HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**2551 of 2022**
Date of filing.:	**22.09.2022**
Date of first hearing.:	**08.02.2023**
Date of decision.:	**10.09.2026**

Asha Batra through Authorised representative Ashok Kumar Pasricha
S/o Late Sh. Hukam Chand
R/o S-15, Sri Niwas Puri,
New Delhi- 110065 .....COMPLAINANT

VERSUS

1.M/S BPTP Limited
28, ECE House, 1st Floor,
KG Marg, New Delhi-110001
Also at OT 14, 3rd Floor,
Next Door Parklands, Sector-76,
Faridabad- 121004.

2. Directorate of Town and Country Planning, Haryana
SCO 71-75 2nd floor, Secor-17C, Chandigarh ....RESPONDENTS

CORAM: **Parneet Singh Sachdev** **Chairman**

Nadim Akhtar **Member**

Dr. Geeta Rathee Singh **Member**

Chander Shekhar **Member**

Present: - Mr. Sahil , Proxy for Adv. Nitin Kant Setia, Counsel for complainant through VC

Mr. Hemant Saini, Counsel for the respondents through VC

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

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

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of 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.	Park Elite Premium, Faridabad.
2.	Nature of the project.	Residential
3.	RERA Registered/not	Not Registered

	registered	
4.	Details of unit.	K-105, 1st Floor, 1128 sq.ft.
5.	Date of Allotment letter	16.12.2009
6.	Date of builder buyer agreement	13.12.2010
7.	Due date of possession(36 months)	13.12.2013
8.	Possession clause in BBA	**Clause 3.1** *Subject to Clause 10 herein or any other circumstances not anticipated and beyond the control of the Seller/Confirming Party and any restraints/restrictions from any courts/authorities and subject to the Purchasers) having complied with all the terms and conditions of this Agreement and not being in default under any of the provisions of this Agreement including but not limited to timely payment of total Sale Consideration and Stamp Duty and other charges and having complied with all provisions, formalities, documentation etc., as prescribed by the Seller/Confirming Party, whether under this Agreement of otherwise, from time to time, the Seller/Confirming Party proposes to hand over the possession of the Floor to the Purchaser) within a period of 36 months from the date of issuance of sanction letter of colony. The Purchaser(s) agrees and understands that the Seller/Confirming Party shall be entitled to a grace period of 180 (One Hundred and Eighty) days, after the expiry of 36 months, for applying and obtaining the occupation certificate in*

		respect of the colony from the Authority. The Seller/Confirming Party shall give Notice of Possession to the Purchasers) with regard to the handing over of possession, and in the event the Purchasers) fails to accept and take the possession of the said Floor within 30 days thereof, the Purchasers) shall be deemed to be custodian of the said Floor from the date indicated in the notice of possession and the said Floor shall remain at the risk and cost of the Purchaser(s).
9.	Basic sale consideration	₹ 22,80,097/-
10.	Amount paid by complainant	₹ 29,62,088.92/- (as per offer of possession)
11.	Offer of possession	14.04.2022 with demand of ₹ 16,17,094/- (inclusive of demand of ₹ 1,98,000/- on account of stamp duty charges)
12.	Occupation Certificate	21.08.2023

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of the complaint are that the complainant had booked the unit in project-Park Elite Premium of respondent no. 1 on 16.07.2009 by making payment of Rs 2.5 lakh. Copy of receipt is attached as Annexure A-1.

4. That allotment cum demand letter for unit no. K-105 having area 1128 sq. ft was issued by respondent no. 1 on 16.12.2009. Till December, 2010,

the complainant had pad Rs 8,29,172/-. Complainant was trapped at this stage and it is in December,2010, the FBA was provided to the complainant for execution.

5. That complainant entered into flat buyer agreement on 13.12.2010 with respondent no. 1 for unit in question. Copy of agreement is annexed as Annexure A-2. As per clause 3 of agreement, the project was to be completed within a period of 36 months with a grace period of 180 days. Accordingly to it, the possession ought to have been given in first quarter of 2014 even if the 180 days grace period is included.

6. That offer of possession was offered on 14.04.2022 with demand of Rs 14,19,094.24/-. Copy of offer of possession is attached as Annexure A-3.

7. Vide offer of possession, the respondent no. 1 had raised an additional demand of Rs 7,29,470/- towards cost escalation on offer of possession in April,2022 which is unjustified and unreasonable on the ground that the same is not as per opted schedule plan and the project had to b completed and possession was to delivered in the first quarter of 2014. As such, delay has occurred on part of respondent no. 1 and no break up of cost escalation has been provided.

8. That complainant is not liable to pay GST as the GST regime came in 2017 much after the due date of possession had lapsed.

9. That as per the payment schedule as set out in FBA the EDC has to be charged only till the casting of the second floor slab. A bare perusal of the payment schedule would reveal that 100% charges have already been paid till the casting of the second floor slab as has been set out in the payment schedule mentioned in the flat buyer agreement.

10. That complainant vide email dated 28.07.2022 brought notice of the respondent no. 1 the discrepancy in recording of EEDC amount in the impugned statement of account and also requested for updated leger/tally account. Correct paid amount towards EEDC is Rs 3,39,174/- whereas in impugned statement of account, it is recorded as Rs 3,30,018.96/-. In response, respondent no. 1 vide mail dated 30.07.2022 informed that EEDC amount has been updated in the records on the basis of receipts shared. However, neither the updated ledger/tally accounts of the complainant has been shared.

11. Respondent instead of clarification/resolving issued had issued final notice dated 30.08.2022 for payment of Rs 14,19,094/- along with interest till the date of payment within 30 days. Copy of final demand notice dated 30.08.2022 is attached as Annexure A-7.

12. Respondent no. 1 has caused inordinate delay in completing the construction and handing over the possession of the flats thereof and

opted unfair trade practices by collecting huge amount of money in the year 2009 itself.

13. That terms and conditions of the FBA are arbitrary to the extent that when there is a delay of payment on the par of complainant, the interest charged is at rate of 18% per annum on delayed payment. However, in case of delay in possession, the quantum of compensation is calculated at rate of Rs 5 per sq. ft per month.

14. That complainant had opted for a flat with 1128 sq. ft super area. The complainant through offer of possession letter dated 14.04.2022 understands that the respondent no. 1 had increased the area to 1226 sq. ft and charged accordingly which is unjustified and unreasonable.

15. That EEDC which is to be paid to the State Government has also been pocketed by the respondent no. 1. Demand against EEDC has been raised which is illegal and much more than the demand raised by the EEDC. It has now come to light that builder had though collected EEDC much more than the demand raised by the DTCP. The EDC and EEDC if calculated as per the demand of the competent authority is Rs 294/- per sq. feet whereas the builder has demanded Rs 440/- per sq. feet. Reply filed by the DTCP before Hon'ble Appellate Tribunal in Madhu Sareen case with regard to preset project is attached as Annexure A-8.

16. That as per clause 12.11 of agreement, the BSP is escalation free except in the situation where the cost of steel, cement and other construction material increases beyond 10%. As per construction linked plan, escalation upto 10% has already been accounted for by the respondent no. 1 in the BSP/Sale consideration of the flat in 2009 and charged from complainant till 2013. Total price as per RERA is escalation free. Cost escalation is an extortion and needs to be removed completely.

17. That deemed date of delivery of possession from the date of allotment comes to 17.06.2013 and after execution of FBA, it comes to 14.06.2014. Hence, delay period is to be calculated from any of these dates.

18. That for the same project, this Hon'ble Authority had squarely covered these issues in a bunch of cases titled Madhu Sareen vs BPTP Ltd. Thus, the present complaint.

C. RELIEF SOUGHT

19. That the complainant seeks following relief and directions to the respondent:-

i. Issue notice and pass an interim order and direction restraining respondent no. 1 for taking any coercive action against the reminder notices dated 19.05.2022 and 30.08.2022 till the disposal of the complaint.

ii. Declare the terms of the FBA dated 13.12.2010 are one-sided which was executed after lapse of 16 months of booking and after 35% payment, prejudicial to the interest of the complainant, arbitrary, biased and against the provisions of the RERA Act,2016 and HRERA Rules,2017.

iii. Direct the respondent no. 1 to pay delay compensation in terms of the RERA Act, 2016 and HRERA Rules,2017 from the date of completion of three years and six months and on the amount collected from the complainant till date alongwith interest thereon without fail within 90 days.

iv. Direct the respondent no. 1 to complete the flat as per specifications, issue necessary NOC immediately and handover the peaceful possession of the flat K-105 in the project-Park Elite Premium, Sector-84, Faridabad to the complainant without fail within 90 days.

v. Direct the respondent no. 1 to remove illegal additions/demands being claimed by the respondent no. 1 on offer of possession in April, 2022 i.e. before delivering the actual physical possession as the same are not according to opted payment schedule linked to construction linked plan being arbitrary and unjustified.

vi. Direct the respondent no. 1 to return the overcharged amount collected towards EEDC alongwith interest accrued thereon.

vii. Quash the impugned offer of possession letter and statement of account-cum-invoice dated 14.04.2022 being illegal, unwarranted and against the provisions of RERA Act,2016 and issue afresh per direction.

viii. Direct the respondent no. 1 to pay compensation to the tune of Rs 15,00,000/- on account of mental pain, agony, loss of opportunity and harassment.

ix. Award cost of the complaint in favor of the complainant and against the respondent no. 1.

x. Any other relief which the complainant is entitled to under the RERA Act,2016 and HRERA Rules,2017.

xi. Pass such other orders as this Hon'ble Authority deems fit and expedient in the facts and circumstances of the case in the interest of justice.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondent no. 1 filed detailed reply on 05.12.2023 pleading therein:

20. That the application form executed by complainant is annexed as Annexure R-1. Request of complainant was accepted by the respondent

no. 1 and flat no. K-105 in tower-K, measuring 1226 sq. ft was allotted to complainant vide allotment letter dated 16.12.2009. Copy of allotment letter is annexed as Annexure R-2.

21. That a flat buyer agreement dated 13.12.2010 was executed between the complainant and respondent no. 1. FBA was executed between the complainant and respondent no. 1 mutually, willingly and voluntarily. Copy of agreement is annexed as Annexure R-3.

22. It was agreed between the parties that area of unit is tentative and subject to change as agreed under the clause 2.4 of FBA and clause 4 of the affidavit. Copy of undertaking and affidavit is annexed as Annexure R-4.

23. As per clause 3.1, respondent no. 1 proposes to handover possession of the unit within a period of 36 months from the date of issuance of sanction letter of colony along with grace period of 180 days. At this stage, it is submitted that the benefit of grace period has to be given as has also been considered by Ld. Tribunal in the case titled as Emaar MGF Land Ltd vs Laddi Paramjit Singh Appeal no. 122 of 2022. Further, it is submitted that the sanction letter of the entire colony remains unapproved till date, in light of which the due date of offer of possession has not yet passed and hence, the present complaint is pre-mature and liable to be dismissed.

24. Aforesaid due date was also subject to the incidence of force majeure circumstances and the timely payment by the complainant. That the

construction of the unit was deeply affected by such circumstances, the benefit of which is bound to be given to the respondent no. 1 in accordance with clauses 3.1 and 10 of the flat buyer agreement.

25. That in the year 2012, on the directions of the Hon'ble Supreme Court of India, the mining activities of minor minerals (which includes sand) were regulated. The Hon'ble Supreme Court directed the framing of modern mineral concession rules. Reference in this regard may be taken from the judgment of *Deepak Kumar v. State of Haryana, (2012) 4 SCC 629*, where the competent authorities took substantial time in framing the rules in case where the process of the availability of building materials including sand which was an important raw material for the development of the said Project became scarce. The respondents no. 1 was faced with certain other force majeure events including but not limited to non-availability of raw material due to various orders of Hon'ble Punjab & Haryana High Court and National Green Tribunal thereby regulating the mining activities, brick kilns, regulation of the construction and development activities by the judicial authorities in NCR on account of the environmental conditions, restrictions on usage of water, etc. It is pertinent to state that the National Green Tribunal in several cases related to Punjab and Haryana had stayed mining operations including in O.A No. 171/2013, wherein vide Order dated 02.11.2015, mining activities by the newly allotted mining contracts by the state of Haryana was stayed on

the Yamuna River bed. Thus, on account of several orders, directions passed by the various authorities/forum hindered the development of project. Ban by NGT vide order dated 19.07.2016 for 30 days. Ban by Environment Pollution Authority vide order dated 07.11.2017 and 01.11.2019 for 90 days.

26. That from the facts indicated above and documents appended, it is comprehensively established that a period of 120 days was consumed on account of circumstances beyond the power and control of the respondent no. 1, owing to the passing of Orders by the statutory authorities. All the circumstances stated hereinabove come within the meaning of force majeure, as stated above.

27. That additionally, the due date of offer of possession was also dependent on the timely payment by the complainant, which the complainant failed to do. Demands were raised as per the agreed payment plan however, despite the same the complainant has delayed the payment against the unit.

28. That respondent no. 1 had issued various reminders to the complainant. Bonafide of respondent no. 1 is also essential to be highlighted at this instance, who had served request letters at every stage and reminders in case of non-payment. Copies of the demands, receipts and reminders are annexed as Annexure R-5.

29. That despite there being a number of defaulters in the project, including the complainant, the respondent no. 1 had to infuse funds into the project and have diligently developed the project in question. It must be noted that despite the default caused, the respondent no. 1 applied for Occupation Certificate on 13.05.2019 and respondent no. 1 successfully received the occupancy certificate on 21.08.2023. Application for grant of Occupation Certificate dated 13.05.2019 and occupancy certificate dated 21.08.2023 is annexed as Annexure R-5.

30. That respondent no. 1 offered possession of the unit to the complainant on 14.04.2019 after waiting for prescribed time for approval from competent authority. Copy of offer of possession is annexed as Annexure R-7.

31. That as per clause 4.10 of Haryana building code, 2017, the competent department was bound to revert to application for occupation certificate in 60 days, failing which the unit shall be deemed to have occupation certificate.

32. Till date, complainant had made payment of Rs 29,62,088.93/-. It is to note that complainant had last paid on 10.10.2013 and since then the complainant stood in default of payment.

33. That since the complainant did not pay heed to the reminder letters issued by the respondent no. 1, the respondent no. 1 was constrained to issue last and final opportunity letter dated 30.08.2022 (deemed termination letter)

requesting the complainant to clear the demand of Rs 14,19,094/- alongwith accumulated interest @10%. However, the complainant miserably failed to do the same. Copy of deemed termination letter dated 30.08.2022 is annexed as Annexure R-7.

34. Complainant vide letter dated 30.08.2022 was categorically informed that their act of non-payment will lead to automatic termination of the unit. Act of non-payment has led to a voluntary, conscious and intentional waiver and relinquishment and the said letter dated 30.08.2022 acted as a termination letter. In the present circumstance, even though the deemed termination dated 30.08.2022 is subjected as 'final demand notice', however, a bare perusal of the contents of the same ex-facie reveals that the same is a termination letter and no other inference can be laid.

35. Accordingly, after the termination of the unit, the respondent no. 1 had a right to forfeit the earnest amount alongwith delayed interest and any other amount of a non-refundable nature including brokerage charges and statutory dues as per clause 11.1 and 11.2 of the FBA.

36. Respondent no. 1 vide application filed in registry on 27.01.2025 had placed on record calculations and photographs in support of plea unit is ready in all aspects.

37. Respondent no. 1 vide application filed in registry on 10.12.2025 had placed on copy of NOC for fit out and mail sent to complainant for taking physical possession of unit. In compliance of order dated 04.08.2025, the

respondent had sent an email dated 11.08.2025 to complainant to visit the office of respondent to complete pending documentation and monetary formalities so that NOC for fit out can be issued. Complainant was again asked to visit the office on 18.08.2025.

38. Respondent no. 2 had neither put in appearance during the proceedings nor had filed any reply.

E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS.

39. Ld. counsel for complainant is pressing upon relief of possession along with payment of delay interest. He has referred to offer of possession issued on 14.04.2022 much before the receipt of occupation certificate accompanied with illegal demands/charges on account of cost escalation, increase in area from 1128 sq. ft to 1226 sq. ft, EDC, GST and EEDC. He requested that issue of these charges be decided alongwith claim of possession and delay interest.

40. In rebuttal, learned counsel for the respondent no. 1 submitted that complainant is entitled to claim delay interest, if any, only upto date of occupation certificate, i.e. 21.08.2023 that too subject to force majeure conditions explained in written statement. He further submitted that the unit of the complainant was offered to complainant on 14.04.2022 after applying for occupation certificate on 13.05.2019. It is the complainant

who has failed to accept the said offer of possession and make payment of the outstanding amount till date. In respect of impugned demands/charges, he argued that all demands/charges were raised in terms of agreement executed between the parties. Increase in area is within the limited specified in agreement.

G. ISSUES FOR ADJUDICATION

32. Whether the complainant is entitled to possession of the booked unit along with delay interest and other charges in terms of Section 18 of Act of 2016?

If Yes, the quantum thereof.

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

33. Complainant has impleaded two respondents; first, BPTP Ltd and second-Department of Town and Country Planning,Haryana. Respondent no. 1 has filed its reply on 05.12.2023. Respondent no. 2 had neither put in appearance nor filed its reply. Perusal of file reveals that complainant has not alleged any grievance any respondent no. 2, nor any relief in particular has been sought against respondent no. 2. Hence, no direction is passed against respondent no. 2 in this order.

34. On merits, unit bearing no. K-105-FF, admeasuring 1128 sq. ft (now area of unit as provided in offer of possession is 1226 sq. ft) was allotted in favor of complainant in the project of the respondent namely "Park Elite

Premium" situated in Faridabad, Haryana vide allotment letter dated 16.12.2009. Builder buyer agreement was executed between the parties on 13.12.2010 and in terms of it, possession was supposed to be delivered within 36 months from date of issuance of sanction letter of the colony. An amount of Rs 29,62,088.92/- has been paid by the complainant against the basic sale consideration of Rs 22,80,097/-.

35. As per clause 3.1 of the agreement dated 13.12.2010, the possession of the unit should have been delivered within a period of 36 months from the date of issuance of the sanction letter of the colony. Parties has not provided any date for sanction letter of the colony. Therefore, taking 36 months from date of agreement, the deemed date of possession would be 13.12.2013. The agreement further entitles the respondent to a grace period of 180 days after expiry of 36 months for filing and pursuing the grant of occupation certificate for the unit. In this regard, it is observed that respondent has not placed on record any document to show that an application had been filed with the competent authority for grant of occupation certificate from 13.12.2013 till 13.03.2014, i.e, the grace period. The delay is entirely on the part of the respondent. As per the settled principle no one can be allowed to take advantage of its own wrong. Accordingly, this grace period of 180 days cannot be allowed to

the promoter. Thus the deemed date of possession works out to 13.12.2013.

36. It is the stand of the respondent that the delivery of possession of the unit in question has been delayed beyond the stipulated period of time due to circumstances beyond control. Respondent has attributed this delay to circumstances beyond its control such as NGT order dated 19.07.2016 preventing stone crushers to work without permission of State Pollution Control Board and order dated 07.11.2017 issued by Environment Pollution (Prevention and Control) Authority. As per submissions, said order affected construction activities for 30 days and 90 days respectively. Perusal of record reveals that respondent no. 1 has failed to attach a copy of the order of the National Green Tribunal and Environment Pollution (Prevention and Control) Authority banning the operation of stone crushers. It is noteworthy that in the captioned complaint possession of the unit should have been delivered by 13.12.2013 which is much prior to the proposed ban. Moreover, no documentary evidence has been attached by respondent no. 1 in support of its plea of force majeure. Hence, the plea is rejected being devoid of merit.

37. Authority observes that after a lapse of 9 years, respondent no. 1 has offered possession of unit on 14.04.2022 along with additional demand of Rs 16.17.094/- (inclusive of stamp duty charges of Rs 1,98,000/-).

Complainant has challenged the validity of offer of possession and illegal demands raised along with said offer of possession. In this regard, it is observed that the occupation certificate for the unit in question was received by respondent no. 1 on 21.08.2023 and no valid offer of possession has been made after receipt of occupation certificate to the complainant. Without support of occupation certificate, the offer of possession dated 14.04.2022 cannot be considered as valid/legal. Complainant was not bound to accept the same. In the same terms, the deemed termination letter dated 30.08.2022 issued on basis of said offer does not hold any merit and is liable to be quashed. Accordingly, the offer of possession dated 14.04.2022 and deemed termination letter dated 30.08.2022 are set-aside.

38. Complainant herein had opted for a construction linked plan and had paid more than basic sale price in the year 2013 itself. Since the delay caused is attributed to the respondent no. 1, it cannot burden the complainant with the charges/taxes etc. which were not applicable at the time of deemed date of possession. Further, objection to each demand raised by complainant is dealt with as below:-

a. Firstly, with regard to the **increase in area from 1128 sq. ft to 1226 sq. ft.**, it is observed that respondent while offering possession had increased the area of the unit whereas as per submissions of complainant, the area specified in offer of possession is not in

consonance with occupation certificate dated 21.08.2023. Authority observes that respondent is entitled to charge only for the area of the unit which is actually provided to the allottee at the time of handing over of possession. Any area over and above the approved area mentioned in occupation certificate cannot be burdened upon the allottee. Further, it is pertinent to refer to definition of Floor Area Ratio (FAR)- clause 1.2 (xli) of Haryana Building Code,2017 which clearly establish that lift, mumty, balcony, parking , services and storages shall not be counted towards FAR. Any area beyond FAR is not a saleable area of project. However, while the cost of construction of all such structures which are not included in FAR may be burdened upon total cost of the unit; but cannot be charged independently; making it a chargeable component of unit. The offer of possession itself mentioned excessive area, not saleable as per law. Hence, the respondent no. 1 is directed to re-calculate the price of area of unit, based on the unit area provided in occupation certificate i.e. 1098.38 sq. ft.

b. Secondly, with regard to the **cost escalation charges of Rs 7,29,470/-**, it is observed that the respondent issued a letter offering possession on 14.04.2022. In the said offer, the respondent also imposed cost escalation charges, which is unjust since the delay in offering possession, and any cost increase, was due to the respondent's failure to

complete the project on time. Cost escalation charges are typically justified when there are unforeseen increases in construction costs during the stipulated period of construction of project, but in this case, the deemed date of delivery of possession had long passed and the delay was solely caused by the respondent, making it unfair to pass the burden of escalated costs onto the complainants. The complainant, having already endured a 12-year delay, should not be penalized with cost escalation charges for a delay that was entirely the fault of the respondent. Therefore, demand raised by the respondent no. 1 on account of cost escalation charges are set aside.

c. Thirdly, with regard to the demand raised by the respondent on account of **GST of Rs 1,58,066/-,** Authority is of the view that GST came into force on 01.07.2017, i.e. post deemed date of possession. Therefore, the complainant is not liable to pay GST charges.

d. Fourthly, with regard to demand raised on account of EDC charges, it is observed that these charges are in consonance with the terms of the agreement as per clause 2 and hence are payable on the part of the complainant.

e. Lastly, with respect to demand of EEDC charges, it is observed that issue of said charges is still pending before Hon'ble High Court of Punjab and Haryana, Chandigarh in CWP no. 5835 of 2013 titled as

'Balwan Singh and others vs State of Haryana and others'. Parties are directed to act in accordance with decision of Hon'ble High Court.

39. Now, issue which remains to be adjudicated is delay interest. Respondent has not offered valid possession of unit duly supported with occupation certificate till date on 04.12.2023. Occupation certificate stands received on 21.08.2023. In these circumstances, the provisions of Section 18 of the Act clearly come into play by virtue of which while exercising the option of taking possession of the unit, the allottee can also demand, and the respondent is liable to pay, interest for the entire period of delay caused at the rates prescribed. Keeping in view all these facts and law, the Authority hereby concludes that the complainant is entitled to the delay interest from the deemed date of possession, i.e., 13.12.2013 up to the date on which a valid offer is sent to him after receipt of occupation certificate.

40. In the present complaint, the complainant intends to continue with the project and is seeking delayed possession charges as provided under the proviso to Section 18 (1) of the Act. Section 18 (1) proviso reads as under:-

"18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building-

.....

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".

41. 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;*

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

> ***"Rule 15:*** *"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall*

be the State Bank of India highest marginal cost of lending rate +2%:

Provided that in case the State Bank of India marginal cost of lending rate (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".

43. 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 i.e., 10.09.2026 is 8.8%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.

44. 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. Authority has got calculated the interest on total paid amount as per detail given in the table below:

Sr. No.	Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till date of order i.e. 10.09.2026 (in ₹)
2.	25,87,344.77/-	13.12.2013	3563731
3.	3,74,744.15/-	14.04.2022	178633
Total:	29,62,088.92/-		37,42,364/-
Monthly	29,62,088.92/-		26,294/-

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21. Complainant claims to have paid an amount of ₹ 29,62,088.92/-. In support, receipts of ₹ 2,50,000/- have been annexed in complaint and receipts of ₹ 23,37,344.77/- have been annexed in reply. For total paid amount, statement of account for ₹ 29,62,088.92/- has been annexed at page 62 of complaint. Accordingly, an amount of ₹ 25,87,344.77/- is taken from receipts annexed in complaint and reply file and remaining/differential amount of ₹ 3,74,744.15/- is taken from statement of account attached with offer of possession.

22. In respect of relief clause (viii) and (ix), it is observed that the complainant is also seeking relief of compensation for mental pain and agony and litigation cost. For this the complainant- allottee is entitled to claim compensation under Sections 18(3) of the RERA Act. 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."* (supra.), 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. Therefore, the complainant is free to approach the Adjudicating Officer for seeking the aforementioned reliefs.

F. DIRECTIONS OF THE AUTHORITY

45. 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 no. 1 is directed to offer possession of unit within next 60 days along with statement of account issued in compliance of directions passed in this order incorporating therein delay interest of ₹ 37,42,364/- plus monthly interest of ₹ 26,294/- to the complainant towards delay already caused in handing over the possession.

(ii) Further respondent no. 1 is directed to execute conveyance deed within 90 days after handing over of valid legal possession to respective complainant.

(iii) Complainant will remain liable to pay balance consideration, if any, amount to the respondent at the time of actual possession offered to them.

(iv) The rate of interest is chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/ Promoter which is the same rate of interest which the promoter shall be liable to pay to the allottees.

(v) The respondent no. 1 shall not charge anything from the complainant which is not part of the agreement to sell.

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

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CHANDER SHEKHAR
[MEMBER]

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DR. GEETA RATHEE SINGH
[MEMBER]

.....
NADIM AKHTAR
[MEMBER]

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PARNEET S. SACHDEV
[CHAIRMAN]