HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No.:	**2763 of 2023**
Date of Filing:	**29.01.2024**
First Date of Hearing:	**05.03.2024**
Date of Decision:	**07.07.2026**

Rajani and Raju
B-333, Dabua Colony,
Sector-50, N.I.T., Faridabad ……. COMPLAINANTS

Versus

Iris Plaza Pvt. Ltd.
Plot No.-18, 5th Floor,
Sector-44, Gurgaon, 122003. ...RESPONDENT No 1

Terra Group
Ground Floor, Plot No. 190,
Phase-IV, Udyog Vihar,
Sector-18, Gurgaon. .....RESPONDENT No 2

HDFC Limited
First Floor, Crown Plaza,
Sector-15-A, Mathura Road, Faridabad .....RESPONDENT No 3

Present: Adv. Naren Pratap Singh, Ld. Counsel for Complainant.

Adv. Hemant Saini, Ld. Counsel for Respondent No. 1 and 2 through VC.

None for Respondent No. 3.

ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project	"Terra Lavinium", Sector-75, Faridabad, Haryana.
2.	Nature of the project.	Residential
3.	RERA Registered/Not Registered	Registered
4.	Details of the unit	C-1408, 14th Floor (59.52 sq. mtrs)
5.	Date of Floor Buyer Agreement	14.03.2022
6.	Possession clause 3.1 as per FBA dated 14.03.2022	Subject to force majeure circumstances, intervention of statutory authorities, receipt of

Rathee

		occupation certificate and Allottee having timely complied with all its obligations, formalities or documentation, as prescribed by Developer and not being in default under any part hereof and Apartment Buyer's Agreement, including but not limited to the timely payment of instalments of the other charges as per the payment plan, Stamp Duty and registration charges, the Developer proposes to offer possession of the Said Apartment to the Allottee within a period of 4 (four) years from the date of approval of building plans or grant of environment clearance, (hereinafter referred to as the "Commencement Date"), whichever is later.
7.	Due Date of Possession	04.04.2022
8.	Basic Sale Consideration	₹26,12,736/-
9.	Amount paid by the complainant	₹25,79,159/-
10.	Offer of Possession	NA

B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT

3. That complainants, Rajani and Raju, seeking residential accommodation, were induced by the advertisements and representations of respondent Nos. 1 & 2 (operating as Terra Group and Iris Plaza Private Limited). The respondents

promised a world-class affordable group housing project named "Terra Lavinium" in Sector 75, Faridabad. Representatives of the respondents assured early delivery by April 2022, stating that the project's completion timeline was nearing its end.

4. That relying on these assurances, the complainants booked a flat on 22.01.2022 by paying an initial booking amount of ₹1,35,000/-. Subsequently, vide Allotment-cum-Demand Letter dated 04.02.2022, the complainants were allotted Unit No. C-1408, 14th Floor (Customer Code: TLV1127-10064), and an additional demand of ₹5,50,844/- was raised.

5. That the builder buyer agreement was executed on 14.03.2022 between the complainants and respondent no. 1 for the said unit under a time-linked payment plan. Possession was to be handed over within 4 years (48 months) from the "Commencement Date" (defined as the date of building plan approval or environmental clearance, whichever is later). While the builder buyer agreement stated the building plans were approved on 18.02.2018 (with Environmental Clearance dated 13.02.2018), the official RERA portal shows the building plans were actually approved on 03.04.2018. Based on the April 2018 approval date, the 4-year period expired in April 2022.

6. That the complainants timely availed a bank loan from respondent no. 3 (HDFC Bank) and paid a total sum of ₹25,79,159/- (approximately 95% of the total sale consideration including GST) through bank transfers. The complainants allege

Ratree

that the respondents issued receipts with incorrect/convenient dates, creating systemic ambiguity.

7. That on 07.10.2023, the respondents issued an "Offer of Possession for Fit-outs" and raised a demand for the balance consideration of ₹3,82,572/-, along with unsubstantiated additional charges of ₹1,45,287/- and a delayed interest penalty of ₹1,73,668/-.

8. That the complainant challenges the legality of the offer of possession on the following grounds:

    i. The respondents have not obtained or supplied the Occupation Certificate (OC) from the competent authority.

    ii. On-site verification by the complainants on 23.10.2023 revealed that the project was highly incomplete; specifically, the lift claimed to be functional in the offer letter had not been installed.

    iii. Account statements attached to the offer letter contain arbitrary, unexplained financial additions.

9. That due to the lack of an occupation certificate and the incomplete status of construction, respondent no. 3 (HDFC Bank) withheld the remaining 5% loan balance in compliance with Reserve Bank of India (RBI) guidelines, which

prohibit full disbursement prior to project completion and issuance of an occupation certificate.

10. That the complainants state that the project's timely delivery was the essence of the contract. By failing to hand over physical possession by April 2022, the respondents are in gross violation of Section 18(1) of the Real Estate (Regulation and Development) Act, 2016. Furthermore, the builder buyer agreement contains one-sided, inequitable terms, charging the buyer 15% interest for payment delays while remaining silent on builder delays.

11. That aggrieved by the ongoing financial burden of monthly rent, home loan interest, and severe mental agony, the complainants seek directions to respondent nos. 1 & 2 to complete construction, secure the statutory occupation certificate, hand over lawful possession of the flat, waive the illegal interest/additional charges, and pay delayed interest compensation at 24% per annum along with litigation expenses.

C. RELIEF SOUGHT

12. In view of the facts mentioned above, the complainant has prayed for the following relief(s):-

   i. That the respondents may be directed to complete the construction of the unit in all respects and to hand over the possession to complainant.

Ratree

ii. That the respondent may kindly be restrained from taking any actions detrimental to interests of complainant, including cancellation of the unit of complainant.

iii. That delayed interest @ 24% per annum be awarded to complainants with effect from respective dates of deposit till the date of handing over possession of the unit alongwith monthly house rent which the complainant is paying since May 2022 due to non-possession of the flat by respondent nos.1 & 2.

iv. Direct the respondents to pay the amount of rent paid by the complainants since the due date of possession uptill date of actual possession.

v. Direct the respondent to pay a sum of ₹5 Lakhs to the complainant towards undue hardship and injury, both physical and mental, caused to due to the acts of omissions and commissions on the part of the respondent.

vi. Allow the cost of the litigation.

vii. That to issue any other relief or direction as this Hon'ble Authority may deem fit in view of facts and circumstances of present case.

D. REPLY ON BEHALF OF RESPONDENT NO. 1

13. Learned counsel for the respondent no. 1 filed detailed reply on 08.07.2024 pleading therein:

14. That the respondent submitted that the complaint is a false and frivolous abuse of the process of law. It is contended that the complainant filed this matter for wrongful gains despite having previously settled all issues and taken over possession, and that the respondent has committed no breach of its statutory or contractual obligations.

15. That the project, "Terra Lavinium" located in Sector-75, Faridabad, is an Affordable Group Housing Colony being developed under the Haryana Affordable Housing Policy, 2013 on an area measuring 5.925 acres, pursuant to License No. 79/2017 dated 04.10.2017.

16. That as per Clause 1(iv) of the 2013 Policy, such projects must be completed within 4 years from the approval of building plans or the grant of environmental clearance, whichever is later. The building plans were approved on 03.04.2018 (Annexure R-4), placing the original policy-based completion date at 04.04.2022 (Annexure R-3 for Environmental Clearance). The respondent argued that the complaint is consequently premature.

17. That the complainant booked Unit No. C-1408 on the 14th Floor of the project for a basic cost of ₹26,12,736/- calculated on a super area basis, agreeing to the terms of the Builder-Buyer Agreement. Under the opted Fixed Payment Plan, the Complainant consistently defaulted on timelines, resulting in a payment delay of approximately one year.

 Rattree

18. That the registered RERA completion date was 03.10.2022, this Authority granted a 9-month extension to developers due to the COVID-19 pandemic, shifting the valid completion timeline to 02.06.2023. Furthermore, construction activity was severely disrupted by periodic bans imposed by the Hon'ble National Green Tribunal (NGT) in the NCR region during October–November 2019, which constituted a *force majeure* event beyond the respondent's control.

19. That the respondent clarified that it had only offered "Possession for Fit-out" (soft possession) to enable the complainant to commence interior work while the occupation certificate application was being processed. It was explicitly stated that this did not equate to a final offer of possession for habitation.

20. That the respondent has already submitted its application for the grant of an occupation certificate to the Department of Town and Country Planning (DTCP), Haryana. Since final possession was never offered prior to obtaining the OC, the respondent maintains that no cause of action has accrued to the complainant, and prays for the dismissal of the complaint.

APPLICATION FILED BY THE RESPONDNET NO. 1 ON DATED 27.11.2025:

21. That the respondent, Iris Plaza Pvt. Ltd., registered the project with the Real Estate Regulatory Authority, Panchkula, vide Registration No. HRERA-PKL-FBD-8-2018 dated 21.05.2018, specifying a completion date of 03.10.2022. Due to circumstances beyond its control, specifically COVID-19 disruptions

and periodic construction bans imposed by the National Green Tribunal, the respondent is seeking a 9-month relaxation. This Hon'ble Authority has routinely granted similar relief to other developers, which establishes a revised, justified project completion date of 02.06.2023. Furthermore, the complainant directly contributed to project delays by defaulting on the time-linked payment plan, delaying required instalments past the 05.11.2021 deadline by more than one year.

22. The project is strictly governed by the "Affordable Housing Policy 2013," notified by the Government of Haryana, Department of Town and Country Planning on 19.08.2013 under Section 9(A) of the Haryana Development and Regulation of Urban Areas Act, 1975. As mandated by Clause 5(III)(b) of this policy, the financial scheme relies on time-linked rather than construction-linked payments. Buyers must deposit 5% of the total cost at booking, earning 10% per annum interest if allotment is delayed past 90 days and an additional 20% at the time of allotment. The remaining 75% is recoverable in six equated six-monthly instalments over a three-year period, with the policy explicitly dictating that any default by an allottee attracts a penalty interest rate of 15% per annum. If a default persists, Clause 5(III)(i) outlines a strict statutory cancellation procedure requiring a 15-day reminder notice followed by a 15-day publication in a regional Hindi newspaper. Only then can the allotment be cancelled, subject to a fixed deduction of ₹25,000 and a refund of the remaining balance.

23. Regarding infrastructure, the Department of Town and Country Planning, Haryana, granted Licence No. 79 of 2017 on 04.10.2017 for developing an Affordable Housing Colony over an additional 5.9625 Acres in Sector 75, Faridabad. Under the conditions of this license, the Respondent duly paid Rs. 8.5 Crores in External Development Charges (EDC). However, despite receiving full payment and a pending water connection application, the Department of Town and Country Planning and the Haryana Shehri Vikas Pradhikaran (HSVP) failed to execute or complete any External Development Works (EDWs). In clear violation of Section 2(g) and Rule 11(1)(c) of the Haryana Development and Regulation of Urban Areas Rules, 1976, the State has failed to install basic trunk infrastructure, including main sewer lines, water lines, and electrical networks. It is inequitable to penalize a developer for possession timelines when the State fails to provide the essential peripheral utilities necessary to service the area. Despite these severe systemic hurdles, the respondent has successfully completed construction and applied for the final Occupation Certificate from the Department of Town and Country Planning. To accommodate the buyer, the respondent has issued an offer of possession for "fit-outs," allowing the complainant to commence interior work while the formal certificate is being processed by the authorities.

24. As per record, in the captioned complaint, vide order dated 05.11.2024, respondent no. 1 was directed to clarify whether the reply filed by it could be

Rathee

adopted/considered as a joint reply for respondent no. 2. In the alternative, respondent no. 2 was directed to file a separate reply with an advance copy to the opposite party, failing which its right to file a defence was ordered to be struck off. A perusal of the record reveals that despite the clear directions of this Authority, there has been absolute non-compliance on the part of both the respondents. Respondent no. 1 has failed to provide the requisite clarification, and respondent no. 2 has failed to file any reply till date. Hence, right of defence struck off.

E. REPLY ON BEHALF OF RESPONDENT NO. 3

25. That the Housing Development Finance Corporation Limited ("HDFC Limited") has merged into HDFC Bank Limited following a scheme of amalgamation approved by the Hon'ble NCLT, Mumbai Bench, vide Order dated 17.03.2023 in CP No. 243 of 2022. The merger became effective on 01.07.2023, vesting all assets, liabilities, and contracts of HDFC Ltd. into HDFC Bank Ltd. Since HDFC Ltd. has ceased to exist as a separate juristic entity, it is prayed that the complainants be directed to amend the cause title of the case to "HDFC Bank Ltd." and file an amended memo of parties.

26. That the HDFC Bank Ltd. has its registered office at Senapati Bapat Marg, Lower Parel, Mumbai-400013, and a branch office at Ground Floor, The Capital Court, Munirka, New Delhi-110067. This reply is filed through its Authorized Signatory, Mr. Naman Jain, via Board Resolution dated 05.07.2023.

27. That as per Section 31 of the RERA Act, 2016, complaints can only be filed against a *promoter, allottee, or real estate agent* for statutory violations. Respondent No. 3 is a financial lender, not a promoter, agent, or allottee. Its operations fall completely outside the domain of this Hon'ble Authority, and it has not contravened any provision of the Act.
28. That the dispute arises solely from the alleged delay and failure of the developers (Respondents No. 1 & 2) to hand over possession. The Complainants have claimed no relief and disclosed no cause of action against respondent no. 3. Impleading the bank is a misjoinder of parties; hence, respondent no. 3 should be deleted from the array of parties.
29. That the relationship between the complainants and respondent no. 3 is purely financial, governed by the Home Loan Agreement dated 12.04.2022 and the Tripartite Agreement dated 15.03.2022. This contract is separate and independent of any dispute between the homebuyer and the developer (Iris Plaza Pvt. Ltd.). Respondent No. 3 sanctioned a loan of ₹23,51,462/- and disbursed ₹21,87,245/- at the complainants' request towards the unit's sale consideration. The obligation of the complainant/borrower to repay this loan is absolute, express, and cannot be diluted or reassigned under law.
30. As of date, there is no default on the part of the complainants regarding EMI repayments. Since there is no dispute between the complainants and the Bank, keeping respondent no. 3 arrayed in the present complaint serves no purpose.

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS

31. During arguments ld. Counsel for the complainant prayed for possession of booked unit along with delay interest. He drew the attention of the Authority towards a letter wherein respondent has offered fit out possession to the complainant annexed as annexure C-4, page-60 of the complaint book. In the said letter respondent has as ₹22,681/- for external electrification, ₹22,681/- for bulk supply electricity charges, ₹8,260/- for smart electricity meter, ₹30,241/- for utility connection charges, ₹11,800/- for electricity connection charges, ₹17,700/- for common area backup charges, ₹35,400/- for electricity connection charges, ₹22,681/- for fire fighting charges. Argument of counsel for the complainant is that respondent is not justified in charging for electricity several times as mentioned in letter dated 07.10.2023 and further submitted that respondent has charged interest on delayed payments from the allottees @ 15% p.a. which is not in consonance with the RERA Act, 2017. Furthermore, GST has been charged at 8%, which exceeds the applicable rate of 5% for affordable housing projects.

32. In rebuttal, Ld. counsel for the respondent no. 1 & 2 submitted that deemed date of possession in the captioned complaints is 4 years from the date of approval of building plans i.e, 03.04.2018. The construction pace of the project got affected due to spread of covid-19 in the year 2020. Further as per clause 2.5 of

Rattree

the builder buyer agreement and as per 5(iii)(b) of the Affordable Housing Policy, 2013, complainant is liable to pay interest on the amount @15% p.a. and it is as per this clause respondent has charged interest.

33. Ld. counsel for the respondent no. 3 contended that no specific relief has been prayed for against respondent no. 3 by the complainants.

G. ISSUES FOR ADJUDICATION

34. Whether the complainants in all the above captioned complaints are entitled to delay interest on the amount deposited by them along with interest in terms of Section 18 of RERA Act of 2016?

35. Whether the respondent is justified in charging for electrification and electricity connection charges under different heads?

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

36. The Authority has gone through the facts of the complaint as submitted by the complainants. In light of the background of the matter, Authority observes that complainants booked a unit in the project "Terra Lavinum" being developed under Affordable Housing Scheme 2013 by the respondent/promoter namely Iris Plaza Pvt. Ltd. and accordingly complainants were allotted unit no. C-1408, 14th Floor, in the said project located at Sector-75, Faridabad, Haryana. The builder buyer agreement was executed between the parties on 14.03.2022. Complainants had paid a total sum of ₹25,79,159- against the total sale

Rattree

consideration price of 26,12,736/-. As per clause 3.1 of the agreement respondents/developers were under an obligation to hand over the possession to the complainant within 48 months from the date of approval of building plans or grant of environment clearance whichever is later. Respondent No. 1 in its reply has admitted that the respondent/developer received approval of building plans on 03.04.2018 meaning thereby that as per possession clause, a period of 4 years is to be computed from 03.04.2018, which comes to 04.04.2022. After paying their hand earned money, legitimate expectations of the complainants would be that possession of the unit will be delivered within a reasonable period of time. However, apparently respondents have failed to hand over possession to the complainants. Consequently, complainants have exercised his right to seek delay interest on account of default on the part of respondents to offer legally valid possession within the time frame as per builder buyer agreement as per Section 18 of RERA Act,2016.

37. Perusal of the payment plan at annexure "A" of the builder buyer agreement dated 14.03.2022 reveals that both the parties agreed to time linked payment plan according to which payments were to be made at periodic intervals; and the same is reproduce here for ready reference: -

At the time of application	5% of Total Cost (Approx)
At the time of Allotment i.e. (05.12.2018)	20% of Total Cost
Within 6 months from the date of allotment i.e. (05.05.2019)	12.5% of Total Cost
Within 12 months from the date of allotment i.e.	12.5% of Total Cost

Rattree

(05.11.2019)	
Within 18 months from the date of allotment i.e. (05.05.2020)	12.5% of Total Cost
Within 24 months from the date of allotment i.e. (05.11.2020)	12.5% of Total Cost
Within 30 months from the date of allotment i.e. (05.05.2021)	12.5% of Total Cost
Within 36 months from the date of allotment i.e. (05.11.2021)	12.5% of Total Cost

The payment schedule set forth in the aforementioned table is ex-facie untenable and factually impossible to comply with. It purports to mandate full satisfaction of the total unit cost from 05.12.2018 uptill 05.11.2021, a date that preceded both the formal allotment on 05.01.2022, and the execution of the builder-buyer agreement on 14.03.2022. Given that this scheduled payment milestones had already lapsed prior to the inception of the contract, they cannot be construed as binding or operative due dates. Instead, these dates must be treated as mere illustrative indicators meant to calculate the actual intervals for payments relative to the date of allotment. Upon a harmonious reading of the payment terms, the complainants were obligated to liquidate the total cost within thirty-six (36) months from the date of allotment, establishing the true final due date as 05.01.2025. As evident by the receipts annexed to the complaint, the complainants have already remitted a sum of ₹25,79,159/- as of 01.08.2023, in 6 instalments, thereby constituting 98% of their financial obligations well ahead of the stipulated timeline.

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38.It is noteworthy to note that the respondent no. 1 has declared the project's completion date as 03.10.2022 under the registration certificate, thereafter which subsequently stood extended to 02.06.2023 by virtue of a general 9-month extension granted by this Authority. Consequently, the parties executed the builder buyer agreement on 14.03.2022, wherein the respondent unequivocally committed to a definitive deadline for handing over possession, specifically 04.04.2022. As a professional entity in the real estate sector, the respondent entered into the agreement with full, contemporaneous knowledge of these prevailing circumstances. If the respondent genuinely believed that the progress of the project remained hampered by COVID-related exigencies, it was incumbent upon the developer to exercise due diligence and incorporate realistic, adjusted timelines into the builder-buyer agreement at the time of its execution. Meaning this, the Authority is of the firm view that the completion date specified in a registration certificate is a unilateral declaration made by a promoter under Section 4(2)(l)(C) of the Real Estate (Regulation and Development) Act, 2016. Such a declaration cannot override or alter the specific delivery timelines mutually committed to and binding upon the promoter under the relevant clauses of the builder buyer's agreement dated 14.03.2022.

A perusal of the record reveals that the parties had agreed to a time-linked payment plan, which remained operational and un-amended throughout the subsistence of the COVID-19 pandemic. There is no documentary proof of any

Ratree

mutual communication or agreement between the parties to treat the pandemic period as a "zero period". Secondly, it is pertinent to note that the global pandemic and the initial nationwide lockdowns commenced from 25.03.2020 to 24.09.2020, 01.04.2021 to 30.06.2021, whereas, builder buyer agreement was executed much later, on 14.03.2022. By this date, the global pandemic and the resulting lockdowns (initiated on 25.03.2020) were not "unforeseen" or "unexpected" events. Infact the pandemic was at its fag end. A *Force Majeure* clause typically protects parties from events that could not be anticipated at the time of contract formation. Since the pandemic was a pre-existing condition on 14.03.2022, the respondents entered into the agreement with full prior knowledge of the prevailing disruptions, labor shortages, and supply chain constraints. The respondents, being a professional entity in the real estate sector, is expected to exercise due diligence. By setting a "due date of possession" within the floor buyer agreement during the pandemic, the respondents voluntarily assumed the risk of any COVID related delays. Failure to adjust the delivery timeline to account for a known pandemic constitutes a "self-induced frustration" of the contract rather than a statutory excuse. Hence, in the above peculiar facts, benefit of covid period could not be granted.

39.Further, respondent has also taken a plea that due to various order of NGT the project could not be completed on time and therefore such period for which the construction work remained suspended should be treated as force majeure period. In this regard, Authority is of the view that NGT has regularly been passing orders suspending construction activity in the Delhi NCR region every year due to rise in pollution specially in the month of October- November. The promoters who are in the business of real estate development are aware of fact that such orders are passed every year w.r.t Delhi NCR region due to rise in pollution. Therefore, such events should be considered at the time of planning/envisaging the development works. Annual directions by statutory agencies due to human caused reasons cannot be allowed/considered as a force majeure event. Hence, the commitment period of the promoter regarding handing over of possession of the unit is taken accordingly which in the present case is 48 months from the date of approval of building plan. The due date for possession as per the agreement remains unchanged and the promoter is liable for the consequences and obligations under section 18(1) of the Real Estate (Regulation and Development) Act, 2016 arising out of failure in handing over possession by the due date as committed by him in the builder buyer's agreement i.e., 04.04.2022. Therefore, the delay in offering possession is attributable to the respondents.

40. The Authority has further evaluated the respondent no. 1 & 2 alternative plea, set forth in paragraph 23 of its application, wherein it is contended that the Department of Town and Country Planning (DTCP), Haryana, and the Haryana Shehri Vikas Pradhikaran (HSVP) failed to execute External Development Works (EDWs), such as trunk sewer lines, peripheral water networks, and main electrical grids, despite the respondent having duly deposited ₹8.5 Crores as

External Development Charges (EDC). The respondent no. 1 & 2 argues that it is inequitable to penalize a developer for possession delays when the State has failed in its statutory duty to install basic peripheral infrastructure under the Haryana Development and Regulation of Urban Areas Rules, 1976. While this Authority notes the systemic administrative grievances raised by the developer against the public infrastructure agencies, it is a settled principle of law under the Real Estate (Regulation and Development) Act, 2016, that a contract between a promoter and an allottee exists as an independent, bilateral statutory obligation. An allottee has no privity of contract or actionable control over the internal or external financial arrangements executed between the promoter and the State Government. The timely delivery of a real estate project is a strict statutory command cast upon the promoter under Section 11(4)(a) and Section 18 of the Act of 2016. The non-performance or delayed performance of peripheral trunk infrastructure by a state agency does not automatically dissolve or suspend the developer's contractual liability to deliver physical possession of an individual unit within the timeframe mutually agreed upon in the builder-buyer agreement.

Furthermore, under the Haryana Affordable Housing Policy, 2013, and the regulations framed by this Authority, the responsibility to secure all necessary statutory clearings, execution mechanisms, and basic operational alternative linkages (such as independent water-boring or localized temporary power arrangements, where permissible) rests solely on the developer. A professional

Rathee

promoter is expected to factor in potential infrastructure deficits when declaring project completion timelines. A dispute or delay occurring between the promoter and public authorities regarding the deployment of collected EDC amounts cannot be used as a legal shield to freeze the statutory rights of home buyers or to defer the accrual of delayed interest. Consequently, the plea that construction delays are completely attributable to the State's non-execution of external services is found to be devoid of legal merit and is hereby rejected. The developer remains entirely liable for the consequences of failing to deliver possession by the committed due date of 04.04.2022.

41. It is the case of the complainant that respondent offered possession vide letter dated 07.10.2023 without obtaining occupation certificate and accompanied with illegal demands such as ₹22,680/- for external electrification, ₹22,680/- for bulk supply electricity charges, ₹8260/- for smart electricity meter, ₹30,241/- for utility connection charges, ₹11,800/- for electricity connection charges, ₹17,700/- for common area backup charges, ₹22,680/- for fire fighting charges, ₹35,400/- for electricity connection charges, therefore said offer was not a valid offer of possession. In this regard Authority observes that it is a matter of record that respondent no. 1 has admitted the fact that vide reply dated 08.07.2024, respondent no. 1 has 'never offered possession' instead what was offered was possession for limited purpose of carrying out fit out works in the unit.

Furthermore, a perusal of the pleadings reveals that the respondent no. 1 has taken highly contradictory and mutually destructive stands; on one hand, it asserted in its reply that all inter se disputes stood settled and physical possession had already been taken over by the complainants, while on the other hand, it paradoxically argued that no formal offer of possession had been made, and thus, no cause of action had accrued to the complainants. The respondent no. 1 has miserably failed to place on record any documentary proof or settlement deed to substantiate its claim of an amicable resolution. This material omission reinforces the Authority's finding that no legally valid possession was ever offered or delivered under the law.

To date, the respondent no. 1 & 2 has neither delivered physical possession of the subject unit to the complainants nor placed a copy of the alleged occupation certificate on record. In light of the respondent's persistent non-compliance and failure to produce the document, a strong adverse inference is liable to be drawn by this Authority that the respondents have not received the valid occupation certificate, and the statement made by its counsel on 10.03.2026, was factually incorrect and misleading. Herein it is noteworthy that as per Section 18(1) of the Real Estate(Regulation and Development) Act, 2016 in case a promoter fails to offer possession of an apartment, plot or building to an allottee within the time period stipulated in the agreement to sell, a statutory right gets invoked in favour of the allottee either to demand refund of the amounts paid by the allottee for the unit or in case allottee wish to continue with the project then to claim interest for delay caused and in both circumstances promoter is liable to

Rathee

refund amount paid along with interest or interest for delay in possession as the case may be. Hence, in the captioned complaint the moment the due date stipulated in the agreement for sale lapsed, a cause of action arose and as the delay in offer of possession continues so does the cause of action.

42.Now the question is whether the payment demanded against for external electrification, bulk supply electricity charges, smart electricity meter, utility connection charges, electricity connection charges, common area backup charges and electricity connection charges by the respondent vide letter dated 07.10.2023 at the time of fit out offer of possession could have been raised at that stage and whether the respondent was rightly raising the above demands. As observed in the preceding para the payment plan opted by the parties is a time linked payment plan and the respondent was well within its rights to demand payments as per time/interval as provided in the said plan.

43. To adjudicate upon the issue of charges towards external electrification, bulk supply electricity charges, smart electricity meter, utility connection charges, electricity connection charges, common area backup charges and electricity connection charges reference is made to the relevant clauses of builder buyer agreement. Clause 4.3 of builder buyer agreement reads as under:

> *"The charges for **providing external electrification, electric wiring** in the said apartment, **fire fighting** measures/equipment's in the common areas as prescribed in the existing firefighting code/regulations and **power backup***

Rathee

shall be payable by the allottee in addition to the basic total cost, as prescribed herein"

44. As per the builder buyer's agreement executed between the parties the charges raised on account of external electrification, electric wiring in the said apartment and fire fighting measures in the common area and power backup charges are to be charged in addition to the basic total cost. In this regard Authority observes that amenities such as disposal of sewage and sullage, water, fire protection and fire safety requirements, streetlight, electricity supply, transformers for an integral part of the internal and external development works which are either to be provided by the builder promoter and/or charges are to paid to the government in lieu of providing external infrastructure. The basic cost of the unit is inclusive of all these charges. The definition of the term "Internal Development Works" as provided in section 2 (zb) and "External Development Works" in section 2 (w) of the Act is reproduced below for ready reference:

> *In this Act, unless the context otherwise requires,-*
>
> *(zb) "internal development works" means* ***roads, footpaths, water supply, sewers, drains, parks****, tree planting,* ***street lighting****, provision for community buildings and for treatment and* ***disposal of sewage and sullage water, solid waste management and disposal****, water conservation,* ***energy management****,* ***fire protection and fire safety requirements****, social infrastructure such as education, health and other public amenities or any other work in a project for its benefit, as per sanctioned plans ".*

Pathee

> *"2. In this Act, unless the context otherwise requires,-*
>
> *(w) "external development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, **electricity supply transformer, sub station**, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws".*

45. If the allottee has already paid these charges under the head of EDC/IDC charges, then it would be unjust for him to pay further charges under the head "electrification charges" despite there being a condition for payment of these charges in the builder buyer's agreement. Clause 4.3 of the builder buyer's agreement is heavily loaded in favour of the respondent promoter and a complainant/allottee who has made such huge payments is made to acquiesce to such demands, hence making this clause oppressive and would constitute as unfair trade practice. The allottee should not be made or compelled to pay any additional amount towards electrification charges, if he already made payment of the same as part of sale consideration which includes EDC and IDC. Authority hereby concludes that that the promoter should not charge external electrification charges, electric wiring and fire fighting measures from the allottees while issuing offer of possession letter, if EDC/IDC have been paid by the complainants.

Further with regard to charges raised under head of bulk supply electricity charges, utility connection charges, electricity connection charges and common area backup charges it is observed that these charges are not a part of the agreement executed between the parties and have been arbitrarily raised by the respondent without any justification. The demands under said heads could not have been raised by respondents and are per se illegal.

Now with regard to the meter charges, it is observed that these charges are one-time nominal costs related to the specific meter for the unit booked by the allottee. The complainants are liable to pay these charges and shall also be entitled to seek documentary proof of said demand.

46. The complainants asserts that the interest levied by the respondent on alleged delayed payments is completely inconsistent with the statutory provisions of the Real Estate (Regulation and Development) Act, 2016 (RERA). Conversely, respondent seeks to justify its demand for an exorbitant 15% per annum interest rate by invoking Clause 2.5 of the builder-buyer agreement and Clause 5(iii)(b) of the Affordable Housing Policy, 2013. Upon examination of the financial transactions on record, this Authority finds the respondent's plea regarding allottee default to be completely baseless and legally untenable. In terms of the contractually mandated payment schedule, the total unit cost was to be liquidated in progressive instalments spaced across a period of thirty-six (36) months from the date of allotment. However, the receipts on record conclusively establish that the complainants proactively remitted almost the entirety of the sale consideration within a compressed timeline of

Rathee

approximately 1.5 years, well ahead of 36-month window. Furthermore, regarding the withholding of the residual 5% loan component, it is observed that respondent no. 3 (HDFC Bank) stopped further disbursements solely due to the persistent failure of the respondent promoter to produce a valid occupation certificate (OC) or completion certificate (CC). Such a stoppage of funds by a nationalized banking institution is a mandatory regulatory compliance executed under the statutory directives of the Reserve Bank of India (RBI), which strictly prohibit final loan drawdowns for incomplete projects lacking an occupation certificate. A statutory compliance enforced by a financial institution due to the developer's own structural defaults cannot, by any stretch of legal imagination, be construed as a wilful default or delay attributable to the allottees.

Moreover, on the legal question of the applicable interest rate, the Town & Country Planning Department, Haryana, had already issued a formal amendment via Memo No. Misc-2307/8/26/2017-2TCP (dated 09.07.2018). This amendment, promulgated under Section 9-A of the Haryana Development and Regulation of Urban Areas Act, 1975, explicitly modified the interest regime of the Affordable Housing Policy, 2013, by directing the following substitution in Clause 5(iii)(b):

> *"In clause no. 5(iii) b of the Affordable Housing Policy, 2013, the words "Any default in payment shall invite interest @15% per annum." shall be replaced by the following words,*

Rathee

> *"Any default in payment will bear penal interest as provided in Rule 15 of the Haryana Real Estate Regulatory Authority, Rules, 2017."*

47. Consequently, the respondent's reliance on the erstwhile 15% interest rate is legally untenable. The Authority finds the respondent in contravention of the RERA Act and the Affordable Housing Policy, 2013 (as amended).

48. Regarding the contention raised by the learned counsel for the complainants during oral arguments concerning the alleged overcharging of Goods and Services Tax (GST) by the respondent, the Authority has carefully examined the material on record. It is observed that the complainants have made only oral assertion in this regard, without placing any supporting documentary evidence to substantiate the claim that the GST was levied at an incorrect or excessive rate. Furthermore, the "offer of possession for fit-outs" dated 07.10.2023, while demanding various charges, does not explicitly delineate the specific percentage of GST applied to each head of account. Given this lack of clarity and in the absence of statutory/documentary proof to corroborate the extent of GST applicable on affordable housing project, this Authority cannot definitively conclude that the respondent has committed a violation of the tax regime at this stage. However, it is an established principle that any tax levied must be strictly in accordance with the prevailing law. Consequently, while the respondent is entitled to charge applicable GST, it is under a mandatory obligation to maintain transparency in its financial demands. Accordingly, the

respondent is directed to provide the complainants with a detailed break-up of all taxes charged, along with relevant supporting documentation justifying the GST rate applied in the context of an "Affordable Housing Project." The complainants shall, in turn, be at liberty to verify these charges against the statutory notifications applicable to such projects.

49. From above discussion, it is amply proved on record that the respondent has not fulfilled its obligations to hand over possession within stipulated time as cast upon it under RERA Act, 2016 and consequently the complainant is entitled to delay "interest" from 04.04.2022 till the date of offer of a legally valid possession to the complainant after obtaining occupation certificate from the competent Authority.

50. The term 'interest' is defined under Section 2(za) of the Act which is as under:

> *(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
> *Explanation.-For the purpose of this clause-*
> *(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
> *(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;*

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

> ***"Rule 15:*** *"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 (NCLR) 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"*

51. As per the website of the State Bank of India (https://sbi.co.in), the highest Marginal Cost of Lending Rate (MCLR) as on 07.07.2026 is 8.80%. Accordingly, in terms of HRERA rules, the prescribed rate of interest for the refund shall be MCLR + 2% = 10.80% per annum.

52. The complainant has prayed for interest @24% per annum. However, the RERA Act, 2016, read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, prescribes interest at the rate of SBI MCLR + 2%, which, as on date, works out to be **10.80% per annum**. Accordingly, the interest shall be calculated and awarded at this statutory rate.

53. Authority has got calculated the total amounts along with interest and monthly interest as per detail given in the table below:

Sr. No.	Amount Paid (in ₹)	Due date of Possession or date of payment whichever is later	Interest (in ₹) till 07.07.2026

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1.	25,000/-	04.04.2022	11,510/-
2.	1,10,000/-	04.04.2022	50,645/-
3.	2,10,000/-	04.04.2022	96,685/-
4.	14,07,000/-	14.04.2022	6,43,627/-
5.	7,80,245/-	21.04.2023	2,71,038/-
6.	46,914/-	27.10.2023	13,673/-
Total			10,87,178/-
7.	Monthly interest - ₹23,658/-		

54. The complainants are seeking ₹5 lakh towards hardship and mental injury. It is observed that the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 6745-6749 of 2027, M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors. (supra)***, has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18, and 19 of the RERA Act, 2016. The Court further clarified that such claims are to be adjudicated by the learned Adjudicating Officer under Section 71 of the Act, 2016, and the quantum of compensation and legal expenses is to be determined having due regard to the factors enumerated in Section 72 of the Act, 2016. Accordingly, the Authority observes that the claim for compensation and litigation costs cannot be adjudicated in the present proceedings. The complainants are, therefore, advised to approach the learned Adjudicating Officer for seeking relief in respect of compensation and litigation expenses.

I. DIRECTIONS OF THE AUTHORITY

55. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

i. Respondent No. 1 & 2 are directed to pay the complainant upfront amount as provided in table in para 53 of this order. Respondent's liability for paying monthly interest of as shown in above table will commence w.e.f. 08.07.2026 and it shall be paid on monthly basis till legally valid offer of possession is made to complainant after obtaining occupation certificate from the competent authority.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

iii. Respondent No. 1 & 2 shall offer possession of the unit to complainants within 30 days of obtaining occupation certificate and the complainant shall also accept the same within next 30 days.

iv. Complainant shall remain liable to make payment due at the time of offer of possession as per mentioned in para 44 to 48 of this order.

56. Accordingly, the case is **Disposed of**. File be consigned to the record room after uploading of order on the website of the Authority.

DR. GEETA RATHEE SINGH
[MEMBER]