HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No:	494 of 2025
Date of Filing:	02.04.2025
Date of First Hearing:	19.05.2025
Date of Decision:	10.07.2026

Sudhir Khemka S/o Gopal Nath Khemka

R/o House No. 979, Sector-25, Part-II, Huda, Panipat.

....COMPLAINANT(S)

VERSUS

TDI Infrastructure Ltd.
Mahindra Towers 2A, Bhikaji Cama Place,
2nd Floor, New Delhi-110066.

....RESPONDENT(S)

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

Hearing: **5th**

Present: - Mr. Ayush Kuchhal, Advocate, for the Complainants through VC in both Complaints.
Mr. Shubhnit Hans, Advocate, for the Respondent in both Complaints.

ORDER:

The present complaints were 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.

As both complaints involve similar facts and issues, they are being decided through a common order. For convenience, the facts of Complaint No. 494 of 2025 have been taken as the lead case and are being considered while deciding both complaints.

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A. UNIT AND PROJECT RELATED DETAILS:

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant in Complaint No.494 of 2025, 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.	R1-0901
4.	Plot Area	1110 sq. ft. revised to 1964 sq. ft.
5.	Date of Booking by Original Allottee	16.09.2005
6.	Date of Endorsement in favour of Complainant	03.09.2012
7.	Date of Builder Buyer Agreement	04.01.2019
8.	Due Date of Offer of Possession	04.01.2022 as per Clause 6.1 of the Agreement
9.	Possession Clause	Clause 6.1 of the Agreement
10.	Total Sale Consideration	₹24,55,000/-
11.	Amount Paid by the Complainant	₹37,87,012/- as per statement of account dated 19.11.2025
12.	Offer of Possession	NA

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B. FACTS OF THE COMPLAINT:

3. Brief facts of the case are that the complainant purchased the booking rights of a residential flat bearing No. RI-0901, measuring initially 1110 sq. ft., in the project "TDI City", Kundli, Sonipat, Haryana, from the

original allottee namely, Mrs. Mandeep Kaur. The original allottee had booked the unit in the year 2005 and was issued an allotment letter by the respondent on 05.03.2007. Thereafter, the respondent approved the transfer of the allotment in favour of the complainant vide confirmation letter dated 03.09.2012. The complainant paid an aggregate amount of about ₹37.87 lakh towards the unit. The respondent issued a reminder letter dated 23.12.2013 calling upon the complainant to take possession; however, according to the complainant, the flat was not complete and ready for occupation. The complainant thereafter sent communications dated 06.06.2015 and 10.09.2016 requesting delivery of possession, stating that substantial payment had already been made. Subsequently, an Apartment Buyer's Agreement was executed on 04.01.2019 and the respondent raised further demands through a final statement of account dated 01.02.2019. As per the Apartment Buyer's Agreement dated 04.01.2019, the sale consideration was recalculated on the basis of the revised area of 1964 sq. ft. at the rate of ₹13,455.74/- per sq. metre and the total sale consideration of the flat was fixed at ₹24,55,000/-. However, as per the Final Statement of Account issued by the respondent, the total consideration along with EDC, IDC, parking, service tax and other charges was reflected at approximately ₹20,08,078/-, against which payments of about ₹19,95,815/- had been received, leaving certain alleged outstanding amounts and other charges. The complainant also deposited maintenance charges as demanded. Eventually, the respondent issued a possession letter dated 11.07.2022 and handed over physical possession of the flat. However, despite receipt of substantial sale consideration and delivery of possession, the respondent allegedly failed to obtain/provide the requisite Occupancy Certificate and has not executed the sale/conveyance deed in favour of the complainant. Aggrieved by the non-execution of the conveyance deed and claiming entitlement to compensation for the delay in handing over possession, the complainant filed the present complaint seeking delayed possession interest and execution of title documents.

C. RELIEF SOUGHT:

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

i. To direct the respondent to pay interest at 21% per annum on the deposited amount from the date of payments of amounts of residential flat till the date of actual physical possession of the residential flat is handed over to the complainant;

ii. To direct inquiry (forensic audit) in relation to the affairs of the respondent;

iii. To direct the respondent to desist from making illegal demands in the nature of charging club charges, electricity charges, maintenance charges, holding charges or any other charges that as per se violate law of land;

iv. Pass such other orders as this RERA Authority may deem fit in the facts and circumstances of the case.

D. APPLICATION FOR AMENDMENT OF PRAYER:

5. The complainant has filed an application on 07.07.2025 for amendment of prayer i.e. to delete relief nos. ii and iii and sought following relief:

i. To direct the respondent to pay interest at 21% per annum on the deposited amount from the date of payments of amounts of residential flat till the date of actual physical possession of the residential flat is handed over to the complainant and to execute the sale deed in favour of the complainant without any condition.

E. REPLY SUBMITTED ON BEHALF OF RESPONDENT:

6. On receipt of notice of the complaint, the respondent has filed reply on 20.11.2025, which in brief stated that the erstwhile allottee, Ms. Mandeep Kaur had voluntarily invested in the respondent's project, namely "Kingsbury" at TDI City, Kundli, Sonipat, Haryana, considering the reputation of the respondent company. The respondent has further submitted that an Occupation Certificate has been obtained for the said project and several allottees are already residing in the residential complex known as "Kingsbury Flats" at TDI City, Kundli, Sonipat, Haryana. In support of this contention, a copy of the Occupation Certificate has been placed on record as Annexure R-1 (Colly).

7. The respondent has contended that the project was conceived and construction thereof commenced prior to the enactment of the RE(RD) Act, 2016 and, therefore, the obligations, liabilities and penalties prescribed under the Act could not have been contemplated at the relevant time. It has been submitted that the Occupation Certificate for the project was obtained much before the coming into force of the RE(RD) Act and the Haryana Rules framed thereunder. The project stands completed and conveyance deeds have been executed in favour of a majority of the allottees. The respondent has further argued that retrospective application of the provisions of the Act would cause undue financial hardship, adversely affect its development activities and lead to unjust and arbitrary consequences. On these grounds, the respondent has pleaded that the provisions of the RE(RD) Act are prospective in nature and therefore, the present complaint is not maintainable under the Act as the project was undertaken prior to the enforcement of the said legislation.

8. It has been submitted that multiple offer of possession letters dated 30.07.2012, 23.12.2013 and 07.01.2019 were issued to the complainants, calling upon him to clear the outstanding dues, complete the requisite formalities and take possession of the allotted unit. According to the respondent, despite repeated opportunities and reminders, the complainants failed to come forward to take possession of the unit, which was stated to be complete and ready for handover. The respondent has

further alleged that the complainants suppressed these material facts in the complaint and is now attempting to attribute liability to the respondent while seeking unwarranted monetary benefits on account of alleged delay in possession. It has also been asserted that no delay or deficiency can be attributed to the respondent, as possession was ultimately handed over to the complainants on 11.07.2022 after several offers had been made and therefore the complaint deserves dismissal.

9. 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 of possession dated 30.07.2012. 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.

F. WRITTEN SUBMISSION ON BEHALF OF THE RESPONDENT:

10. Learned counsel for the respondent has filed written submissions on 13.05.2026, wherein contending that the project is not registered under the RE(RD) Act, 2016 and, therefore, does not fall within the jurisdiction of this Authority. It has been further submitted that the project had already been completed and occupation certificates for the concerned towers were obtained in the years 2010, 2012 and 2017, much prior to the coming into force of the RE(RD) Act. According to the respondent, the provisions of the Act apply only to registered and ongoing

projects and cannot be invoked in respect of a project that stood completed before the enactment of RE(RD). Reliance has been placed upon various judicial pronouncements, including *Devinarayan Housing and Property Development Pvt. Ltd. & Anr. v. Manu Karan & Anr.*, *Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh & Others*, and the order passed by this Authority in Complaint No. 2182 of 2023 titles as *Ritu Chaudhary v. Tarang Infrastructure Ltd.*, to contend that grievances relating to completed projects and matters arising under the pre-RERA regime are governed by the contractual terms between the parties and not by the provisions of the Act. The respondent has also submitted that possession of the unit was duly handed over and accepted by the complainants without protest. After enjoying possession for several years, the complainants are stopped from seeking further reliefs before this Authority. On these grounds, the respondent has prayed for dismissal of the complaint as being not maintainable and devoid of merit.

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

11. 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

12. Whether the complainants are entitled to delay interest in terms of Section 18 of RE(RD) Act, 2016 and execution of conveyance deed?

I. OBSERVATIONS AND DECISION OF THE AUTHORITY

13. 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) Based on the facts pleaded and the record available, it is observed that the original allotment of the residential flat was made in the year 2007 and the allotment was subsequently transferred in favour of the complainant with the approval of the respondent on 03.09.2012. The complainant has placed on record various payment receipts showing that substantial consideration was paid towards the allotted unit. Although the respondent issued a possession intimation/reminder in the year 2013, the complainant has contended that the flat was not complete and fit for occupation at that stage and continued to seek delivery of possession through subsequent communications. It is further evident from the record that the Apartment Buyer's Agreement came to be executed only on 04.01.2019. As per Clause 6.1 of the Agreement, the possession was to be handed over within three years from the date of

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execution of the said agreement i.e. up to 04.01.2022 and physical possession of the flat was ultimately handed over to the complainant on 11.07.2022 after receipt of occupation certificate on 15.12.2017.

(ii) It is observed that the respondent has primarily contested the complaint on the grounds of maintainability, limitation and alleged absence of any delay on its part. The respondent has relied upon the Occupation Certificate dated 15.12.2017 placed on record and contended that the project stood completed much prior to the enactment of the RE(RD) Act, 2016 and several allottees are already residing in the project. However, the mere fact that the project was conceived or substantially completed before the coming into force of the Act does not, by itself, absolve the promoter of its continuing obligations towards the allottee, particularly with regard to execution of the conveyance deed and transfer of legal title. The contention of the respondent that the project was conceived and substantially completed prior to the enactment of the RE(RD) Act, 2016 and, therefore, falls outside the purview of the Authority, cannot be accepted. The Hon'ble Supreme Court in the case of ***Civil Appeal No. (s) 6745-6749 OF 2021 titled as Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others*** has held that the Act is a beneficial legislation enacted to protect the interests of allottees and to ensure compliance with the obligations cast upon promoters. 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."*

The Court recognized the continuing nature of obligations owed by the promoters to allottees and upheld the jurisdiction of the Authority in matters concerning such obligations. Mere completion of construction or issuance of an occupation certificate does not extinguish the promoter's statutory and contractual obligations, including execution of the conveyance deed and transfer of legal title in favour of the allottee. So long as such obligations remain unfulfilled, the allottee's grievance survives and gives rise to a continuing cause of action. Therefore, the respondent cannot avoid its liability merely by asserting that the project was launched or completed before the coming into force of the Act, particularly when the conveyance deed has admittedly not been executed in favour of the complainant. Failure to execute a conveyance deed constitutes a continuing wrong and the cause of action continues until title is legally transferred to the allottee. This principle is in consonance with Sections 17 and 19 of the RE(RD) Act, 2016. The objection regarding non-applicability of the Act and lack of jurisdiction cannot be accepted where the grievance pertains to subsisting rights and obligations that remain unfulfilled.

(iii) The respondent has also taken an 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 as non-execution of the conveyance deed constitutes a continuing cause of action and the rights of the allottee cannot be defeated merely on account of the passage of time when the title documents have not yet been executed.

(iv) Further, although the respondent has relied upon various possession offer letters dated 30.07.2012, 23.12.2013 and

07.01.2019, the record reveals that the actual physical possession was admittedly handed over only on 11.07.2022. Therefore, the question regarding entitlement of the complainant to any compensation for delay is required to be examined on the basis of the facts and evidence on record and cannot be rejected solely on the ground that offers of possession were issued. The plea that the complainant accepted possession and is therefore estopped from claiming relief is also devoid of merit, as the acceptance of possession does not extinguish the allottee's statutory and contractual right to seek execution of the conveyance deed and other consequential reliefs arising from any deficiency on the part of the promoter.

(v) Further, perusal of the record reveals certain inconsistencies regarding the execution of the Apartment Buyer's Agreement. The respondent has placed on record a copy of an agreement dated 05.04.2013 along with a letter allegedly submitted by the complainant stating that the original agreement had been lost and requesting issuance of a fresh agreement. However, the complainant has placed on record a communication regarding the loss of the agreement on a stamp paper bearing a stamp dated 20.11.2012. Prima facie, the said date precedes the agreement dated 05.04.2013 relied upon by the respondent, creating doubt as to how an agreement allegedly executed on 05.04.2013 could have been reported lost on a stamp paper dated 20.11.2012. The complainant as well as the respondent has not furnished any satisfactory explanation for this discrepancy. It is further an admitted position that a fresh Apartment Buyer's Agreement was executed on 04.01.2019, under which the super area of the allotted unit and the corresponding sale consideration were revised. The execution of such a fresh agreement reflects that material terms of the allotment were altered subsequently and attained finality only upon execution of the said agreement.

In view of the fact that a fresh Apartment Buyer's Agreement incorporating the revised area and sale consideration was executed on 04.01.2019, as per Clause 6.1, the possession period is liable to be reckoned from the date of execution of the said agreement. Accordingly, the deemed date of possession works out to 04.01.2022, being three years from the date of execution of the Apartment Buyer's Agreement. As per record, the possession has been handed over to the complainant on 11.07.2022. Therefore, the complainant is entitled for delay interest from the deemed date of possession till the date of handing over of possession i.e. from 04.01.2022 till 11.07.2022 as per Section 18 of RE(RD) Act and Rule 15 of HRERA Rules. 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."

14. 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;*

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

16. 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%.

17. Authority has got calculated the interest on total paid amount by the complainant from the deemed date of possession i.e. 04.01.2022 till the date of actual handing over possession i.e. 11.07.2022 at the rate of 10.80% and said amount works out as per detail given in the table below:

In Complaint No. 494 of 2025:

Sr. No.	Principal Amount	From Deemed Date of Possession	Interest Accrued till 11.07.2022
1.	₹37,87,012/-	04.01.2022	₹2,11,782/-
	Total Delayed Interest		**₹2,11,782/-**

18. In Complaint No. 496 of 2025, the Agreement for Sale was executed on 05.04.2013. In terms of Clause 6.1 of the said agreement, the deemed date for handing over possession comes out on 05.04.2016. Since the possession was actually delivered to the complainant on 11.07.2022, there was a delay in offering possession beyond the agreed period. Accordingly, the Authority has calculated interest on the total amount paid by the complainant for the period commencing from the deemed date of possession or the date of payment or the date of payment whichever is later up to the actual date of handing over possession, i.e., 11.07.2022, at the rate

of 10.80% per annum. The amount so calculated is detailed in the table below.

In Complaint 496 of 2025:

Sr. No.	Principal Amount	Deemed date of possession or date of payment whichever is later	Interest Accrued till 11.07.2022
1.	₹19,23,939/-	05.04.2016	₹13,03,071/-
2.	₹6,31,000/-	03.01.2019	₹2,40,105/-
3.	₹11,84,107/-	31.01.2019	₹4,40,760/-
4.	₹50,000/-	21.02.2019	₹18,301/-
	Total Delayed Interest		**₹20,02,237/-**

19. The claim of the complainants for interest @21% per annum cannot be accepted, being contrary to the statutory scheme of the RE(RD) Act. The rate of interest payable for delay is governed by the provisions of the Act and the applicable Rules and accordingly, delayed interest is liable to be awarded only at the rate prescribed therein.

J. DIRECTIONS OF THE AUTHORITY

20. 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 delay interest of ₹2,11,782/- to the complainant in Complaint No. 494 of 2025 and of ₹20,02,237/- to the complainant in Complaint No. 496 of 2025 towards delay already caused in handing over the possession and to execute conveyance deed in favour of both the complainants.

(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 and Development) Rules, 2017, failing which legal consequences would follow.

21. **Disposed of**. Files 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)