09.2024.
15. The respondent states that the unit has been cancelled after issuance of newspaper publication dated 12.11.2024. Upon this, the complainant submitted that the cancellation done by the respondent is illegal and the construction is not yet done.

16. Now, the question before the Authority is whether this cancellation letter dated 12.11.2024 and the publication for list of defaulters in the newspaper dated 04.12.2024 is valid or not. According to Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013 which produce as under:

*"If any successful applicant fails to deposit the installments within the time period as prescribed in the allotment letter issued by the colonizer, a reminder may be issued to him for depositing the due installments within a period of 15 days from the date of issue of such notice. **If the allottee still defaults in making the payment, the list of such defaulters may be published in one regional Hindi newspaper having circulation of more than ten thousand in the State for payment of due amount within 15 days from the date of publication of such notice, failing which allotment may be cancelled.** In such cases also an amount of Rs 25,000/- may be deducted by the coloniser and the balance amount shall be refunded to the applicant. Such flats may be considered by the committee for offer to those applicants falling in the waiting list".*

17. It is observed that the complainant failed to pay the remaining amount as per the letter dated 12.11.2024 served upon the complainant and after this published a notice in the newspaper on 04.12.2024.

18. However, as per Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013, reproduced hereinabove, it is clearly stipulated that after publication of the list of defaulters in the newspaper, a period of 15 days is required to be granted to the concerned allottee to clear the outstanding dues, failing which the allotment is liable to be cancelled.

19. In the present case, the respondent has stated that the unit of the complainant was cancelled on 12.11.2024 and then the respondent published the list of defaulters in the newspaper on 04.12.2024, wherein the name of the complainant was reflected.

20. After perusal of the documents available on record, it becomes apparent that the letter dated 12.11.2024 is a mere reminder letter to the complainant and not a cancellation letter. After this the respondent published the name of

the defaulters in the newspaper on 04.12.2024 and later on a demand letter was sent to the complainant on 18.12.2024.

21. Such action on the part of the respondent is in clear contravention of Clause 5(iii)(i) of the Affordable Group Housing Policy, 2013, which mandates that a period of 15 days must be granted to the allottee after publication of the defaulters' list before any action for cancellation of the allotment can be taken. Also, the demand letter dated 18.12.2024 is not in accordance with the policy as still the time period of 15 days was not over. A moreover there is no cancellation letter sent by the respondent after 18.12.2024. Therefore, the action of the respondent in cancelling the allotment is arbitrary, unjustified. Consequently, the cancellation done by the respondent in this case invalid and is hereby set aside.

22. 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. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building,

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

23. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is reproduced as under for ready reference:

1 (iv)

"All such projects 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. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

24. **Due date of handing over of possession:** The due date for possession in the present case is explained in para 13 and 14 of this order.

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

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

(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.

26. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

27. 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., 07.04.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.

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

"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation.— For the purpose of this clause—

- (i) *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
- (ii) *the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;"*

29. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.

30. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. Therefore, in view of the findings given above, the due date of handing over of possession was 04.09.2024. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Further, the authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

31. 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., 04.09.2024

- till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
32. Further as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an 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. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project.
33. In case of non-availability of the originally allotted unit, the respondent is directed to offer an alternate unit of the same size, at similar location, at same rate as agreed at the time of allotment and execute conveyance deed 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, within three months after obtaining occupation certificate from the competent authority

F.III Direct the respondent to obtain the occupation certificate with respect to the said unit and provide the copy of same.

34. However, till date no occupation certificate has been obtained by the promoter. Whenever the occupation certificate is received from the competent Authority the respondent is directed to provide a copy of the same to the complainant.

F.IV Direct the respondent to not to charge anything which is not the part of the payment plan as agreed upon and restrain the respondent from raising any fresh demand with respect to the project till reaching the milestone as per payment plan.

35. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the apartment buyer's agreement or provided under the Affordable Housing Policy, 2013. The demand shall be raised as per the payment plan.

G. Directions of the Authority

36. 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 cancellation letter dated 12.11.2024, is not valid and is hereby set aside. The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e 04.09.2024 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- ii. The arrears of such interest accrued from 04.09.2024 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
- iii. In case of non-availability of the originally allotted unit the respondent is directed to offer an alternate unit of the same size, at similar location, at same rate as agreed at the time of allotment within a period of 30 days from the date of this order and also issue a fresh statement of account as per agreed payment plan.

- iv. The respondent/promoter is directed to execute conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.
 - v. The complainant is directed to pay outstanding dues, after adjustment of interest for the delayed period.
 - vi. The respondent/promoter shall not charge anything from the complainant which is not the part of the apartment buyer's agreement or provided under the Affordable Housing Policy, 2013.
 - vii. The rate of interest chargeable from the allottee(s) 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 allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
37. The complaint as well as applications if any stand disposed of.
38. File be consigned to registry.


(Phool Singh Saini)

Member

Haryana Real Estate Regulatory Authority, Gurugram


(Arun Kumar)

Chairman

Dated:07.04.2026