HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No:	**424 of 2025**
Date of Filing:	**01.04.2025**
Date of First Hearing:	**12.05.2025**
Date of Decision:	**10.07.2026**

1. Abhay Maheshwari S/o Shashikant Maheshwari

R/o 107-B Block, Sapphire Homes,
Next to Akashdeep Apartment,
Site No. 1, City Center, R. K. Puri,
Gwalior, Madhya Pradesh,
Pin -474011.

2. Ravi Sharma S/o Ramakant Sharma

R/o 1, Maharana Pratap Nagar,
Chetakpuri Road, Gird, Lashkar City,
Gwalior, Madhya Pradesh, Pin – 474009

....COMPLAINANT(S)

VERSUS

TDI Infrastructure Ltd.
10, Shaheed Bhagat Singh Marg,
Sector -3, Diz Area, Gol Market, New Delhi,
Pin-110001

....RESPONDENT(S)

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

Hearing: **5th**

Present: - Mr. Yogesh Kumar Goyal, Advocate, for the Complainant through VC.
Mr. Shubhnit Hans, Advocate, for the Respondent.

ORDER:

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

A. UNIT AND PROJECT RELATED DETAILS:

2. The particulars of the project, the details of sale consideration, the amount paid by the 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	TDI City, Kundli , Sonipat
2.	RERA registered/not registered	Un-registered.
3.	Plot No.	J-451
4.	Plot Area	250 sq. yds. (209.03 sq. mtrs.)
5.	Date of Booking by Original Allottee	21.11.2005
6.	Date of Endorsement in favour of Complainants	18.03.2006
7.	Date of Allotment Letter	30.01.2006

8.	Date of Builder Buyer Agreement	Not Executed
9.	Due Date of Offer of Possession	Not Available
10.	Possession Clause	Not Available
11.	Total Sale Consideration	₹23,85,000/-
12.	Amount Paid by the Complainant	₹23,84,376/-
13.	Offer of Possession	NA

B. FACTS OF THE COMPLAINT:

3. Brief facts of the case are that the complainants came to know about the project through advertisements and purchased the booking rights of a residential plot from the previous allottees. The first payment receipt and endorsement documents are attached as Annexure-3. The respondent issued an Allotment Letter dated 30.01.2006 and allotted Plot No. J-451, measuring 250 sq. yards (209.03 sq. metres), in the project namely, "TDI City", Kundli, Sonipat, Haryana. At the time of allotment, the respondent verbally assured that the possession of the plot would be handed over within two years. A copy of the allotment letter is attached as Annexure-2.

4. The respondent issued a Revised Annexure dated 07.07.2007 showing the total cost of the plot, including EDC, as ₹23,85,000/-. It also

recorded that the complainants had paid ₹21,66,251/- up to that date. A copy of the Revised Annexure is attached as Annexure-4.

5. The complainants paid a total amount of ₹23,84,376/- to the respondent up to 04.09.2009 against the total plot price of ₹23,85,000/-. Despite receiving almost the entire sale consideration, the respondent has neither completed the project nor offered possession of the plot till date. Copies of payment receipts and supporting documents are attached as Annexure-3.

6. The respondent collected more than 10% of the plot cost from the complainants but did not execute an Agreement for Sale as required under Section 13 of the RE(RD) Act, 2016 read with Rule 8 of the HRERA Rules, 2017. The complainants repeatedly approached the respondent for execution of the Agreement for Sale, completion of the project and delivery of possession, but no satisfactory response was received. The respondent repeatedly assured the complainants that the project would be completed and possession would be delivered by 29.01.2008, i.e., within two years from the date of allotment. However, these assurances were not fulfilled. The complainants are allottees within the meaning of the RE(RD) Act, 2016. Under the Act, the respondent was required to facilitate the formation of an association or society of allottees within the prescribed period. However, no such association or society has been formed till date and the complainants

have not received any information regarding any steps taken in this regard. The conduct of the respondent amounts to unfair practice and shows non-compliance with the provisions of Sections 11, 13 and 18 of the RE(RD) Act, 2016. Despite receiving substantial payments from the complainants, the respondent has failed to fulfil its statutory obligations and commitments. Therefore, the complainants have approached this Authority seeking justice and appropriate directions for execution of the Agreement for Sale, delivery of lawful possession of the plot, execution of the sale/conveyance deed, payment of delay compensation/interest and completion of the project in accordance with the provisions of the RE(RD) Act, 2016.

C. RELIEF SOUGHT:

7. The complainants in their complaint has sought the following reliefs:

i. To direct the respondent to hand over the possession of the originally booked residential plot immediately to the complainants;

ii. To direct the respondent to hand over the possession of the alternative booked residential plot having similar size and location immediately to the complainants, if possession of originally booked residential plot cannot be given;

iii. To direct the respondent to pay delayed interest to the complainants as per Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017;

iv. To direct the respondent to pay all legal expenses incurred by the complainants till date in respect of subject complaint;

v. To direct the respondent to file status report with regard to the status of the project;

vi. To direct the respondent to form "Association of Allottees" as per Section 11(4)(e) of the RE(RD) Act, 2016;

vii. To direct the Directors, Chief Financial Officer and Company Secretary of the respondent company to give possession of residential plot and the amounts of delayed interest within 90 days of the order of the RERA Authority;

viii. To attach the assets of the respondent and its Directors, Chief Financial Officer and Company Secretary to secure the payment made by innocent allottees like the complainants;

ix. To impose penalty on the respondent, Directors, Chief Financial Officer and Company Secretary for not following the provisions of RE(RD) Act, 2016;

x. To pass such other orders as this RERA Authority may deem fit in the facts and circumstances of the case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT:

8. On receipt of notice of the complaint, the respondent has filed reply on 27.11.2025, which in brief stated that the complainants had voluntarily invested in the respondent's project, namely "TDI City", at Kundli, Sonipat, Haryana, considering the reputation of the respondent company. It was further stated that part completion certificates for the township project measuring approximately 927 acres approx. were obtained on 23.01.2008, 18.11.2013 and 22.09.2017, copies of which are annexed as Annexure R-1, Annexure R-2 and Annexure R-3.

9. The respondent submitted that the provisions of the RE(RD) Act cannot be applied retrospectively unless specifically provided by law. Since the Part Completion Certificate of the project was issued before the RE(RD) Act came into force, the complainants cannot seek adjudication of their grievances before this Authority under the Act. When the respondent company commenced the construction of the said project, the RE(RD) Act was not in existence. Therefore, the respondent company could not have contemplated any violations and penalties thereof, as per the provisions of the RE(RD) Act, 2016. The provisions of the RE(RD) Act are to be applied prospectively. In support of its contention, a judgment, passed by Hon'ble Apex Court in the matter of "*Newtech Promoters and Developers Pvt Ltd. vs. State of UP and others in Civil Appeal No.6745-6749 of 2021* is referred to in which it was held that application of RE(RD) Act is retroactive in

character. Thus, the present complaint is not maintainable and falls outside the purview of provisions of RE(RD) Act.

10. The respondent stated that Mr. Ajay Kumar was the original allottee of the plot. The allotment rights were subsequently transferred to Mr. Jagan Nath on 04.01.2006 and thereafter to the present complainants on 27.02.2006. Thus, the complainants are subsequent allottees and not the original allottees of the plot. The respondent relied upon the judgment of the Hon'ble Supreme Court in *M/s Laureate Buildwell Pvt. Ltd. vs. Charanjeet Singh (CA No. 7042 of 2019)* and submitted that the rights and reliefs available to a subsequent purchaser are different from those available to the original allottee. A subsequent purchaser is presumed to have knowledge of any delay existing at the time of purchase and any relief claimed by such purchaser must be assessed accordingly.

11. The respondent submitted that due to certain unforeseen circumstances, possession of the originally allotted plot could not be offered to the complainants. Therefore, an alternative plot was offered to them vide letter dated 05.06.2018. According to the respondent, the offer of the alternative plot was duly communicated to the complainants. The complainants were given two options: (i) to accept a ready-to-possess alternative plot in the same project and complete the sale deed formalities, or (ii) to adjust the deposited amount against any other project of the

respondent. However, the complainants did not respond to either option and therefore cannot hold the respondent responsible for the delay in possession.

12. The respondent further submitted that the Builder Buyer Agreement was never executed because of the complainants' own failure and inaction. Despite being requested on several occasions to execute the agreement, the complainants allegedly failed to do so. It is submitted that since no Builder Buyer Agreement was executed, no enforceable contractual obligations arose against the respondent. Therefore, the complainants cannot claim relief on the basis of terms that were never formally agreed upon. The respondent reiterated that an alternative plot was offered to the complainants on 05.06.2018, along with the option of adjustment of the deposited amount in another project. Despite these offers, the complainants did not respond.

13. The respondent contended that the complaint lacks merit and has been filed after an unreasonable delay. It is submitted that the complainants ignored the possession offer and have raised grievances many years later despite the respondent having invested the amounts received from allottees in the development of the project. The respondent also raised an objection regarding limitation. It is submitted that the complainants should have approached the Authority within three years of the offer dated 05.06.2018. Since no action was taken within that period and the complainants remained inactive for several years, the present complaint is stated to be time-barred.

14. The respondent further alleged that the complainants have concealed material facts. It is stated that interest and External Development Charges (EDC) were initially levied upon the complainants but later 90% of the interest amount and 100% of the EDC were waived by the respondent as a goodwill gesture. According to the respondent, this fact has not been disclosed by the complainants. The respondent submitted that the waiver of interest and EDC demonstrates its bona fide conduct and the complainants have suppressed relevant facts while pursuing the present complaint.

15. The respondent also submitted that the area in which the complainant's plot is situated is presently under dispute with local farmers, due to which the respondent is unable to hand over the possession of the said plot. It is further stated that there is no likelihood of possession being offered in the foreseeable future.

E. REJOINDER FILED BY THE COMPLAINANTS:

16. Learned counsel for the complainants has filed rejoinder on 09.02.2026, wherein stating that the respondent has continuously failed to fulfil its statutory and contractual obligations by not executing the Builder Buyer Agreement, not handing over possession of the allotted plot despite receiving substantial consideration and by relying only on Part Completion Certificates, which do not establish completion of the entire project or the complainants' plot. It is contended that the project is an ongoing project and, therefore, falls within the jurisdiction of the Authority under the Real Estate

(Regulation and Development) Act, 2016, as explained by the decision in *Newtech Promoters & Developers Pvt. Ltd. v. State of Uttar Pradesh*. The complainants further asserted that the respondent's objections regarding maintainability, limitation, retrospective application of RERA, subsequent transfer of allotment, force majeure, alleged offer of an alternative plot and concealment of facts are false, unsupported by evidence and legally untenable. According to the complainants, the respondent's failure to deliver possession and comply with its statutory obligations constitutes a continuing cause of action, entitling the complainants to enforcement of their rights, possession and all consequential reliefs under the Act.

F. WRITTEN SUBMISSION ON BEHALF OF THE RESPONDENT:

17. Learned counsel for the respondent has filed written submissions on 13.05.2026, wherein stating that the present complaint is not maintainable as the project is not registered under the RE(RD) Act, 2016 and, therefore, falls outside the jurisdiction of this Authority. Relying upon judicial precedents, including *M/s Devinarayan Housing and Property Development Pvt. Ltd. vs. Manu Karan* and *Newtech Promoters and Developers Pvt. Ltd. vs. State of Uttar Pradesh*, it is contended that the provisions of RE(RD) apply only to registered and ongoing projects and not to projects which had already been completed before the enactment of the Act. The respondent submitted that completion/part completion certificates

for the project were obtained in the years 2008, 2013 and 2017, demonstrating that the project stood completed prior to the enforcement of RE(RD) Act. It is further stated that due to certain unforeseen circumstances, the originally allotted plot could not be offered and an alternative plot was offered to the complainants vide letter dated 05.06.2018, with the option either to accept the alternate plot and complete registration formalities or to adjust the deposited amount in another project of the respondent. According to the respondent, the complainants failed to respond to or accept either of these options and, therefore, cannot now seek reliefs contrary to their own conduct. On these grounds, the respondent submitted that the complaint is devoid of merit and liable to be dismissed.

G. ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANTS AND RESPONDENT:

18. During oral arguments, learned counsel for the complainants as well the respondent has reiterated arguments as were submitted in the complaint, reply and written submissions.

H. ISSUES FOR ADJUDICATION

19. Whether the complainants are entitled to get possession of booked plot alongwith delay interest in terms of Section 18 of RE(RD) Act, 2016?

I. OBSERVATIONS AND DECISION OF THE AUTHORITY

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

(i) With regard to the plea raised by the respondent that provisions of RE(RD) Act, 2016, are applicable with prospective effect only, therefore the same were not applicable as on 21.11.2005 when the original allottee booked plot no. J-451, in TDI City, Kundli; it is observed that the issue regarding operation of RE(RD) Act, 2016, whether retrospective or retroactive has already been decided by Hon'ble Supreme Court in its judgment dated 11.11.2021 passed in ***Civil Appeal No. (s) 6745-6749 OF 2021 titled as Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others***. Relevant part is reproduced below for reference:-

> *"52. The Parliament intended to bring within the fold of the statute the ongoing real estate projects in its wide amplitude used the term "converting and existing building or a part thereof into apartments" including every kind of developmental activity either existing or upcoming in future under Section 3(1) of the Act, the intention of the legislature by necessary implication and without any ambiguity is to include those projects*

which were ongoing and in cases where completion certificate has not been issued within fold of the Act.

53. That even the terms of the agreement to sale or home buyers agreement invariably indicates the intention of the developer that any subsequent legislation, rules and regulations etc. issued by competent authorities will be binding on the parties. The clauses have imposed the applicability of subsequent legislations to be applicable and binding on the flat buyer/allottee and either of the parties, promoters/home buyers or allottees, cannot shirk from their responsibilities/liabilities under the Act and implies their challenge to the violation of the provisions of the Act and it negates the contention advanced by the appellants regarding contractual terms having an overriding effect to the retrospective applicability of the Authority under the provisions of the Act which is completely misplaced and deserves rejection.

54. From the scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the on-going projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016."

(ii) The respondent in its reply has contended that the complainants are "investors" who have invested in the project for monetary returns and taking undue advantage of RE(RD) Act, 2016 as a weapon during the present down side conditions in the real estate market, therefore, they are not entitled to the protection of the Act of 2016. In this regard, the Authority observes that "any aggrieved person" can file a complaint against a promoter if the promoter contravenes the provisions of the RE(RD) Act, 2016 or the rules or regulations. In the present case, complainants are an aggrieved person who have filed the present complaint under Section 31 of the RE(RD) Act, 2016 against the promoter for violation/contravention of the provisions of the RE(RD) Act, 2016 and the Rules and Regulations made thereunder. Here, it is important to emphasize upon the definition of term "allottee" under the RE(RD) Act of 2016, reproduced below: -

Section 2(d) of the RERA Act:

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

In view of the above-mentioned definition of "allottee" as well as upon careful perusal of the receipts, endorsement and statement of account, it is clear that the complainants are "allottees" as plot bearing no. J-451 in the Real Estate Project of the respondent namely, "TDI, City, Kundli", Sonipat which was allotted to them by the respondent/promoter. The concept/definition of investor is not provided or referred to in the RE(RD) Act, 2016. As per the definitions provided under Section 2 of the RE(RD) Act, 2016, there will be "promoter" and "allottee" and there cannot be any party having a status of an investor. Further, the definition of "allottee" as provided under RE(RD) Act, 2016 does not distinguish between an allottee who has been allotted a plot, apartment or building in a real estate project for self-consumption or for investment purpose. The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled *as **M/s Srushti Sangam Developers Ltd. Vs Sarvapriya Leasing (P)Ltd. And Anr.*** had also held that the concept of investors not defined or referred to in the Act. Thus, the contention of the promoter that allottees being investors are not entitled to protection of this Act also stands rejected.

(iii) The respondent has also taken objection that the complaint is grossly barred by the limitation. In this regard Authority places reliance upon the judgement of Apex court in "***Civil Appeal No. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise***" where it has been held that Indian Limitation Act deals with applicability to courts and not tribunals. Further, the RE(RD) Act is a special enactment with particular aim and object covering certain issues and violations relating to the housing sector. Provisions of the Limitation Act, 1963, would not be applicable to the proceedings under the RE(RD) Act, 2016, as the Authority set up under that Act being quasi-judicial and not a Court. The respondent/promoter has till date failed to fulfil its obligations because of which the cause of action is re-occurring.

(iv) Regarding receiving of Part Completion Certificates for the project measuring approximately 927 acres approx. on 23.01.2008, 18.11.2013 and 22.09.2017, it is observed that mere issuance of a part completion/completion certificate cannot be treated as conclusive proof that the project has been developed in accordance with the promises and obligations undertaken by the promoter. If the allottees still have genuine grievances regarding incomplete development works, lack of promised amenities or non-fulfilment of obligations by the promoter, such grievances can very well be examined by this Authority notwithstanding the issuance of such Part Completion Certificate. The actual status of development is always subject to verification by the Authority to determine whether the promoter has discharged all its obligations. Therefore, the objection raised by respondent on the basis of part completion certificate is not sustainable and the Authority continues to have jurisdiction to adjudicate upon the grievances of the allottee regarding non-performance or deficiency in development works.

(v) It is further observed that the respondent has admitted that the possession of the originally allotted plot could not be offered to the complainants and the area in which the plot is situated is presently under dispute with local farmers, due to which there is no likelihood of possession being handed over in the foreseeable future. The plea of the respondent that the complainants are subsequent allottees does not absolve the respondent/promoter of its obligation to provide a developed and legally marketable plot or to offer an effective remedy in accordance with law. Further, the contention regarding non-execution of the Builder Buyer Agreement cannot be accepted to defeat the rights of the complainants when the respondent has admittedly accepted consideration and allotted the plot to the present complainants. Execution of the Builder Buyer Agreement is primarily the responsibility of the promoter/respondent and the respondent cannot take advantage of its own omission or failure to execute the agreement so as to deny the complainants the reliefs otherwise available under law. It is further observed that although the respondent has relied upon the offer letter dated 05.06.2018, no postal receipt, courier receipt, tracking report, or any other proof of dispatch and delivery has been placed on record to establish that the said offer was ever communicated to the complainants. The offer of an alternative plot made in the year 2018 also does not cure the continuing failure of the respondent to deliver possession of the originally allotted plot. Moreover, the respondent has not placed on record any material to show that a specific alternative plot, along with its particulars such as plot number, location, size, and status of development, was actually offered to the complainants for consideration and acceptance. In the absence of any definite and concrete alternative allotment, the alleged offer cannot be treated as a valid substitute for the respondent's obligation to hand over possession of the allotted plot. Since the respondent itself acknowledges its inability to hand over possession due to ongoing disputes affecting the land, the cause of action continues to subsist. The respondent's inability to offer possession of the allotted plot for an indefinite period amounts to deficiency in service and failure to fulfil its obligations towards the complainants.

21. Upon consideration of the material facts available on record, it is observed that the respondent allotted Plot No. J-451 measuring 250 sq. yards in its project "TDI City", Kundli, Sonipat and received almost the entire sale consideration from the complainants. Despite acceptance of substantial payments, the respondent neither executed the requisite Agreement for Sale nor delivered possession of the allotted plot within the period represented at the time of allotment. The plea of non-execution of the Agreement for Sale cannot be permitted to prejudice the rights of the complainants when such execution was primarily the responsibility of the respondent/promoter after receiving sale consideration. The record further reflects that the complainants have remained deprived of possession for an inordinate period despite having fulfilled their payment obligations. Such conduct prima facie indicates failure on the part of the respondent to discharge its contractual and statutory obligations towards the complainants and warrants appropriate relief in accordance with the provisions of the RE(RD) Act, 2016.

22. It is observed that the complainants have alleged that the respondent assured delivery of possession by 29.01.2008, i.e., within two years from the date of allotment. However, no specific clause, term or condition contained in the allotment letter or any other contemporaneous

document has been placed on record by the complainants to substantiate the said commitment regarding the stipulated date of possession. In the absence of any documentary evidence evidencing an agreed possession timeline, the alleged assurance cannot be accepted as a contractually binding commitment solely on the basis of oral assertions. The Authority observes that the booking for the plot in question was made in favour of the original allottee on 21.11.2005 as observed from the copy of receipt and the same was transferred to the complainant on 18.03.2006. But Builder Buyer Agreement has not been executed till date and there is no clause pertaining to the deemed date of possession in the allotment letter/booking form. In absence of a specific clause for the deemed date of possession, it cannot rightly be ascertained as to when the possession of said plot was due to be given to the complainants. In ***Appeal No. 273 of 2019 titled as TDI Infrastructure Ltd Vs Manju Arya***, Hon'ble Appellate Tribunal has referred to the observation of Hon'ble Apex Court in "***2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.***"' in which it has been observed that period of three years is reasonable time for completion of construction work and delivery of possession. In the present complaint, the plot was allotted to the original allottee vide booking dated 21.11.2005 by the respondent. Accordingly, taking a period of three years from the date of booking, as a reasonable time to complete development works in the project and to handover possession to the complainants, the deemed date of possession comes to 21.11.2008. In the present situation, the respondent failed to honour its contractual obligations without any reasonable justification.

23. The Authority has considered the submissions made by the respondent company regarding the offer of an alternative unit and the subsequent offer of possession. The respondent has stated that due to disputes with farmers relating to the project land, the project could not be completed within the stipulated period and, therefore, as a goodwill gesture, an alternative ready-to-move unit or adjustment in another project was offered to the complainant vide letter dated 05.06.2018 that too without delivery report as to whether it was delivered to the complainants or not. Mere offering of an alternative unit cannot absolve the respondent from its contractual and statutory obligations towards the complainants, particularly when there is nothing on record to show that the complainants accepted such alternative option. Therefore, the delay on the part of the respondent company stands established. Moreover, the dispute is between the respondent and landowners. No litigation or any other proceedings is pending towards said dispute which operates as stay for the affected portion of land. It has not been established by the respondent that the valid offer of a booked plot is not possible due to some genuine reliable circumstances. Apart, the issuance of a part or full completion certificate will not be a conclusive proof of the fact that the project has been developed. Unless the

development of the project is carried out in the manner as promised to the allottees under the agreement of sale, the allottees may have some genuine grievance against the promoter and will have a right to invoke the jurisdiction of this Authority for redressal of his/her grievance, irrespective of the fact that the promoter had obtained a completion/part completion or an occupation certificate for its project. In such circumstances, the respondent cannot rely upon the Part Completion Certificate/Occupation Certificate to defeat the legitimate claim of the complainants for possession.

24. The complainants are insisting upon the possession of booked plot only as alternate plot is not available with the respondent. The respondent who is in receipt of a total amount of ₹23,84,376/- has not even made sincere efforts to provide at least a reasonable number of options of alternate plot to choose from. It is the respondent who has failed to develop the booked plot till date. However, no such circumstances have been specified in written statement/oral arguments which can be relied upon to convince the Authority that the physical possession of the booked plot is actually not possible. The law point is that facts not specifically pleaded are not considered and the burden of proof lies on the party making the claim. Therefore, if a party fails to specify circumstances in its written statement or oral arguments that show physical possession of a booked plot is not possible, they cannot rely on those unspecified circumstances to convince the Authority that the possession is impossible. The party would need to

provide specific facts and evidence to demonstrate this impossibility. For reference judgement dated 16.09.2025 passed by Hon'ble Bombay High Court in ***Criminal Revision Application No.108 Of 2023 titled as "Romell Housing Llp vs Sameer Salim Shaikh",*** is relied upon, in which it is held that "*In law, oral assertions without supporting physical acts cannot displace settled possession proved by continuous conduct.*"

25. The Authority observes that the respondent has severely misused its dominant position. Booking of the plot was made on 21.11.2005 and transferred to the complainants on 18.03.2006, due date of possession as explained above is 21.11.2008. The respondent has offered alternate possession in the year 2018 i.e. after delay of almost 10 years and that too without obtaining occupation certificate/completion certificate. Hence, the said offer was not valid in the eyes of law. Even today, the respondent is not able to offer valid possession to the complainants and has not even specified the valid reason/ground for not offering the possession of the booked plot. The complainants however are interested in getting the possession of the booked plot and do not wish to withdraw from the project. In these circumstances, the provisions of Section 18 of the Act, 2016, clearly come into play by virtue of which while exercising the option of taking possession of the plot the allottee can also demand delay interest along with monthly interest and the respondent is liable to pay the same for the entire period of

delay caused at the rates prescribed. For ready reference, the provisions of Section 18 is reproduced below:

> **Section 18 - Return of amount and compensation**
>
> **"(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—**
>
> (a) *in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*
>
> ***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.***
>
> *(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.*
>
> *(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act."*

26. So, the Authority hereby concludes that the complainants are entitled for the delay interest from the deemed date of possession i.e.

21.11.2008 to the date on which a valid offer is to be sent to the complainants after obtaining occupation certificate/completion certificate.

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

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

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

> *"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%: Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the*

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State Bank of India may fix from time to time for lending to the general public".

29. Consequently, as per the website of the State Bank of India, i.e., https://sbi.co.in, the highest marginal cost of lending rate (in short MCLR) as on date i.e. 10.07.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.80%.

30. Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of this order at the rate of 10.80% and said amount works out as per detail given in the table below:

Sr. No.	Principal Amount	From Deemed date of possession or date of payment whichever is later	Interest Accrued till 10.07.2026
1.	₹21,66,251/-	21.11.2008	₹41,28,506/-
	Total Delayed Interest		**₹41,28,506/-**
	Monthly interest		**₹19,870 /-**

31. The complainants have pleaded that a total amount of ₹23,84,376/- was paid to the respondent. However, a perusal of the statement of account dated 07.07.2007 placed on record by the complainants shows that the amount actually reflected as paid to the respondent is ₹21,66,251/-. Accordingly, the interest has been calculated on the amount of ₹21,66,251/-.

32. The complainants are also seeking legal expenses. In this regard, it is observed that the Hon'ble Supreme Court of India, in ***Civil Appeal Nos. 6745–6749 of 2021, titled M/s Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Ors. (supra)***, has held that an allottee is entitled to claim compensation and litigation expenses under Sections 12, 14, 18 and 19 of the RE(RD) Act, 2016. Such claims are required to be adjudicated by the Adjudicating Officer under Section 71 and the quantum of compensation and also the litigation expenses shall be determined by the Adjudicating Officer, having due regard to the factors specified under Section 72 of the Act. The Adjudicating Officer has exclusive jurisdiction to entertain and decide complaints relating to compensation and litigation expenses. Therefore, the complainants are advised to approach the learned Adjudicating Officer for seeking relief towards compensation and litigation expenses.

33. Regarding Relief Nos. (v) to (x), it is observed that the complainants did not press the said reliefs during the course of arguments. Accordingly, no observations are being made with respect to those reliefs.

Cth

J. DIRECTIONS OF THE AUTHORITY

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

(i) Respondent is directed to pay upfront delay interest of ₹41,28,506/- to the complainants towards delay already caused in handing over the possession till the date of order and further monthly interest of ₹19,870/- till the date of valid offer of possession after receipt of Occupation/Completion Certificate.

(ii) The complainants will remain liable to pay balance consideration amount, if any, to the respondent at the time when valid possession is offered to the complainants as per the agreed terms and conditions.

(iii) The rate of interest chargeable from the allottees/complainants by the respondent/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 respondent/promoter shall be liable to pay to the allottees.

(iv) 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.

(v) The respondent shall not charge anything from the complainants which is not part of the agreed terms and conditions.

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

(CHANDER SHEKHAR)
MEMBER

10.07.2026
Narinder Kaur
(Law Associate)