



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

|                        |             |
|------------------------|-------------|
| Complaint No.:         | 843 of 2023 |
| Date of Filing:        | 03.04.2023  |
| First Date of Hearing: | 03.05.2023  |
| Date of Decision:      | 29.09.2026  |

Santosh Chaudhary  
G-11, Vikrant Apartments,  
Sector-13, Rohini, Delhi

.....COMPLAINANT

Versus

Jai Krishna Artec J. V  
Jai Krishna Artec J. V, 8-B,  
Hansalaya Building, Bara Khamba Road,  
15, Connaught Place, New Delhi-11000.

.....RESPONDENT

**Present:** Adv. Mohammad Sartaj Khan for the Complainant through VC.  
Adv. Saurav Sapra for the Respondent through VC.

## ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules,

*Geeta Rathee*

2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

#### A. UNIT AND PROJECT RELATED DETAILS

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

| S.No. | Particulars                    | Details                                                   |
|-------|--------------------------------|-----------------------------------------------------------|
| 1.    | Name of the project            | "Green Wood City", Sector-26, 26-A, 27, Sonipat, Haryana. |
| 2.    | Nature of the project.         | Residential                                               |
| 3.    | RERA Registered/Not Registered | Registered vide HRERA-PKL-SNP-15-2018 Dated 12.06.2018    |
| 4.    | Details of the unit            | Plot No. D-052                                            |
| 5.    | Date of Floor Buyer Agreement  | Not Executed                                              |
| 6.    | Due Date of Possession         | 09.09.2011                                                |
| 7.    | Basic Sale Consideration       | ₹14,87,500/-                                              |
| 8.    | Amount paid by the complainant | ₹9,46,875/-                                               |
| 9.    | Offer of Possession            | 16.12.2021                                                |

*G. Rathee*

**B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT**

3. That the present complaint pertains to a residential plot originally measuring 250 sq. yards in the respondent's plotted colony project designated as "Green Wood City," situated at Sector 26, 26-A, and 27, District Sonapat, Haryana. The project is registered with this Authority under Registration No. HRERA-PKL-SNP-15-2018 dated 12.06.2018. The plot was initially booked on 08.04.2006 by one Mr. Chaman Prakash upon payment of ₹4,46,250/- against the Basic Sale Price (BSP) fixed at ₹14,87,500/-. Subsequently, on 17.03.2007, the booking was transferred in favor of M/s Matrix Techno Venture Pvt. Ltd. upon a further deposit of ₹2,23,125/- towards advance charges. Thereafter, the complainant, Mrs. Santosh Chaudhary, purchased the rights in the subject plot and stepped into the shoes of the original allottee on 10.09.2008 by depositing ₹12,500/- towards administrative transfer charges along with ₹1,77,500/- towards advance External Development Charges (EDC).
4. That as per the original payment plan, the complainant was required to satisfy 45% of the total basic sale consideration (inclusive of 100% IDC, 50% EDC, and applicable PLC charges) at the time of allotment, which stood duly discharged vide cheque No. 595066 dated 29.07.2008 for ₹1,77,500/-. The complainant made an additional payment of ₹1,00,000/- on 27.06.2017. In total, the respondent received an aggregate sum of ₹9,46,875/- against the subject



unit, constituting over 55% of the total consideration, as substantiated by receipts on record (Annexure C-1 Colly) and summarized below:

| S.No. | Nature of Remittance / Purpose  | Amount (₹) | Date of Realization |
|-------|---------------------------------|------------|---------------------|
| 1     | Advance against Initial Booking | 4,46,250/- | 08.04.2006          |
| 2     | Advance Payment against P & F   | 2,23,125/- | 17.03.2007          |
| 3     | Advance EDC Remittance          | 1,77,500/- | 10.09.2008          |
| 4     | Administrative Transfer Charges | 12,500/-   | 10.09.2008          |
| 5     | Part Installment against Plot   | 1,00,000/- | 27.06.2017          |

5. That despite receiving over half of the sale consideration, the respondent failed to issue a formal allotment letter or execute a registered Buyer's Agreement/Agreement for Sale, in continuous violation of the mandate of Section 13 of the Real Estate (Regulation and Development) Act, 2016. Although oral assurances were extended that physical possession would be delivered by 2010, the project remained incomplete well past a reasonable development period of three years—a principle recognized by the Hon'ble Supreme Court of India in *Fortune Infrastructure & Anr. v. Trevor D'Lima & Ors.*
6. That on 09.06.2020, amidst the COVID-19 pandemic, the respondent issued an offer of possession formally designating the unit as Plot No. D-052 for the first time. The respondent unilaterally reduced the plot size from 250 sq. yards to 239 sq. yards while simultaneously issuing a revised demand for ₹15,63,018/-,



thereby inflating the total price of the unit to ₹25,09,893/- against the balance outstanding of ₹5,69,375/- under the original terms. Crucially, official RTI disclosures dated 29.11.2022 reveal that the competent authority granted only a Part Completion Certificate on 17.08.2020. Consequently, the offer dated 09.06.2020 was issued over two months prior to obtaining statutory completion, rendering it invalid and in contravention of Section 11(4)(b) of the Act of 2016.

7. That a subsequent site inspection by the complainant revealed that essential development works including access roads, street lighting, and civic infrastructure remained abandoned. The complainant formally resisted the offer and sought the statutory completion certificate, which the respondent refused to furnish prior to the execution of a conveyance deed. Thereafter, the respondent issued final demand reminders dated 26.05.2022 and 08.09.2022. The complainant seasonably contested these demands vide registered replies dated 08.06.2022, 01.09.2022, 11.09.2022, and 28.11.2022, alongside continuous email correspondence, raising formal objections regarding the unauthorized price escalation, lack of basic amenities, and seeking interest for the inordinate delay. The respondent failed to answer or redress these representations.

### **C. RELIEF SOUGHT**

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



- i. To direct the respondent to pay interest on the amount of ₹9,46,875/- at the rate as prescribed under Rule 15 of the Haryana Real Estate (Regulation and development) Rules, 2017 to be calculated w.e.f. 08.04.2009 till the date of handing over the actual physical possession of the plot after getting the completion certificate and providing all the facilities as promised and mentioned in the brochure.
- ii. To direct the respondent not to demand ₹15,63,018/- towards demand letter raised by respondent on 09.06.2020 by revising the payment plan on his own, since the said charges are exorbitant and are much more than the actual charges as per old payment plan and further to direct the respondent to charge only actual charges settled as per old payment plan i.e Annexure-I.
- iii. To direct the respondent not to charge enhanced EDC and IDC by revising the payment plan on his own since it has not provided any justification/proof for demanding the enhanced EDC & IDC.
- iv. To direct the respondent to issue allotment letter in regard to the above mentioned plot number and to execute Buyers Agreement as per provisions of RERA.
- v. To direct the respondent to handover the actual physical possession of the plot after getting the completion certificate from the competent Authority.



- vi. To pay ₹5,00,000/- as damages for deficiency in service, unfair trade practices and mental harassment suffered by the complainant and damages for the physical and mental torture, agony, discomfort and undue hardships caused to the complainants, by not delivering the possession in a time bound manner.
- vii. To direct the respondent to pay ₹2,00,000/- towards the litigation expenses.
- viii. That to issue any other relief or direction as this Hon'ble Authority may deem fit in view of facts and circumstances of present case.

**D. REPLY ON BEHALF OF RESPONDENT**

- 9. Learned counsel for the respondent filed detailed reply on 01.12.2023 pleading therein:
- 10. That the respondent has contested the maintainability of the complaint through its authorized representative, Mr. Ram Kumar Gupta, duly authorized by the Board of Executives vide Resolution dated 22.05.2019. Denying all allegations *in seriatim* and asserting that non-traverse shall not constitute admission, the Respondent contends that the complaint is not maintainable, lacks bona fides, and has been preferred as an afterthought in the year 2023 solely to harass the promoter and claim unlawful delay compensation. It is argued that the complainant is herself a chronic defaulter who, after purchasing the advance booking of the subject plot from an erstwhile purchaser in 2008 following her



own independent due diligence, persistently failed and neglected to come forward and execute the Plot Buyer Agreement despite repeated requests, notices, and reminders.

11. That on the factual matrix, the Respondent submits that it is a joint venture entity under the Jai Krishna Group developing a RERA-compliant township project named 'Greenwood City' situated across Sectors 26, 26-A, and 27, Sonapat, Haryana. In accordance with the approved zoning plan where plot dimensions across the layout underwent revisions, Plot No. D-052 was allocated on a revised area measuring 239 sq. yds. The allotment was explicitly made subject to the timely clearance of all outstanding installments, execution of the standard Plot Buyer Agreement, and the payment of enhanced EDC/IDC and other statutory levies as determined by the competent statutory authorities. The development works within Phase I of the project were duly completed in compliance with RERA parameters, culminating in the issuance of a Part Completion Certificate by the Directorate of Town and Country Planning (DTCP), Haryana, on 17.08.2020. By October 2023, approximately 436 allottees had completed their conveyance deeds, over 20 registrations were under active process, and multiple buyers had already commenced construction or occupied their residences.
12. That the respondent further asserts that physical possession of the allotted plot was formally offered to the complainant on 01.06.2020. Upon her non-



responsiveness, repeated reminders and call letters were dispatched on 09.06.2020, 16.12.2021, 26.05.2022, 08.09.2022, and 17.07.2023 (Annexure R-2 Colly) calling upon her to remit overdue charges and take physical delivery. Because the complainant chose to institute the present complaint nearly three years post the initial offer rather than curing her default or taking possession, the respondent submits that there is no deficiency of service on its part to warrant statutory delay interest. Conversely, because the respondent has been burdened with maintaining and holding the plot since June 2020, it claims recovery of accrued maintenance, statutory connection fees, and holding charges totaling ₹20,82,075.50 as on 17.07.2023, comprising outstanding basic dues of ₹13,27,485.00, ₹1,19,703.00 payable upon offer of possession, ₹59,000.00 towards club membership (inclusive of GST), ₹23,900.00 towards IFMSD calculated at ₹100 per sq. yd., ₹11,800.00 for sewerage connection (inclusive of GST), ₹5,900.00 for water connection (inclusive of GST), ₹26,651.50 towards monthly maintenance charges through 31.12.2023 at ₹2.25 per sq. yd. (inclusive of GST), and ₹5,07,636.00 towards holding charges assessed at ₹50 per sq. yd. per month through 30.06.2023.

**E. REJOINDER DATED 30.04.2024, FILED BY COMPLAINANT**

13. The complainant filed a rejoinder, refuting the preliminary submissions and contentions raised by the respondent in its reply, submitting as under:



14. That the complainant booked a 250 sq. yd. plot in the project 'GREENWOOD CITY' against a Basic Sale Price (BSP) of ₹14,87,500/- and deposited an aggregate sum of ₹9,46,875/- across various installments between 08.04.2006 and 27.06.2017 (specifically, ₹4,46,250/- on 08.04.2006; ₹2,23,125/- on 17.03.2007; ₹1,77,500/- and ₹12,500/- on 10.09.2008; and ₹1,00,000/- on 27.06.2017). Despite collecting over 60% of the total consideration, the respondent failed to execute an Agreement for Sale even after 18 years and neglected to issue an allotment letter, acting in direct contravention of Sections 11 and 13 of the Real Estate (Regulation and Development) Act, 2016.
15. That the complainant submitted that the purported offer of possession dated 09.06.2020 was premature, invalid, and deceptive, having been issued during the COVID-19 pandemic without obtaining a completion certificate (CC), occupancy certificate (OC), or partial completion certificate (PCC). While the respondent obtained a PCC from DTCP subsequently on 17.08.2020, the same remained subject to the fulfilment of pre-conditions under Clause 16 (specifically sub-clauses 7 and 9), which were never complied with, rendering the certificate legally ineffective. A subsequent site inspection revealed that no developmental work had taken place on the ground.
16. That the respondent unilaterally and arbitrarily reduced the plot area from 250 sq. yds. to 239 sq. yds. while inflating the total sale price from the agreed BSP of ₹14,87,500/- to ₹25,09,893/-. Through demand and reminder notices dated 26.05.2022 and 08.09.2022, the respondent unlawfully demanded ₹15,63,018/-,



whereas the actual outstanding balance was only ₹5,69,375/-. Although the respondent identified the unit as Plot No. D-052 for the first time in its letter dated 26.05.2022, the complainant promptly countered these demands and claimed delay interest vide communications dated 08.06.2022, 01.09.2022, 11.09.2022, and 28.11.2022, along with multiple emails, none of which were answered by the respondent.

17. In support of the claim that an allottee cannot be made to wait indefinitely and that parties remain bound by the terms of the transaction, the complainant placed reliance on *Fortune Infrastructure & Anr. v. Trevor D'Lima & Ors.* (holding 3 years to be a reasonable development timeframe), *Secretary, Bhubaneswar Development Authority v. Susanta Kumar Mishra*, *PUDA v. Mrs. Shabnam Virk*, and *Bharat Knitting Company v. DHL Worldwide Express Courier*.

**F. AFFIDAVIT DATED 13.03.2026 FILED BY THE RESPONDENT IN COMPLIANCE OF ORDER DATED 27.01.2026:**

18. Pursuant to the directions of this Authority issued vide order dated 27.01.2026, the Respondent filed an affidavit sworn by its Authorized Representative, Sh. Ram Kumar Gupta, stating that the project in question, "Greenwood City," situated across Sectors 26, 26-A, and 27, Sonipat, is fully RERA-compliant and was developed in two distinct phases: Phase I, comprising 4,88,176.92 square yards (100.863 acres) under License No. 185/2007, and Phase II, comprising 1,77,594.12 square yards (36.69375 acres) under License No. 103/2017. The

complainant had stepped into the shoes of an erstwhile buyer in the year 2008 by acquiring the advance booking rights for a 250 square yard plot after conducting independent due diligence. Owing to a subsequent revision and sanction of the approved zoning plan, the dimensions of several plots underwent structural realignment, resulting in a marginal reduction of 11 square yards in the allotted unit, thereby fixing the net area of Plot No. D-052 at 239 square yards.

19. That the respondent further submitted that despite repeated requests and formal requisitions calling upon the complainant to execute the standard Plot Buyer Agreement consistent with the procedure adopted for other project allottees the complainant exhibited a casual and recalcitrant approach, leaving the agreement unexecuted. Constrained by the absence of a formal contract, the respondent nonetheless issued an offer of possession on 01.06.2020 and thereafter sent successive written reminders dated 09.06.2020, 16.12.2021, 26.05.2022, 08.09.2022, and 17.07.2023, urging the complainant to clear outstanding liabilities and take physical delivery of the plot. Despite these communications, the complainant neither came forward to take possession nor remitted the accrued dues, culminating in an unpaid balance of ₹20,82,074/- as on 30.06.2023, as detailed in the statement of accounts marked as Annexure-A.
20. In justification of the outstanding demand, the respondent deposed that the agreed basic sale price has remained unaltered at ₹5,950/- per square yard throughout the transaction, and the enhanced claim is solely attributable to



statutory hikes in External Development Charges (EDC) and Internal Development Charges (IDC) levied by the competent state authorities. Because the subject plot falls in Block-D, which straddles the boundary between Phase I and Phase II, both regulatory determinations apply proportionately. As evidenced by the initial sanction letter dated 24.01.2007 (Annexure-B), the original IDC demand stood at ₹2,94,85,799/- over a saleable area of 1,34,720 square yards (yielding a calculated rate of ₹218.87 per sq. yd., against which a tentative rate of ₹120/- per sq. yd. was initially billed), while the original EDC was fixed at ₹18,57,43,000/- (yielding ₹1,378.73 per sq. yd., tentatively billed at ₹1,180/- per sq. yd.).

21. Subsequently, vide memo dated 09.02.2012 (Annexure-C) pertaining to Phase I, the authorities enhanced EDC by an additional ₹12,62,80,000/-, resulting in an incremental component of ₹937.35 per sq. yd. and taking the cumulative tentative EDC to ₹2,315.35 per sq. yd., with no corresponding revision in IDC for that period. Thereafter, by a determination dated 27.12.2016 (Annexure-D) governing Phase II, the state authorities levied enhanced IDC of ₹9,92,59,000/- across a saleable area of 79,438 square yards (fixing the tentative charge at ₹701.02 per sq. yd.) and enhanced EDC of ₹26,73,87,000/- over the same area (fixing the charge at ₹3,366/- per sq. yd.). The respondent affirmed having fully satisfied all statutory payment demands with the competent state departments on behalf of the project. It was further asserted that the complainant had unequivocal knowledge of these statutory pass-through obligations and had



explicitly undertaken to clear the enhanced EDC and IDC amounts vide her written undertaking dated 08.06.2022, but defaulted on her commitment and instituted the present complaint on frivolous grounds to evade legitimate payment.

**G. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT**

22. Ld. Counsel for the complainant contended that the transactional and financial terms governing the parties are evidenced by the payment plan and statement of account placed on record as Annexure C-2. It was submitted that in compliance thereof, the complainant has already discharged its liabilities by remitting 100% of the Internal Development Charges (IDC) and 50% of the External Development Charges (EDC), alongside substantial instalments totalling nearly 45% of the Basic Sale Price. Ld. Counsel argued that in the absence of a mutually executed and registered builder buyer agreement (BBA) an omission solely attributable to the promoter's statutory non-compliance under Section 13(1) of the Act of 2016. That the promoter under the guise of an offer of possession, unilaterally saddled the allottee with club membership fees, holding charges, maintenance charges, and allied escalations, none of which find contractual sanction. Furthermore, it was urged that the respondent unilaterally reduced the sanctioned area of the plot from 250 sq. yds. to 239 sq. yds. without seeking the mandatory prior consent of the allottee.



23. Conversely, Id. counsel for the respondent submitted that the subject allotment pertains to a plotted development colony wherein no formal plot buyer agreement / BBA came to be executed between the parties, owing to the complainant's own omission and failure to come forward. It was argued that the complainant has stepped into the shoes of the original booking as a speculative investor.

24. In rebuttal to the complainant's contentions regarding price escalation and area variation, Id. counsel for the respondent submitted that the revision of the plot size from 250 sq. yds. to 239 sq. yds. was neither wilful nor arbitrary, but was a consequential modification necessitated by the re-planning and approval of the revised layout/zoning plans by the Directorate of Town and Country Planning (DTCP), Haryana in 2015–2016. Id. Counsel further clarified that the basic sale price remained intact, and the escalation in the demand was strictly on account of statutory enhancements in EDC and IDC levied by the competent state authorities over time. In substantiation thereof, an explanation containing statutory demand letters and area apportionments was duly placed on record before the Authority on 13.03.2026 vide Dak ID No. 51338.

## **H. ISSUES FOR ADJUDICATION**

25. Whether the complainant in the above captioned complaint is entitled to delay interest on the amount deposited by him along with possession in terms of Section 18 of RERA Act of 2016?



26. Whether the respondent is justified in charging for enhanced EDC and IDC?

**I. FINDINGS AND OBSERVATIONS OF THE AUTHORITY**

27. The Authority has gone through the facts of the complaint as submitted by the complainant. In light of the background of the matter, Authority observes that complainant, Mrs. Santosh Chaudhary, purchased and stepped into the shoes of the allottee on 10.09.2008 for a residential plot admeasuring 250 sq. yards in the project 'Greenwood City' situated at Sector 26, 26-A & 27, Sonipat, Haryana, being developed by the respondent, M/s Jai Krishna Artec J.V. The original booking was made on 08.04.2006 by Mr. Chaman Prakash upon payment of ₹4,46,250/-, subsequently transferred on 17.03.2007 to M/s Matrix Techno Venture Pvt. Ltd. upon payment of ₹2,23,125/- towards P&F (present & future). On 10.09.2008, the booking was formally transferred to the complainant upon payment of ₹12,500/- as transfer charges and ₹1,77,500/- towards advance EDC. A further instalment of ₹1,00,000/- was paid on 27.06.2017, taking the total paid amount towards the plot to ₹9,46,875/-.

28. It is an admitted position on record that no Builder Buyer Agreement / Plot Buyer Agreement was ever executed between the parties in respect of the unit in question. Although the respondent has raised a plea that the complainant was a chronic defaulter who failed to come forward for execution of the agreement, the material adduced on record completely belies this contention. In real estate transactions, the primary obligation and affirmative duty to prepare, draft, and



transmit the standard builder buyer agreement to the allottee for signature rests squarely on the promoter. An allottee cannot be expected to execute an agreement in the air. The promoter, who occupies the dominant position, is under a positive duty to initiate, facilitate, and conclude the formal contract. In the present case, the respondent promoter has miserably failed to place on record even an iota of documentary proof to demonstrate that it ever shared a draft agreement or took any concrete steps inviting the complainant to execute the agreement. The fact of the matter is that the respondent accepted substantial payments totalling ₹9,46,875/-, representing approximately 60% of the basic sale price, from 2006, yet chose to keep the transaction completely open-ended without formalizing a contract. Having collected over half of the sale consideration while remaining entirely passive in discharging its fundamental duty, the promoter cannot now turn around and impute default or a casual approach to the buyer to shield its own contractual failure.

29. It is an admitted position on record that the subject residential plot was initially booked on 08.04.2006 by the first allottee, Mr. Chaman Prakash, upon remitting the initial booking advance. Subsequently, on 17.03.2007, the booking rights were assigned and transferred in favor of M/s Matrix Techno Venture Pvt. Ltd.. Thereafter, the present complainant, Mrs. Santosh Chaudhary, purchased the rights in the subject allotment and formally stepped into the shoes of the allottee on 10.09.2008 upon paying the stipulated transfer fee and advance EDC. In this



contextual backdrop, the Authority observes that no formal builder buyer agreement (BBA) / plot buyer agreement was ever executed between the respondent promoter and the original allottee, Mr. Chaman Prakash; nor was any agreement executed between the respondent promoter and the subsequent transferee, M/s Matrix Techno Venture Pvt. Ltd.. Consequently, contractual timelines and obligations ever came to be crystallized between the parties at the inception or during the intermediate assignment. Neither the preliminary booking application nor the ancillary receipt records contain any definite, binding stipulation specifying a deemed date or timeline for the completion of project and the physical handing over of possession.

30. Now, coming to the entry of the present complainant, Mrs. Santosh Chaudhary, who stepped into the shoes of the allottee on 10.09.2008, the record reveals that even after her substitution and despite having collected substantial remittances taking the total realized consideration to ₹9,46,875/- (around 60% of the Basic Sale Price), no builder buyer agreement was ever executed between Mrs. Santosh Chaudhary and the respondent promoter. While the first allotment dates back to 08.04.2006, the baseline date for computing delivery timelines qua Mrs. Santosh Chaudhary must be reckoned strictly from 10.09.2008, i.e., the date when the booking was transferred in the name of the complainant.

31. In the total absence of a plot buyer agreement, and given that the booking documents are completely silent as to a specific delivery schedule, the period



for completion cannot be left indefinite or open-ended at the sole discretion of the promoter. In such circumstances, the issue of delivery timelines is squarely governed by the authoritative ruling of the Hon'ble Supreme Court of India in *Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr. v. Trevor D'Lima & Ors.*, (2018) 5 SCC 442, wherein the Hon'ble Apex Court has laid down the settled principle of law that where no specific period for delivery of possession is stipulated in the contract/booking documents, a period of 3 years is considered a reasonable period for a developer to complete all development works and hand over physical possession of the unit. Computing the reasonable period of three years from 10.09.2008 (the date the complainant stepped into the shoes of the allottee with deemed knowledge), the deemed date for delivery of possession of the subject plot works out to 09.09.2011. Admittedly, the respondent promoter failed to complete development works and deliver possession of the allotted plot within the said reasonable period.

32. The respondent contends that an offer of possession was issued to the complainant on 01.06.2020 and again on 09.06.2020. Fact of the matter is that even after a lapse of more than 14 years from the deemed date of delivery of possession i.e. 09.09.2011, the respondent failed to make a legally valid offer of possession. Whereas the respondent has explicitly admitted in Para 10 of its reply, that the Partial Completion Certificate (PCC) in respect of Phase-I of the project was granted by the Directorate of Town and Country Planning (DTCP),



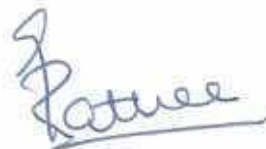
Haryana, only on 17.08.2020. Therefore, an offer of possession issued over two months prior to obtaining the statutory completion certificate is an empty formality, and void ab initio. A valid offer of possession can only be made after the competent authority grants the Completion Certificate and when all internal developmental works are certified and operational on site. Authority placed reliance upon the judgment of the Hon'ble Supreme Court of India in *Samruddhi Co-operative Housing Society Ltd. v. Mumbai Mahalaxmi Construction Pvt. Ltd.* and *Pioneer Urban Land and Infrastructure Ltd. v. Govindan Raghavan*, wherein the Hon'ble Supreme Court has authoritatively held that a promoter cannot compel an allottee to accept possession without a valid Occupation Certificate, and any such premature offer is non-est and bad in law. Therefore, the letters dated 01.06.2020 and 09.06.2020 did not constitute a legally valid offer of possession under the law. As the complainant does not intend to withdraw from the project and seeks physical possession of the unit, her entitlement to delay interest under the proviso to Section 18(1) of the Act of 2016 is firmly established.

33. Record further reveals that although the respondent obtained the part completion certificate (PCC) from the competent authority on 17.08.2020, no immediate, lawful offer of possession was tendered to the complainant. Instead, the respondent issued multiple communications and reminders, specifically on 16.12.2021, 26.05.2022, 08.09.2022, and 17.07.2023. In evaluating the true legal character of these post-completion communications, the Authority cannot restrict itself to mere



nomenclature, or captions, what must be scrutinized is the substantive intent, and the reciprocal conduct of the contracting parties.

34. Proceeding on this, the Authority finds that substantial reliance must be placed upon the respondent's reminder-cum-possession notice dated 26.05.2022. By this communication, the respondent called upon the complainant to settle the final accounts and take over physical possession of Plot No. D-052. Crucially, the receipt, contents, and legal import of this letter dated 26.05.2022 stand unequivocally admitted and acknowledged by the complainant herself vide her detailed written reply dated 08.06.2022. It is a well-settled principle of real estate law that once a project obtains the requisite statutory completion certification, any demand-cum-possession notice issued by the promoter which is duly served, consciously received, and formally responded to by the allottee without any dispute as to its delivery, constitutes a legally effective and operative step towards completing the transaction. Although the allottee may legitimately contest unjustified or inflated financial claims raised in that notice, such dispute does not negate the fact that the developer formally signified its readiness and intention to hand over physical possession of the certified unit. Once readiness to deliver a legally complete unit is placed on record and acknowledged by the buyer, the offer of possession stands materialized in the eyes of law. Consequently, the letter dated 26.05.2022, having been formally acknowledged by the complainant vide her communication dated 08.06.2022, is held to constitute a valid and effective offer of possession for the purpose of crystallizing statutory liabilities under the Act of



2016. Consequently, the respondent promoter's liability to pay delayed possession interest under Section 18(1) of the Act of 2016 shall cease to accrue and stands capped up to 26.05.2022.

35. The said offer was, however, allegedly heavily burdened with unauthorized, and exorbitant charges, which were contested by the complainant in her letter dated 08.06.2022. With regard to the various additional charges claimed by the respondent in its statement of account, the Authority has meticulously examined the competing claims of the parties.

36. The respondent has simultaneously demanded monthly maintenance charges of ₹26,651.50/- and holding charges amounting to ₹5,07,636/- @ ₹50/- per sq. yd./month from June 2020 to 30.06.2023). It is noteworthy that the law is settled in this regard that in case of plotted colony, when basic amenities have been laid at the site, respondent charge maintenance for the same. In the present case, respondent is charging both holding charges as well as maintenance charges from complainant but has failed to produce any documents or referring to any provision of law which differentiate the charges to be taken on account of maintenance and on account of holding charges. Further, to support this view, Authority refers to a judgment passed by the *Hon'ble NCDRC in its order dated 03.01.2020 in case titled as Capital Greens Flat Buyer Association and Ors. V. DLF Universal Ltd., Consumer case no. 351 of 2015* held as under:

*"36. It transpired during the course of arguments that the OP has demanded holding charges and maintenance*



*charges from the allottees. As far as maintenance charges are concerned, the same should be paid by the allottee from the date the possession is offered to him unless he was prevented from taking possession solely on account of the OP insisting upon execution of the Indemnity-cum-Undertaking in the format prescribed by it for the purpose. If maintenance charges for a particular period have been waived by the developer, the allottee shall also be entitled to such a waiver. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, **the developer shall not be entitled to any holding charges** though it would be entitled to interest for the period the payment is delayed."*

The said judgment of NCDRC was also upheld by the Hon'ble Supreme Court vide its judgment dated 14.12.2020 passed in the *civil appeal nos.3864-3889 of 2020* against the order of NCDRC (supra). Thus, in view of above, the respondent shall not charge holding charges from the complainant in the present case. It is further observed that the complainant herself, in her registered communication dated 08.06.2022 addressed to the respondent, explicitly undertook to clear the maintenance dues alongside other statutory/connection charges as and when the occasion arose for taking over the property. Having consciously admitted this liability in writing, the complainant is bound by her unequivocal representation. Consequently, since the project has obtained the occupation certificate from the competent authority and the complainant was formally called upon to take over the property, the complainant shall remain

liable to pay the maintenance charges with effect from 26.05.2022 (the date of the acknowledged offer of possession).

37. In respect of Club Membership Charges (₹59,000/-), IFMS (₹23,900/-), the Authority observes that the complainant herself, vide her registered letter dated 08.06.2022 addressed to the respondent, explicitly agreed to pay these additional charges as and when the occasion arises. The relevant portion of the complainant's letter dated 08.06.2022 is reproduced below for ready reference:

*"That 'Additional Charges' as shown by you in the statement attached with the said letter as such Club Membership, IFMS, Maintenance Charges, sewerage Connection Charges, Water Supply Connection Charges etc. etc. payment of the same shall be taken up as and when the occasion will arise. I assure you that no delay will be there for taking due step by me for the payment of such Charges as and when they shall be required to be paid."*

38. In view of the express undertaking and unconditional commitment tendered by the complainant in her communication dated 08.06.2022, the complainant is bound by her admission. Consequently, the complainant shall remain liable to pay the legitimate Club Membership Charges and IFMS.

39. To adjudicate upon the issue of charges raised towards Sewerage Connection Charges (₹11,800/-), and Water Connection Charges (₹5,900/-). In this regard Authority observes that amenities such as disposal of sewage and sullage,



water, fire protection and fire safety requirements, streetlight, electricity supply, transformers for an integral part of the internal and external development works which are either to be provided by the builder promoter and/or charges are to be paid to the government in lieu of providing external infrastructure. The basic cost of the unit is inclusive of all these charges. The definition of the term "Internal Development Works" as provided in section 2 (zb) and "External Development Works" in section 2 (w) of the Act is reproduced below for ready reference:

*In this Act, unless the context otherwise requires,-*

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

*"2. In this Act, unless the context otherwise requires,-*

*(w) "external development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a*



*project for its benefit, as may be provided under the local laws".*

If the allottee has already paid these charges under the head of EDC/IDC charges, then it would be unjust for him to pay further charges under the head "Sewerage Connection Charges and Water Connection Charges". The allottee should not be made or compelled to pay any additional amount towards sewerage connection charges and water connection charges after having already made payment of the same as part of sale consideration which includes EDC and IDC. Authority hereby concludes that that the promoter should not charge sewerage connection charges and water connection charges from the allottees.

40. In respect of the reduction in plot size from 250 sq. yds. to 239 sq. yds., the respondent has demonstrated that this variation was necessitated by the structural re-planning and the revised zoning/layout plans by the DTCP, Haryana in 2015–2016. In this regard, the Authority observes that admittedly no builder buyer agreement / plot buyer agreement was ever executed between the parties, and consequently, there exist no crystallized, bilateral contractual terms or mutual covenants governing the financial consequences of any increase or decrease in the allotted area. While a minor marginal variation of 11 sq. yds. necessitated by zoning may be accommodated. Therefore, in the total absence of any crystallized terms governing area variation, the total basic sale consideration must be charged strictly in accordance with the actual handed-over plot size.



41. With regard to enhanced EDC and IDC, it is an admitted position that when statutory demands are raised by the State Government, such charges constitute statutory levies payable to the competent authority. The respondent has placed on record an affidavit dated 13.03.2026 enclosing official demand letters of DTCP Haryana dated 24.01.2007, 09.02.2012, and 27.12.2016. Ordinarily, external development charges represent a statutory imposition determined by the State over which a developer exercises no direct control, and the promoter merely acts as a conduit to collect and remit such dues on a pro-rata basis among allottees without personal commercial gain.

However, in the peculiar facts and circumstances of the present case, a crucial equitable and legal distinction must be drawn. As determined hereinabove, the deemed reasonable date for delivery of possession of the subject plot was 09.09.2011. Had the respondent promoter fulfilled its reciprocal statutory obligation by completing the project infrastructure and offering lawful possession within the stipulated reasonable timeframe of three years, the transaction would have concluded well before the subsequent enhancements came into force. It is a well-recognized rule of law and justice that no party can be permitted to take advantage of its own wrong or default (*nemo ex suo delicto meliorem suam conditionem facere potest*). A home buyer who has diligently parted with substantial hard-earned money cannot be continuously penalized with post-default statutory escalations that arose purely on account of the developer's inordinate, prolonged delay.



42. Consequently, the Authority holds that the respondent promoter is entitled to recover enhanced EDC and IDC from the complainant strictly on an actual pro-rata basis, but confined and limited solely to such enhancements as were notified or became payable on or before the deemed date of possession, i.e., 09.09.2011. The complainant is held not liable to bear or pay any subsequent enhanced EDC, IDC, or statutory revisions determined by DTCP Haryana after 09.09.2011 (including the revisions dated 09.02.2012 and 27.12.2016), as the same are directly attributable to the persistent default and delay of the respondent.

43. From above discussion, it is amply proved on record that the respondent has not fulfilled its obligations to hand over possession within stipulated time as cast upon it under RERA Act, 2016 and consequently the complainant is entitled to delay "interest" from 09.09.2011 till the date of offer of a legally valid possession to the complainant after obtaining occupation certificate from the competent Authority i.e., 26.05.2022.

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

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

*Explanation.-For the purpose of this clause-*

*(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*

*(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof*

*and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;*

Rule 15 of HIRERA 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”*

45. As per the website of the State Bank of India (<https://sbi.co.in>), the highest

Marginal Cost of Lending Rate (MCLR) as on 29.09.2026 is 8.80%.

Accordingly, in terms of HIRERA rules, the prescribed rate of interest for the refund shall be  $MCLR + 2\% = 10.80\%$  per annum.

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

| Sr. No. | Amount Paid (in ₹) | Due date of Possession or date of payment whichever is later | Interest (in ₹) till 26.05.2022 |
|---------|--------------------|--------------------------------------------------------------|---------------------------------|
| 1.      | ₹8,46,875/-        | 09.09.2011                                                   | ₹9,80,528/-                     |
| 2.      | ₹1,00,000/-        | 27.06.2017                                                   | ₹53,112/-                       |
| Total   |                    |                                                              | ₹10,33,640/-                    |

*Rathee*

47. The complainant is seeking ₹5,00,000/- towards hardship and mental injury and ₹2,00,000/- towards litigation expense. It is observed that the Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2021, M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors. (supra), has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18, and 19 of the RERA Act, 2016. The Court further clarified that such claims are to be adjudicated by the learned Adjudicating Officer under Section 71 of the Act, 2016, and the quantum of compensation and legal expenses is to be determined having due regard to the factors enumerated in Section 72 of the Act, 2016. Accordingly, the Authority observes that the claim for compensation and litigation costs cannot be adjudicated in the present proceedings. The complainants are, therefore, advised to approach the learned Adjudicating Officer for seeking relief in respect of compensation and litigation expenses.

#### **J. DIRECTIONS OF THE AUTHORITY**

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

- i. Respondent is directed to pay upfront delay interest of ₹10,33,640/- to the complainant towards delay already caused in handing over the possession.



- ii. Complainant remains liable to pay the balance consideration amount, if any. For any delay in payment complainant shall be liable to pay delay interest at equitable rate i.e., 10.80%.
- iii. Complainant shall remain liable to pay the charges, as observed in para 36 to 42. Accordingly, respondent shall adjust the outstanding amount against the complainant from the adjudicated delayed possession interest and make payment of remaining amount
- 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.

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

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