



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 675 OF 2023

Surender Kumar

....COMPLAINANT

VERSUS

Ruhil Promoter Pvt. Ltd.

....RESPONDENT

Date of Hearing: 22.09.2026

Hearing: 12th

Present: - Adv. Dixit Garg, Learned Counsel for the Complainant
through VC.
Adv. Kamaljeet Dahiya, Learned Counsel for the
Respondent

ORDER(DR. GEETA RATHEE SINGH- MEMBER)

1. Today, the case is fixed for consideration.
2. Parties heard. Case is disposed of. Detailed order shall follow.


.....
DR. GEETA RATHEE SINGH
[MEMBER]



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	675 of 2023
Date of filing.:	21.03.2023
First date of hearing.:	02.05.2023
Date of decision.:	22.09.2026

1. Surender Kumar s/o Sh. Dilbag Singh
2. Ravi Kanta w/o Sh. Surender Kumar
R/o H.No. 187, Sector-14, Rohtak
Haryana

....COMPLAINANTS

VERSUS

Ruhil Promoters Private Limited
Office at Ruhil Residency, Sector-3,
Village Sarai, Aurangabad, Bahadurgarh,
District Jhajjar, Haryana

....RESPONDENT

Present: - Adv. Dixit Garg, Learned counsel for the Complainants
through video conference
Adv. Kamaljeet Dahiya, Learned counsel for the Respondent

ORDER (DR. GEETA RATHEE SINGH - MEMBER)

1. Present complaint has been filed by complainants under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016)

read with relevant rules 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 complainant, 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.	Ruhil Residency, Sector-3, Bahadurgarh
2.	Nature of the project.	Residential
3.	RIERA Registered/not registered	Registered vide Registration No. 139 of 2017
4.	Date of Apartment Buyer Agreement	11.01.2013
5.	Details of the apartment.	Apartment no. J-1204, Block J 4, 2BHK+2T, situated at 12th floor measuring super area of 1250 sq. ft.
6.	Possession clause in BBA (Clause 9.i)	"Subject to force majeure circumstances as defined herein and subject to timely grant of all approvals, permissions, NOCs etc., the Developer proposes to

g
Katuee

		complete the construction within a period of 36 months from the date of execution of this agreement with grace period of 180 days under normal circumstances."
7.	Due date of possession	11.07.2016
8.	Total sale consideration	₹ 30,42,500/-
9.	Amount paid by complainant	₹ 35,89,186/-
10.	Whether occupation certificate received or not.	Occupation certificate received on 17.03.2022
11.	Date of offer of possession	None
12.	Date of handing over of possession	04.10.2022

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Complainants had booked an apartment bearing no.J-1204, Block J 4, 2BHK+2T, situated at 12th floor measuring super area of 1240 sq. ft. in the project of the respondent namely, "Ruhil Residency", situated at Sector-3, Bahadurgarh in the year 2013.
4. It is submitted that an apartment buyer agreement was executed between the parties on 11.01.2013 qua the said apartment. That thereafter a supplementary agreement dated 24.12.2015 was executed between the parties whereby the area of the unit got enhanced from 1240 sq. ft. to 1250 sq. ft.. That the total



sale consideration of the apartment was fixed as ₹30,42,500/- against which the complainants have paid an amount of ₹35,89,186/- till date. As per clause 9(i) of the agreement, respondent had committed to deliver possession of the apartment within 36 months along with a grace period of 180 days i.e., 42 months from the date of execution of the agreement, which comes to 11.07.2016. The copy of the Apartment Buyers Agreement and the supplementary agreement is annexed as Annexure C-1.

5. It is submitted that the complainants have adhered to the terms of the agreement and not even a single default was committed by the complainant in making payment of instalments. The complainants have already paid entire total sale consideration of the unit. The copy of the demand letters and the payment receipts are annexed as Annexure C-2 & C-3.
6. That as the per the terms of the agreement, possession of the unit in question was to be delivered by 11.07.2016, however the respondent miserably failed to complete construction of the project and deliver possession in a time bound manner. Rather the respondent company had issued a demand letter dated 24.06.2022 whereby along with other demands, the respondent company had demanded an illegal amount of ₹ 3,36,000/- on account of additional staircase. In this regard it is submitted that the additional staircase had to be installed by the respondent due to its own default as the respondent had failed to take necessary permissions from the fire department before start of construction.



7. That the complainants visited the site and came to know that there was no construction at all and all the promises of handing over the possession by July 2016 were false. That the possession of the unit in question was handed over to the complainants on 04.10.2022 after an inordinate delay of 6 years. The copy of possession certificate is annexed as Annexure C-4.
8. That the respondent despite taking money failed to handover the possession of the unit within stipulated time; hence present complaint has been filed seeking delayed possession interest from the due date of possession till actual handing over of physical possession.

C. RELIEF SOUGHT

9. In view of the facts mentioned above, the complainant pray for the following reliefs):-
 - i. That in proviso to the Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, the compensation on account of the delayed possession along with interest may kindly be awarded to the complainants in view of the Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017.
 - ii. That the amount collected on account of club charges may kindly be ordered to be refunded to the complainants as there is no club in existence at site.



- iii. The amount collected on account of the GST should be refunded back to the complainants as the delay is on the part of the respondent and hence the complainants are not liable to pay the GST.
 - iv. The amount demanded on account of staircase should be quashed being illegal and void demand.
 - v. The interest on account of the maintenance charges paid by the complainants may kindly be awarded to the complainants as there were no basic amenities even till today.
 - vi. The adequate compensation on account of the misrepresentation and unfair trade practices by using the inferior quality of material may kindly be awarded to the complainant.
10. During the course of hearing, learned counsel for the complainants reiterated the submissions made in the complaint and further submitted that on 04.10.2022 the complainants took the physical possession of the apartment in question. Therefore, the complainants are only seeking delay interest for the delay caused in delivery of possession.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent filed detailed reply on 22.03.2024 pleading therein:

11. That the complaint is not maintainable on account of relief sought by the complainants as the primary relief claimed is of compensation and hence



Authority has no jurisdiction to adjudicate said matter and the same is liable to be dismissed.

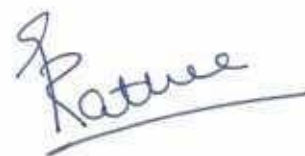
12. That the complainants had booked an apartment in the project of the respondent namely 'RUIHL RESIDENCY' situated at Sector-3, Sarai Aurangabad Village, Bahadurgarh, Distt. Jhajjar, Haryana-124507. Complainants were allotted apartment no. J-1204, Block J 4, 2BIHK12T, situated at 12th floor measuring super area of 1250 sq. ft.
13. The respondent had completed the project in the year 2020 and thereafter filed an application for grant of occupation certificate on 13.01.2020 with the concerned department, which was kept pending with the department and also got delayed due to Covid-19 situation as national lockdown was announced in the entire country. On 17.03.2022, occupation certificate was received by respondent from the concerned department. Respondent submitted that force majeure on account of Covid-19 outbreak be taken into consideration for relaxation as Covid-19 outbreak lead to delay in handing over of possession. Hence, period from 13.01.2020 to 17.03.2022 be considered as force majeure and the burden of payment of interest for said period must not be put on the respondent.
14. That the Haryana Government, Town and Country Planning also passed notification dated 25th June 2021 whereby the State of Haryana decided to grant relief to the Real Estate Industry and it has been very clearly stated in said notification that the moratorium of six months for making various



compliances was granted to the Real Estate Sector during first wave of COVID-19 outbreak vide memo. Misc. 1025/2020/13188 dated 28.07.2020 and it was further extended to 31.05.2021. Hon'ble Authority is requested to consider such period as force majeure and the burden of payment of interest for the period from 13.01.2020 till grant of Occupation Certificate i.e. 17.03.2022 must not be put on the respondent as the delay for grant of Occupation Certificate has been caused without any fault of respondent.

15. That the Hon'ble Authority had also considered period from 25.03.2020 till 24.09.2020 as force majeure period due to outbreak of Covid-19 and granted relief/extension in compliance with the various provisions of the RE(R&D) Act, 2016

16. That the Hon'ble Supreme Court, considering situation arisen due to spread of COVID-19, vide order dated 23.03.2020 in SUO MOTO WRIT PETITION (CIVIL) No. 3/2020, also extended the period of limitation with effect from 15.03.2020 in all proceedings before Courts/ Tribunals across the country till further orders. The order passed by the Hon'ble Supreme Court on 23.03.2020 in SUO MOTO WRIT PETITION (CIVIL) No. 3/2020 has come to end on 14.03.2021 by virtue of order dated 08.03.2021 after which the Hon'ble Supreme Court of India vide its Order dated 27.04. 2021, restored the order dated 23.03.2020 due to the sudden and second outburst of Covid-19 Virus throughout the nation and in continuation of order dated 08.03.2021, directed that the period(s) of limitation, as prescribed under any general or special laws



in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. As such respondent is also entitled for benefit of such force majeure period and should be exempted from charge of delay interest from 13.01.2020 to 17.03.2022 as Covid Period is also one of the major reasons for delay in acquiring occupation certificate.

17. That there was delay in construction of the project because of some circumstances which were beyond the control of the respondents. As per clause 9(vii) of the agreement, if there is delay due to reasons beyond the control of the developer then the allottee(s) do not have any right to claim the compensation of whatsoever nature. Moreover, the complainant himself agreed upon the terms of the agreement and also gave his full consent over such terms. For ease, clause 9(vii) is reproduced herein below:

"The developer as a result of such contingency arising reserves the right to alter or vary the terms and conditions of this agreement or if the circumstances beyond the control of the developer so warrant, the developer may suspend /abandon the project or any of its part for such period as it may consider expedient and the Allottee(s) agrees not to claim compensation of any nature whatsoever including the compensation stipulated in clause 9(iii) of this agreement during the period of suspension of the scheme".

18. It is further submitted that despite force majeure situations which were beyond the control, respondents were able to complete the apartment. The project is complete in all respects as is credence from the report of Ld. Local Commissioner that was submitted in Complaint No. 413/2022.



19. That the complainants stopped making payment against the apartment after 2014, much before the due date of possession, the last payment being made against the installment that was due on 08.07.2014 and had not turned to clear the outstanding against them till date. The complainants then paid the next amount after so many requests and demands of respondent in the year 2017. The respondent had completed the project despite non-payment by the complainants and several other allottees like them. The complainants were informed of the completion of the project and receipt of occupation certificate and also requested to clear the payment due against the apartment, but complainants never turned to clear the outstanding against the apartment nor came forward to take possession.

20. That the total sale consideration of the unit in question was not ₹ 33,42,500/- as the said amount did not include maintenance charges, service taxes and other charges as enumerated in the Buyer's agreement payable by the complainants.

21. That the complainants have not approached the Hon'ble Authority with clean hands and have not disclosed that the possession had already been offered to them and the complainants were requested to make payment of the outstanding amount. The complainants even visited the office of the respondent company on 29.06.2022 and payable and receivables had been settled on said date. It is submitted that an amount of ₹ 3,88,970/- had been adjusted in the account of the complainant as compensation on account of delay caused in delivery of



possession. Pursuant to said settlement the complainant also took physical possession of the unit in question on 04.10.2022. The copy of the possession certificate has been annexed as Annexure R-3. That thereafter a handing over agreement had also been executed between the parties on 04.10.2022. A copy of the handing over agreement is annexed as Annexure R-4. It is pertinent to mention that in said agreement the complainants have agreed to withdraw any/all claim filed by them and further agreed that no further claim with regard to property in question would arise.

22. It is submitted that the complainant is seeking refund of club charges, staircase charges, maintenance charges in the instant complaint which is not tenable as the said charges were raised as per the terms of apartment buyer agreement executed between the parties.

23. It is submitted that the complainant denied to take possession of the apartment without any substantive reason hence, the complainant is liable for breach of provision of Section 19(6), 19(7) and 19(10) of the RE(R&D) Act 2016 and is accordingly, liable to pay interest and holding charges for delay in making payments.

E. ISSUES FOR ADJUDICATION

24. Whether the complainants are entitled to relief of delayed possession charges along with interest?

A handwritten signature in blue ink, appearing to read 'Rathee', with a horizontal line underneath it.

25. Whether the complainants are liable to pay club charges, maintenance charges, staircase charges, and GST?

F. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

26. In light of the background of the matter as captured in this order and also the arguments rendered by both parties, Authority observes that the respondent in the present complaint has raised a preliminary objection with respect to the maintainability of the present case on the ground that the primary relief of the complainant is compensation. In this regard it is observed that the relief clause bearing no. (i) reads as follows:

"That in proviso to the Section 18(1) of the Real Estate (Regulation and Development) Act, 2016, the compensation on account of the delayed possession along with interest may kindly be awarded to the complainant in view of the Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017."

Drawing an inference from the language of the complaint and said relief clause 18(1) of the Act, it can be safely assumed that the complainant is seeking relief of payment of delay interest for the delay caused in completion of the project and not otherwise. Said clause has to be harmoniously read with the complaint. Mere use of the word compensation would not change the actual relief of delayed possession charges sought by the complainant. Moreover, the complainant is seeking relief of compensation on account of delayed



possession along with interest as proviso to Section 18(1) read alongwith Rule 15 of HIRERA Rules, 2017. Provision to Section 18(1) of Act of 2016 specifically provides that where an allottee does not intend to withdraw from the project, he shall be paid by the promoter interest for every month of delay, till the handing over of possession , at such rate as may be prescribed. The rate of interest has been prescribed under Rule 15 of HIRERA Rules 2017. Meaning thereby that the complainant has sought remedies for delay caused in delivery of possession of the unit at the rate of interest as prescribed under Rule 15 of HIRERA Rules 2017. Therefore, plea of the respondent is not tenable and the Authority has complete subject matter jurisdiction to adjudicate upon the complaint/relief claimed.

27. Now, as per the facts and circumstances, the complainants had booked an apartment bearing no. J-1204, Block J 4, 2BHK+2T, situated at 12th floor measuring super area of 1240 sq. ft. in the project of the respondent namely, "Ruhil Residency", situated at Bahadurgarh" in the year 2013. An apartment buyer agreement was executed between the parties on 11.01.2013. That thereafter a supplementary agreement dated 24.12.2015 was executed between the parties whereby the area of the unit got enhanced from 1240 sq. ft. to 1250 sq. ft. The total sale consideration of the apartment was fixed as ₹30,42,500/- against which the complainant, admittedly, has paid an amount of ₹ 35,89,186/- till date.



28. Authority observes that as per clause 9(i) of the apartment buyer agreement executed between the parties, possession of the apartment should have been delivered by 11.07.2016. However, the respondent has failed to deliver possession of the booked apartment within the stipulated time period. Respondent has attributed this delay in delivery of possession to force majeure conditions on account of COVID outbreak.

In this regard it is observed that the possession of the apartment in question became due on 11.07.2016. It is a matter of fact that COVID-19 outbreak hit construction activities post 22nd March 2020 i.e more than three years after the due date of possession. The possession of the unit had already been delayed for a long period of time even before the COVID-19 halted construction. The respondent had failed to construct the project on time and deliver possession to the complainants. Therefore, as far as delay in delivery of possession of the unit in question is concerned, respondent cannot be allowed to claim benefit of COVID19 outbreak as a force majeure condition. Further, reliance is placed on judgement passed by Hon'ble Delhi High Court in case titled as "***M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP (1) (Comm.) No. 88/2020 and I.A.S 3696-3697/2020***" dated 29.05.2020, wherein Hon'ble High Court has observed that:

"69. The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March, 2020 in India. The contractor was in breach since September, 2019.



Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.

The respondent was liable to complete the construction of the project and the possession of the said apartment was to be handed over by September, 2019 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, Authority is of view that outbreak of pandemic cannot be used as an excuse for non-performance of contract for which deadline was much before the outbreak itself."

Hence, as far as delay in delivery of possession of the unit in question is concerned, respondent cannot be allowed to claim benefit of COVID19 outbreak as a force majeure condition.

Respondent has also cited departmental delay in issuing occupation certificate as a force majeure condition. In this regard, it is observed that respondent had committed to deliver the possession of the apartment by 11.07.2016, meaning thereby that respondent should have applied and obtained occupation certificate by 11.07.2016, however, as per record, the respondent had applied for issuance of occupation certificate on 13.01.2020 i.e., after lapse more of the 3 years from the stipulated time and thereafter the same was issued on 17.03.2022.



Furthermore, respondent has taken a defense that the period for which the occupation certificate was pending before the Competent Authority be excluded for the delayed period as the delay in issuance of occupation certificate is attributable to the competent authority and not the respondent. There is no document on record to show that the application for occupation certificate was complete as in all aspects and there was no deficiency in the application that was conveyed to them. Moreover, the Authority has already included the grace period of 180 days as provided in the agreement to sale while computing the due date of possession. No case for further concession is made out.

With regard to the plea of the respondent that project got delayed due to non payment of dues/default by the complainant, it is observed that such a plea cannot justify the entire and prolonged delay in completion and delivery of the unit. Any delay in payments, if any, on the part of the complainant, was duly accounted for by the respondent, by way of applicable interest on delayed payments from the complainant. As per the record, the respondent had, by the year 2016, already received from the complainant majority payment of the agreed sale consideration, including the interest/charges levied towards delayed payments. Thus, the respondents have failed to establish a sufficient nexus between the alleged delay in payment and the substantial delay in completion of the project extending over several years. The contractual



obligation to deliver possession within the stipulated period could not be indefinitely deferred on the basis of such contentions.

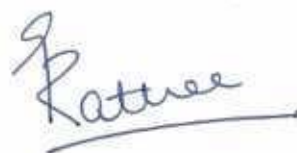
Herein all the pleas/grounds taken by the respondent to plead the force majeure condition happened after the due date of possession had already passed and the delivery of possession had been long due. Respondent cannot be allowed to take advantage of delay caused in delivery of project due to its own account and hence, the claim of the respondent is rejected.

29. As observed earlier, the possession of the unit in question should have been delivered to the complainant by 11.07.2016. However, the respondent delayed delivery of possession beyond stipulated time. The respondent has submitted that an offer of possession was issued to the complainant in the year 2022 after receipt of occupation certificate dated 17.03.2022. In this regard, it is observed that the respondent has failed to place on record a copy of the alleged offer of possession vide which the complainants were apprised that the construction of the apartment is complete and the same is ready for possession. Nevertheless, respondent has placed on record a possession certificate along with certificate of acknowledgement of possession dated 04.10.2022 in the Authority. Complainants have accepted the same and also the possession certificate bears the signature of the complainants. Hence, possession was handed over to complainants on 04.10.2022.



30. Further, by way of present complaint, complainants have alleged that respondent has illegally raised demand on account of staircase charges, maintenance charges, club charges and GST charges and has prayed that respondent be directed not to charge the same. The Authority has gone through the averments of the parties and documents available on record and observes as under:

- a. With regard to staircase charges, it is observed by the Authority that charges raised under 'staircase charges' are for construction of additional staircase for emergency fire safety as per directions by Fire Safety Department. Since the demand on account of staircase charges has been proportionately charged from the complainant, therefore the it is liable to pay the same. Authority in complaint no. 607 of 2018 titled as 'Vivek Kadyan Vs TDI Infrastructure Ltd.' has already laid down the principle for calculation of fire exit stair case and the same is applicable in this case as well.
- b. The complainants have also alleged that the respondent has charged maintenance charges which are unjust and illegal. So, interest on said payment be awarded. With regard to maintenance charges, it is observed that according to clause 1(viii) of the apartment buyer agreement, the complainants have agreed to pay demand raised on account of maintenance charges, therefore the complainants are liable to pay the same. As per clause 11(iii) of the apartment buyer



agreement, the date of commencement of maintenance shall be intimated by the developer to the allottees and the maintenance charges will be reckoned from that date. Upon perusal of record, it is observed that no such date has been intimated by the respondent to the complainants. The complainants have physically taken over the possession of the apartment on 04.10.2022 and accordingly they are liable to pay maintenance charges from said date. If any amount has already been paid by the complainant before 04.10.2022, the same be refunded with interest as per prescribed rate of interest.

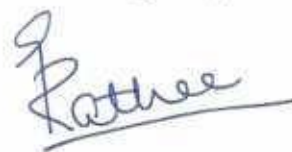
- c. The complainants have also prayed that the amount collected on account of club charges & GST should be refunded as the delay is on the part of the respondent. However, said relief is neither part of the pleadings nor pressed upon by the complainants during hearing.

Hence, no observation is made in this regard.

- 31. As discussed earlier as per clause 9(i) of apartment buyer agreement executed between the parties, possession of the unit should have been delivered by 11.07.2016, however, possession certificate was issued in favour of the complainant allottees on 04.10.2022 i.e. after a delay of more than six years. Hence, complainants are entitled to receive delayed possession interest from the period 11.07.2016 i.e., due date of possession till the date of issuance of possession certificate/handover of possession i.e 04.10.2022.



32..Respondent has argued that the complainants are not entitled to receive any delay interest since they have voluntarily signed the handing over agreement dated 04.10.2022, and accepted compensation of ₹3,88,970/-. Vide said agreement complainants have also agreed to claim no further interest in respect of the booked unit. This argument of the respondent cannot be accepted since the complainants are before this Authority claiming their statutory right of delayed possession interest on account of delay caused in delivery of possession. The rebate of ₹3,88,970/- is a miscellaneous compensation given to the complainants which in no way diminishes the statutory right of the complainants to seek delayed possession charges as per RERA Act, 2016. As far as handing over agreement is concerned, the complainants had merely executed said agreement to secure the possession of the unit in question, however, it does not act as an estoppel to the rights of the complainants to lay claim for delay interest under Section 18(1) of RERA Act, 2016. Also, even if it is presumed for the sake of discussion that the complainants had accepted compensation at the time of offer of possession, then also accepting the same does not diminish the right of the complainants to seek statutory relief of delay interest as the RERA Act U/s 18 provides for parallel remedy of delay interest 'and' compensation. In this regard reliance is placed on the judgement passed by **Hon'ble Allahabad High Court** in the matter of **Lucknow Development Authority vs Sushma Shukla** in SLP no.(s) 12962/2026 where in it has been observed that a contract/settlement term is not binding if purchasers were



forced to accept a builder-drafted agreement just to take possession of the property on time and further that private settlement or an agreement cannot circumvent or supersede the obligations imposed on the parties by the provisions of the statute and that an agreement or settlement arrived at any level of duress or is against the provisions of statute, such agreement would be void.

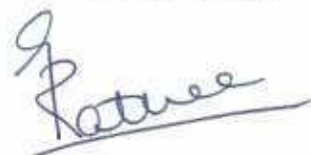
"41. A contract/settlement term is not binding if purchasers were forced to accept a builder-drafted agreement just to take a possession of the property on time. In this case, the consumer, after using his life-long savings to buy a flat or a house, or after taking out a loan, would have no other option but to sign on the dotted line to take possession of the flat.

42. Hon'ble Supreme Court in the matter of IREO Grace Realtech (P) Ltd. v. Abhishek Khanna, reported in (2021) 3 SCC 241, has held as under :-

"28. The aforesaid clauses reflect the wholly one-sided terms of the apartment buyer's Agreement, which are entirely loaded in favour of the developer, and against the allottee at every step. The terms of the apartment buyer's Agreement are oppressive and wholly one-sided, and would constitute an unfair trade practice under the Consumer Protection Act, 1986."

43. Hence it can be said that in case the clause of the agreement reflects that the agreement is a one-sided agreement and particulars of the parties are written on dotted lines. This reflects that under compulsion parties have to make signature on the agreement, it cannot be binding.

44. In this case the settlement/agreement shows that it was cyclostyled agreement wherein the parties have to enter the name and execute the settlement on a dotted lines. Undoubtedly the person, who was investing a huge amount of money, signs any



document to get possession of the flat as early as possible. Such one-sided agreement, which has been executed under compulsion, cannot be said to be a valid document.

45. One-sided, unfair clauses in a contract or a agreement amount to an unfair trade practice under Section 2(1)(r) of the Consumer Protection Act, 1986. Hon'ble Supreme Court in the matter of Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan (supra) has held as under :-

"6.8. A term of a contract will not be final and binding if it is shown that the flat purchasers had no option but to sign on the dotted line, on a contract framed by the builder. The contractual terms of the agreement dated 8-5-2012 are ex facie one-sided, unfair and unreasonable. The incorporation of such one-sided clauses in an agreement constitutes an unfair trade practice as per Section 2(1)(r) of the Consumer Protection Act, 1986 since it adopts unfair methods or practices for the purpose of selling the flats by the builder." (emphasis added)

Conclusion 46. In view of the above discussions and considering the judgements referred above, this Court has no hesitation in holding that the private settlement or an agreement cannot circumvent or supersede the obligations imposed on the parties by the provisions of the statute and also hold that an agreement or settlement arrived at any level of duress or is against the provisions of statute, such agreement would be void.

47. In response to the question of law proposed above, it is found that no private contract/settlement can have overriding effect on the rights and obligations created by statutory provisions of law."

33. The decision of the Hon'ble Allahabad High Court emphasis the fact that a person who has invested a huge amount of money, signs on any document to get possession of the unit as early as possible. Such settlement agreements are one sided, especially drafted for the likeability of the respondent promoter. An



allottee whose possession has already been inordinately delayed does not have much say while executing the same. Hence, unfair clauses in such contracts amount to unfair trade practices and cannot circumvent or supersede the obligations imposed on the parties by the provisions of the statute. Fact of the matter is that possession of the unit in question has been delayed for more than six years. The complainants have been bereft of their hard earned money and have also not been able to enjoy the possession of the unit on account of delay caused in delivery of possession. Hence, the complainants are entitled to seek delay interest for the period from 11.07.2016 i.e., due date of possession till the date of issuance of possession certificate/handover of possession i.e. 04.10.2022 under the provisions of the Act. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. 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;



Rule 15 of Haryana 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”

34. Consequently, as per 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 of order i.e., 22.09.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.
35. Hence, Authority directs respondent to pay delay interest to the complainant for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e. at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2% which on date works out to 10.80% from the due date of possession i.e. 11.07.2016 till the date of actual handover of possession i.e. 04.10.2022.
36. Further, with regard to the amounts payable and receivable between the parties, it is observed that vide application dated 29.07.2026, the respondent placed on record a statement of account reflecting the latest outstanding



amount payable by the complainant. As per the said statement, a total sum of Rs. 5,26,976/- was shown as outstanding against the complainant as on 26.07.2026, the break-up whereof is as under:

Particulars	Amount (Rs.)
Outstanding sale consideration	3,66,336/-
Interest on delayed payments @ 11.10%	1,70,640/-
Total outstanding as on 26.07.2026	5,26,976/-

The complainant was afforded an opportunity to file objections/counter to the aforesaid statement of account. In response thereto, the complainant filed an application dated 17.09.2026, wherein the complainant claimed a sum of Rs. 24,84,267.38/- towards interest for delayed possession, calculated at the rate of 11.10% per annum. However, significantly, no specific objection or counter has been raised by the complainant to the outstanding sale consideration amount of Rs 3,66,336/- claimed by the respondent.

As regards interest, it is observed that both parties have computed their respective claims towards interest on delayed payments and interest for delayed possession at the rate of 11.10% per annum. However, the applicable/current rate of interest is 10.80% per annum. Accordingly, the calculations made by both parties at the rate of 11.10% cannot be sustained to

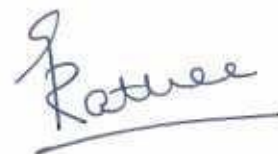


that extent and are required to be modified by applying the rate of 10.80% per annum.

Therefore, the respondent shall recalculate the interest on delayed payments on the outstanding amount. Likewise, the complainant's claim towards delayed possession interest, presently quantified at Rs. 24,84,267.38/-, shall also be recalculated, wherever legally payable, at the rate of 10.80% per annum for the relevant period. The respective calculations shall accordingly stand modified to the aforesaid extent.

37. In view of the foregoing, the outstanding principal amount payable by the complainant is determined at Rs. 3,66,336/-. The claims of both parties towards interest shall be recomputed at the applicable rate of 10.80% per annum, instead of 11.10%, for the respective periods for which such interest is otherwise found payable under this order. The final amount payable by either party, after giving effect to the aforesaid adjustments and after setting off the amounts, if any, found payable to the complainant towards delayed possession interest, shall be worked out accordingly.

38. Authority has got calculated the interest on total paid amount from due date of possession or date of payment (whichever is later) till the date of handing over of possession i.e. 04.10.2022 and same is depicted in the table below:



Sr. No.	Principal Amount (in ₹)	Due date of possession/ Date of Payment	Interest accrued till handing over of possession i.e 04.10.2022(in ₹)
1.	28,29,903/-	11.07.2016	19,06,626/-
2.	3,37,292/-	19.07.2022	7,785/-
Total:			19,14,411/-

Upon perusal of complaint file it is revealed that the complainants have attached improper receipts qua the total paid amount. In the complaint file, the complainants have claimed to have paid an amount of ₹ 35,89,186/-, however, the receipts have only been annexed in respect of an amount of ₹ 28,06,913/-. During the course of hearing, learned counsel for the complainants had submitted that the respondent vide statement of accounts issued on 04.10.2022 has accepted to having received an amount of ₹ 35,89,186/-. It is noted that in said statement of accounts the date of payments for the purpose of calculation of interest have not been mentioned, hence the same cannot be considered. The complainants have been awarded delayed possession charges for the period from 11.07.2016 till 04.10.2022. In the complaint file, the complainants have placed on record receipt for in respect of amount of ₹ 28,06,913/- and a ledger account at page 75-76 wherein the respondent has admitted to having received an amount of ₹ 31,96,587/- till 04.10.2022. As per these two respective proof of payments, an amount of ₹ 28,29,903/- had been paid prior to 11.07.2016



(due date of possession), thereafter, an amount of ₹ 3,37,292/- had been paid on 19.07.2022 and ₹ 29,392/- paid on 04.10.2022. Further, the respondent vide application dated 29.07.2026 has filed a ledger account, however upon perusal of same it is revealed that the said account is in respect of Unit no. G-702 customer Id RR0457 whereas in present case, the complaint pertains to Unit no. J-1204, customer Id RR0244, hence the ledger account filed by the respondent is inadmissible. Since, the delayed possession charges are to be paid till 04.10.2022 thus, the amount of ₹ 29,392/- is not being considered for the purpose of calculation of interest. Accordingly the interest is being paid on the amount of ₹28,29,903/- and ₹ 3,37,292/- (totalling upto ₹ 31,67,195/-) for which proof of payment has been attached.

39. Complainants are also seeking compensation on account of misrepresentation and unfair trade practices by using inferior quality material. In this regard it is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as "M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors." has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaint



in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the Adjudicating Officer for seeking the relief of litigation expenses and compensation.

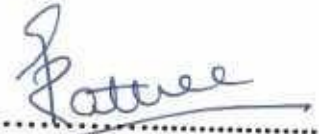
G. DIRECTIONS OF THE AUTHORITY

40. 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 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 ₹ 19,14,411/- to the complainants towards delay already caused in handing over the possession. Complainants remain liable to pay the balance consideration amount along with delayed payment interest as observed in para 36 of this order. Accordingly, respondent shall adjust the outstanding amount against the complainant from the adjudicated delayed possession interest and make payment of remaining amount
- ii. A period of 90 days is given to the respondents 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.



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



.....
DR. GEETA RATHEE SINGH
[MEMBER]