BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint No. 396 of 2026
Date of complaint: 30.01.2026
Date of order: 14.08.2026

1. Pardeep Kumar 2. Saroj Saini **Both R/o:** 54, Near Lakhdata Pir, Village – Kasithal, Kurukshetra, Haryana - 136156.	**Complainants**
Versus	
M/s Vikas Parks Private Limited **Regd. Office At:** - E1, Qutub Hotel Complex, Saheed Jeet Singh Marg, New Delhi – 110016.	**Respondent**

CORAM:	
Shri Arun Kumar	**Chairman**
APPEARANCE	
S/Shri Gaurav Bhardwaj and Ms. Yamini, Advocates	**Complainants**
S/Shri Chitra Singh and Ms. Tavishi Jain, Advocates	**Respondent**

ORDER

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed inter se.

A. Unit and Project related details:

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

S. N.	Particulars	Details
1.	Name and location of the project	"Hero Homes", Sector-104, Village Dhanwapur, Gurugram
2.	Project area	9.053 Acres (Total area 34.0228 acres)
3.	Nature of the project	Group Housing Colony
4.	DTCP license no. and validity status	246 of 2007 dated 29.10.2007 valid up to 28.10.2024, 56 of 2011 dated 23.06.2011 valid up to 22.06.2024, 37 of 2012 dated 22.04.2012 valid up to 21.04.2025, 66 of 2012 dated 21.06.2012 valid up to 20.06.2025, 67 of 2012 dated 21.06.2012 valid up to 20.06.2025, 43 of 2014 dated 16.06.2014 valid up to 15.06.2024, 44 of 2014 dated 16.06.2014 valid up to 15.06.2024.
5.	Name of the Licensee	M/s Mabon Properties Pvt. Ltd. & others
6.	RERA registered/ not registered and validity status	**Registered** 24 of 2018 dated 13.11.2018 Valid up to 13.08.2023
7.	RERA Extension	Extension No. 01 of 2024 dated 29.04.2024
8.	RERA Extension	PROJECT CONTINUATION-RC/REP/HARERA/GGM/24 of 2018/7(3)/64/2025/06 DATED 27.03.2025 **Valid up to 28.02.2027**
9.	Unit no.	T-04/3304 on 33 floor, Tower-04 (As mentioned in clause J of BBA at page 45 of complaint)
10.	Unit area	1359 sq. ft. (super area) 861.97 sq. ft. (carpet area)

		(As mentioned in clause J of BBA at page 45 of complaint)
11.	Allotment letter	29.12.2022 (As per page no. 38-39 of complaint)
12.	Date of execution of agreement for sale	06.01.2023 (As per page 40-40 of complaint)
14.	Possession clause	**7. Possession of the apartment for residential usage:** *7.1... The promoter assures to handover possession of the apartment for residential usage along with parking* ***on or before 30.09.2024*** *unless there is delay or failure due to "Force Majure" ...* **(Emphasis supplied)** (As per page 50 of the complaint)
15.	Due date of possession	**30.09.2024** (As mentioned in para 7.1 of the buyer's agreement at page 50 of complaint)
16.	Total sale consideration	Rs.1,12,60,511/- (As mentioned in clause 1.2 of BBA at page 46 of the complaint)
17.	Amount paid by the complainants	Rs.1,14,45,245.44/- (As per mentioned in the customer ledger dated 05.02.2026 at page 216 - 218 of reply)
18.	Occupation certificate	**20.01.2025** [For Tower- 1 to 4] & 07.01.2026 [For Tower- 5 to 7] (As per page 33-35 of reply also as per copy of OC available at TCP, Haryana Official website)
19.	Intimation to the allottees Via Email w.r.t Receipt of OC	23.01.2025 (As per page 38 – 41 of reply)
20.	Offer of possession	25.02.2025 (As per page 42 – 47 of reply)
21.	Conveyance deed	17.07.2025 (As per page 49 - 69 of reply)

B. Facts of the complaint: -

3. The complainants have made the following submissions: -

a. That the complainants are law-abiding citizens residing at 54, Near Lakhdata Pir, Village-Kasithal, Kurukshetra, Haryana – 136156.

b. That the complainants are allottees within the meaning of Section 2(d) of The Real Estate (Regulation and Development) Act, 2016. The respondent, M/s Vikas Parks Private Limited is a private limited company incorporated under the Companies Act, 1956 and is inter alia engaged in the business of providing real estate services.

c. That the present complaint highlights the gross misconduct on part of the respondent and the injustice meted out to innocent buyers by the former. A stringent action against the said respondent for defrauding the innocent buyers and for violation of the provisions entailed in Real Estate (Regulation and Development) Act, 2016 is sought by way of said complaint.

d. That the respondent advertised about the launch of its new group housing project namely "Hero Homes" located in Sector-104, Dwarka Expressway, Gurugram, Haryana. The said respondent painted a rosy picture of the project in their advertisement making tall claims and representing that the project nurture wellness and enhance lifestyle with a host of unique and modern facilities providing seamless connectivity to Delhi through a network of flyovers. It was further represented that the project will be a paradise in its own right, featuring 2BHK and 3BHK with a carpet area of over 1000 square feet, equipped with more than 100 amenities such as an indoor planting, reflexology garden, themed gardens, no vehicular movement on the ground, electric car charging points, healing gardens, jogging track, cycling track, cricket pitch, putting greens, modular kitchen with chimney & hob, split air conditioners in living and bedrooms, wooden flooring in all the bed rooms, club house with latest state of the art facilities like Gym, spa, restaurant, swimming pool, party hall, squash court, tennis court, badminton court, and many other facilities.

e. That believing the false assurances and misleading representations of the respondent in their advertisements and relying upon the goodwill of the respondent, the complainants vide application dated 29.12.2022 opted for 30:30:40 (I)-Revised payment plan, as per which the complainants made payments amounting to Rs.50,000/- vide instrument bearing no. 000011690563722 dated 26.12.2022, Rs.50,000/- vide instrument bearing no. 000102 dated 27.12.2022, Rs.50,000/- vide instrument bearing no. UPI/235909940439 dated 25.12.2022, Rs.1,00,000/- vide bearing no. UPI/2360008593584 dated 26.12.2022 and Rs.1,50,000/- vide bearing no. 566733711 dated 31.12.2022 respectively drawn on Yes Bank.

f. That on 29.12.2022, the respondent executed an allotment letter in favour of the complainants allotting unit bearing no. 3304 at 33rd floor located in Tower-T-04, ad measuring carpet area 861.97 sq. ft. and super area 1359 sq. ft. Further, along with the aforesaid unit, the respondent also allotted one basement car parking space bearing No. B2-509, ad-measuring 134.55 sq. ft., located in basement no. 02 of the said project. in the said project.

g. That thereafter, an agreement for sale was duly executed between the complainants and the respondent on 06.01.2023 in respect of the unit in question, wherein, in terms of clause 7.1 thereof, the respondent expressly undertook and assured to complete the construction of the said unit and to hand over peaceful, vacant and physical possession of the unit in question along with the allotted parking space, complete in all respects, on or before 30.09.2024, subject to compliance with the terms and conditions of the BBA. It was further agreed that the said possession would be delivered only after obtaining all requisite statutory approvals, including the occupation/ completion certificate from the competent authority, and that any delay in handing over possession beyond the stipulated date would render the respondent liable in accordance with the provisions of the BBA as well as

the applicable provisions of the Real Estate (Regulation and Development) Act, 2016.

h. That the respondent, from time to time, continued to raise payment demands towards the unit in question, and the complainants, bona-fide and in strict compliance with the said demands, duly made payments solely in the legitimate expectation and hope of receiving timely possession of the unit as assured by the respondent. It is pertinent to state that, till date, the complainants have paid a total amount of Rs.1,15,04,981/- including interest of Rs.59,736/-, as against the agreed total sale consideration of Rs.1,12,60,511/-, strictly in accordance with and pursuant to the demands raised by the respondent. The aforesaid payments clearly establish the complainant's continuous readiness, willingness, and complete discharge of their contractual obligations under the BBA, whereas the respondent has failed to reciprocate by performing its corresponding obligations.

i. That in order to meet the payment demands raised by the Respondent as per the payment plan under the BBA, the complainants, on 02.02.2025, sent an email to the respondent stating that, in view of the Respondent's intimation regarding the occupation certificate and the upcoming payment due as per the BBA, the complainant, Mr. Pardeep Kumar, intended to apply for a "Departmental Loan" from his employer, Oil and Natural Gas Corporation (ONGC), to arrange the required funds. In the said email, the Complainant requested the respondent to provide certain documents, as mentioned in the attached list, which were necessary for applying for the said loan. The complainant further requested that the documents be provided at the earliest so that the loan application could be submitted in time and the next payment could be made without any delay. This clearly shows the complainant's genuine intention and willingness to make timely payments, subject to the respondent providing the required documents.

j. That it is pertinent to note that the respondent failed to comply with and honour the request made by the complainants through their earlier email dated 02.02.2025, wherein the complainants had sought supply of the requisite documents for the purpose of loan approval. Owing to the respondent's inaction, the complainants were constrained to send a reminder email on 05.05.2025, once again requesting the respondent to provide the necessary documents required for processing and approval of the loan. In response thereto, the respondent, on the said date, sent an email merely advising the complainants to coordinate with its representative, Mr. Pankaj Vishwakarma, for matters relating to the loan. However, despite such communication, the requisite documents were neither provided nor was any effective assistance rendered, thereby causing undue delay and hardship to the complainants and adversely affecting their ability to arrange funds and make timely payments.

k. That subsequently, on 22.02.2024, the complainants, with a bona-fide intention to strictly comply with the terms and conditions of the BBA and to ensure timely payment of the upcoming instalments, once again addressed an email to the respondent. In the said email, the complainants stated that, pursuant to the respondent's intimation regarding the obtaining of the occupation certificate and considering that the next payment date under the BBA was approaching, they were proposing to apply for a departmental loan to meet the required funds. The complainants further requested the respondent to provide the documents mentioned in the attached list, which were essential for applying for and securing approval of the said loan. It was also specifically brought to the notice of the respondent that the complainants were eligible for a departmental loan of up to Rs.66,00,000/- and that they had been continuously following up for the requisite documents since 02.02.2024, as evident from the trailing emails. The

complainants, therefore, once again requested the respondent to furnish the said documents at the earliest so as to enable them to arrange funds and make the next payment without any delay, thereby demonstrating their continued readiness and willingness to fulfil their contractual obligations under the BBA. However, the respondent deliberately failed and neglected to provide the requisite documents despite repeated requests and continuous follow-ups. Such conduct on the part of the respondent is arbitrary, unfair, and amounts to willful non-cooperation, thereby obstructing the complainants' efforts to arrange funds and comply with the payment schedule and causing undue delay, mental harassment, and financial hardship to the complainants.

l. That vide email dated 06.03.2024, the complainants expressly brought to the respondent's knowledge and placed on record that, notwithstanding the respondent's intimation regarding the application for occupation certificate for the first phase in the last week of February 2024, the complainants had, as early as 02.02.2024, requested the respondent to furnish the requisite builder documents for the purpose of availing a departmental loan and had thereafter issued multiple reminder emails and made repeated verbal follow-ups. However, no assistance or documents were provided till 25.02.2024. The complainants further stated that on 26.02.2024, the respondent verbally informed them that it would not provide any documents for the departmental loan and advised them to rely upon documents available on the HRERA website or in the public domain. Owing to such non-cooperation, the complainants applied for the departmental loan on 27.02.2024 on the basis of public domain documents, with the loan application remaining under process and being likely to require additional documents from the respondent, and it was also clarified that such loan sanction ordinarily takes at least one month. The complainants specifically

pointed out that due to the respondent's deliberate refusal to provide the requisite documents, they were rendered unable to meet the payment demand due on 08.03.2024, as the loan was expected to be sanctioned only by around 28.03.2024, thereby compelling them to seek extension of the payment deadline till 31.03.2024 without any interest or penalty, the entire delay being solely attributable to the respondent's arbitrary conduct, non-cooperation, and deficiency in service.

m. That consequently, vide letter dated 25.02.2025 titled as "demand notice and offer of possession", the respondent informed the complainants that the unit in question is ready for physical possession. Subsequently, the respondent requested the complainants to clear the pending dues as per the said letter dated 25.02.2025 in order to get the possession of the unit in question.

n. That after issuance of the offer of possession, the respondent raised a demand towards the final instalment amounting to 10% of the total sale consideration of the unit in question, whereupon the complainants approached "HDFC Bank" for availing a second mortgage loan, which was duly sanctioned on 02.03.2025. However, at the stage of disbursement, the bank sought certain specific documents from the respondent, including TPT and PMT, and since the loan was a second mortgage, the respondent refused to provide the said documents, resulting in cancellation of the sanctioned loan, with the entire process consuming more than one month. Despite the respondent's non-cooperation and without any fault on their part, the complainants, in order to avoid further delay, arranged funds from their own sources and made 100% payment of the total sale consideration on 03.04.2025, though beyond the due date, which consequently led to wrongful levy of additional interest/penalty amounting to Rs.59,600/-, the

delay being solely attributable to the respondent's refusal to provide the requisite documents.

o. That the alleged delay was neither willful nor attributable to complainants but was solely caused due to the gross negligence, non-cooperation, and inaction of the respondent, who repeatedly failed to provide the requisite documents necessary for the complainants to apply for a departmental loan. Despite continuous follow-ups for a period of nearly 40 days, the respondent provided only a single document, namely an NOC, which was wholly insufficient for processing the loan application.

p. That the complainants, vide email dated 03.04.2025, requested the respondent to waive off the interest/penalty wrongfully charged for the alleged delay in payment, explaining that the delay had occurred solely due to the respondent's failure and non-cooperation in providing the requisite documents in a timely manner. However, the respondent, vide its reply email dated 05.04.2025, arbitrarily rejected the said request by stating that the financial obligations rest entirely upon the allottee and further asserting that availing a loan is the allottee's own decision and that documentation from other financing institutions is a time-consuming process. On the basis of such untenable grounds, the respondent refused to waive the interest and instead called upon the complainants to clear the alleged over-dues and interest as reflected in the statement of account attached with the email, thereby completely disregarding its own failure to provide timely and complete documents and unfairly shifting the consequences of its lapses upon the complainants, causing them financial loss, mental harassment, and hardship, and amounting to clear deficiency in service and unfair trade practice.

q. That the complainants have been severely exploited at the hands of the respondent. The aforesaid series of events clearly portray the amount of

harassment and mental agony the complainants have gone through till date. Even after a lapse of 10 months from the date of booking, the complainants have been left with a possession with incomplete facilities as promised while booking and under financial distress as the respondent has failed in offering what was promised a delayed possession of the unit booked by the complainants, thereby duping the complainants of their hard-earned money and causing them great mental trauma.

r. That the present complaint has been filed in order to seek delayed possession charges on the principal amount paid by the complainants along with interest at the rate prescribed as per RERA, 2016 and HRERA Rules, 2017 from the due date of, along with other reliefs mentioned herein below. Hence, this complaint.

s. That as per Section 11 (4) of the RERA Act. 2016, the promoter is liable to abide by the terms and agreement of the sale.

t. That as per Section 18 of the RERA 2016, the promoter is liable to pay interest to the allottees of an apartment, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale. Accordingly, the complainant(s) are entitled to get interest on the paid amount along with interest at the rate as prescribed by the Authority per annum from due date of possession as per flat buyer agreement till the date of handing over of possession.

u. That in view of the foregoing facts and circumstances, it is respectfully submitted that the complainants have at all times acted bona-fide and in strict compliance with the terms of the agreement for sale and the provisions of the Real Estate (Regulation and Development) Act, 2016, having paid an amount exceeding the total sale consideration solely in reliance upon the assurances and demands raised by the respondent. However, the alleged delay in payment was neither willful nor attributable

to the complainants but was entirely caused due to the respondent's deliberate non-cooperation and failure to provide the requisite documents necessary for availing housing finance, despite repeated written requests and follow-ups.

v. The complainants also reserve their right to file separate complaint for compensation as and when required before the appropriate forum/ authority.

C. Relief sought by the complainants:

4. The complainants have sought following relief:

i. Direct the respondent to pay delayed possession charges to the complainants on the principal amount paid by the complainants, from the due date of possession till the date of actual handing over of the possession;

ii. Direct the respondent to handover the possession of parking allotted as per the agreement;

iii. Direct the respondent to refund the interest charged on account of delay payment @Rs.59,600/-;

iv. Direct the respondent to not to charge any amount beyond the amount as mentioned in BBA;

v. Any other relief as Hon'ble Authority may deem fit and proper in the facts and circumstances of the case.

5. On the date of hearing, the Authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to Section 11(4) (a) of the Act to plead guilty or not to plead guilty.

D. Reply filed by the respondent:

6. The respondent has contested the complaint on the following grounds:

a. That the respondent i.e., Vikas Parks Private Limited, a company duly incorporated under the Companies Act, 1956 and existing under the Companies Act, 2013 and a subsidiary company of Hero Realty Private Limited, real estate arm prestigious Hero Group. That the respondent is engaged in the business of construction and development of real estate projects and is known amongst the customers of the real estate and

infrastructure sector for its trust and ethical conduct, synonymous with the name and brand "Hero".

b. At the outset, the respondent denies each statement, submission, averment, and contention set forth in the captioned complaint to the extent the same are contrary to and/or inconsistent with the true and complete facts of the case and/or the submissions made on behalf of the respondent in the present reply. The respondent further humbly submits that the averments and contentions, as stated in the complaint under reply, may not be taken to be deemed to have been admitted by the respondent, save and except what are expressly and specifically admitted, and the rest may be read as travesty of facts. The complainant may be put to strict proof in respect thereof.

c. That the purported complaint filed by the complainant is not maintainable and Authority ought not to entertain the same for the following amongst other preliminary objections and submissions, which goes to the very root of exercise of jurisdiction and are urged in the alternative and without prejudice to one another, before replying on merits to the complaint of the complainant.

d. That the complainants have approached the Authority with unclean hands and have tried to mislead by making incorrect and false averments and stating untrue and/or incomplete facts and, as such, is guilty of "*suppression very and suggestio falsi*". The complainant has suppressed and/or mis-stated the facts and, as such, the complaint apart from being wholly misconceived is rather the abuse of the process of law. On this short ground alone, the complaint is liable to be rejected/dismissed.

e. The captioned complaint pertains to the apartment no. 3304, admeasuring (super area) 1359 sq. ft. in Tower-T-04, on 33rd Floor, in project "Hero Homes" located in Sector – 104, Gurugram, Haryana, for which an application for grant of occupation certificate has been made on 21.02.2024 and the

occupation certificate has been granted by Director Town and Country Planning ("**DTCP**") vide office Memo no. ZP-968-Loose/SD(RD)/2025/2603 dated 20.01.2025. An intimation of receipt of OC has also been sent to complainant vide email dated 23.01.2025. The possession in respect of the apartment in question has been offered by the respondent to the complainant vide offer of possession letter dated 25.02.2025.

f. That as a matter of fact, the contents of occupation certificate and the endorsements clearly indicate that the project was completed well in time. The project had received fire NOC from Director General, Fire Service, Haryana on 17.01.2024. District Town Planner had given his endorsement on application for grant of OC on 08.08.2024, Senior Town Planner on 13.08.2024 and Chief Engineer- I, HSVP on 30.08.2024 and 12.09.2024, thereby clearly indicating the project, despite being complete, was stuck in bureaucratic paperwork.

g. It is a matter of record that the unit was ready for handover, pursuant whereto the respondent issued the offer of possession dated 25.02.2025. Subsequently, upon clearance of all outstanding dues by the complainant, the possession letter was duly issued on 30.08.2025, Furthermore, as is evident from the registered conveyance deed, despite repeated requests and follow-ups from the respondent, the complainant delayed in completing the formalities and eventually executed and registered the conveyance deed only on 17.07.2025.

h. That under Section 32 of the HRERA Act, the Authority has an obligation to balance the ends of justice and to protect the interest of the genuine allottees, promoter and real estate agents.

i. The complainant vide agreement for sale executed on 06.01.2023, registered on 06.01.2023, whereby the complainant agreed to the explicit terms of the sale. Further, the complainant has constantly been updated of the stages of

construction/development of the project vide various emails sent by the respondent. Hence, complainant has filed this complaint on an absolutely unjustified ground of delay in delivery of possession, which even to the knowledge of the complainant is false.

j. That the execution of the conveyance deed between the complainant and the respondent was undertaken with full knowledge, consent, and acceptance of all terms and conditions contained therein. Clause 28 of the conveyance deed expressly stipulates that the complainant shall hold harmless and indemnify the respondent against any claims, damages, charges, costs, penalties, liabilities, litigations, etc., arising out of the non-observance of any covenants, bye-laws, laws, rules, and regulations in respect of the project, including the said apartment. Further, Clause 29 unequivocally records that upon execution of the conveyance deed, the complainant has been left with no claims, rights, or demands against the respondent in relation to the said apartment.

k. That the complaint is barred by *law of estoppel*. The sale of subject unit is strictly subject to the terms of the AFS which the Complainant had agreed to. The complainants are well-acquainted that clause 7.1 of the AFS unequivocally encapsulates the principle that the complainant cannot claim delay possession charges in the event of *force majeure* circumstances mentioned of the AFS. These unforeseen events, entirely beyond the control of the respondent company, had significantly disrupted and delayed the originally projected timeline for completion.

l. That clause 7.1of the AFS categorically provides that the liability of the promoter was only till the completion of development. The date of submission of application with the competent authority for obtaining completion/occupancy/part-occupancy certificate is to be reckoned as date of completion of development/possession of the tower/ Apartment. In the

present case, the application for grant of Occupation Certificate for Tower 1 to 4 and part basement 1 and basement 2 was applied on 21.02.2024, clearly indicating that the construction in respect of the Tower – 1 to 4, part of basement 1 and basement 2 of the project were complete.

m. In terms of the AFS, the respondent is entitled to extension of time for the period the authorities take for providing the occupancy/part-occupancy/completion certificate and no claim of damages or compensation can be made out by the allottee against the promoter in case of delay in handing over possession on account of the said reason. The time taken by the competent authorities in grant of occupation certificate is beyond the control of the respondent.

n. In case of delay/failure due to occurrences of force majeure events/ events beyond the control of the respondent company or impacting the real estate project, the respondent is entitled to extension of time. It is clarified that there has been no delay on the part of the respondent, and the extension in delivery schedule is due to *force majeure* and other reasons stated in the paras below. Thus, on this ground alone the complaint is liable to be dismissed, and the complainant should be penalized to establish precedent to avoid any malicious litigation in the future of similar nature.

o. That further without prejudice to the rights of the respondent, it is submitted that the respondent suffered, a lot of setbacks due to reasons beyond its control yet displaying professional conduct and utmost commitment to its customers, executed and completed the project in terms of the AFS. The various Government Orders and Court Orders, received and pronounced, resulted in change in timelines of the project. Given the same, the respondent, for the assistance of this Authority to arrive at just and proper conclusion while adjudicating the captioned complaint submits that there were certain

intervening circumstances causing delay in timelines, which were beyond the control of the respondent.

p. That said, the construction of the project commenced as per schedule, however, in the intervening period when the construction and development was under progress there were various instances and scenarios when the development and construction work had to be put on hold due to reasons beyond the control of the respondent. It is submitted that the parties have agreed that if the delay is on account of force majeure conditions, the developer shall not be liable for performing its obligations. It is submitted that the project got delayed and proposed possession timelines were shifted within the framework of the AFS as agreed on account of following reasons among others as stated below:

a. That over last few years Delhi-NCR has faced unprecedented levels of severe air pollution, especially during winter months, primarily due to construction dust, vehicular emissions, and industrial activities. As a measure to curb arrest the dangerous levels of air pollution and to improve the air quality, various governmental authorities including DPCC, GRAP Sub-Committee, etc. as well as judiciary including Hon'ble Supreme Court of India and National Green Tribunal imposed restrictions on construction activities to combat the worsening air quality in Delhi-NCR. The notifications and orders specifically target the reduction of dust pollution from construction sites. Throughout from 2019 onwards, the governmental authorities and judiciary continued to impose restrictions on construction activities during peak pollution periods. Whilst, the respondent has been taking all measures to comply with the directions issued by the governmental authorities and judiciary in its effort to combat further deterioration of air quality and curtail this crisis situation, these bans had have severely impacted the pace of construction at project site. It is imperative to note that even after revoking the ban on construction activities, the resumption of construction activities takes time on account of mobilization of work force and other resources at project site. That such stay orders are passed every year either by Hon'ble Supreme Court, NGT or/and other pollution boards, competent courts, Environment Pollution (Prevention & Control) Authority established under Bhure Lal Committee, which in turn affect the project.

b. That development of every residential project mandatorily requires proportionate development of EWS housing. That on account of change of

location for development of EWS housing at the behest of the landowners, which is beyond the control of the respondent, the development of proportionate EWS housing for respondent's project got delayed by approximately 24 months which was otherwise planned simultaneously with the development of the project. That after continuous and consistent follow up with the landowners, the landowners have confirmed the site for the development of the EWS housing for the project along with the proportionate EWS housing for their part of the development. The said delay in allocation of site to the respondent, despite best efforts of the respondent could not be avoided and has resulted in some delay in delivery schedule, which is beyond the control of the respondent.

q. Further in matter titled *Anup Kumar Rath versus M/s Sheth Infraworld Pvt. Ltd. Appeal No. AT006000000010822* the Hon'ble Maharashtra Real Estate Appellate Tribunal considered delay in project caused by external reasons such as demonetisation, shortage of sand (raw materials), delay by Government department. The Hon'ble Bench in the said matter also held that neither Promoter nor the Allottee can be held responsible for period for handing over possession after receiving of the occupation certificate. The spirit of RERA, 2016 has also been discussed in the aforesaid judgement, considering RERA, 2016 as a social and beneficial legislation, the importance of promoter and allottee in Real Estate Sector, protection of allottee and the project.

r. That further the Hon'ble Apex Court has time and again adjudicated that in matters of immovable property, time cannot be regarded as the essence. Time is to be a relative and terms and the period of performance of agreement depends upon external factor and thus time is to be read as reasonable time.

s. That the various contentions raised by the complainant are fictitious, baseless, vague, wrong, and created to misrepresent and mislead this Authority, for the reasons stated above. That it is further submitted that none of the relief as prayed for by the complainant is sustainable, in the eyes of law. Hence, the complaint is liable to be dismissed with imposition of

exemplary cost for wasting the precious time and efforts of the Authority. That the present complaint is an utter abuse of the process of law, and hence deserves to be dismissed.

t. That under the given circumstances and in light of the details of the supervening circumstances mentioned above, the Authority assuming the role of the regulator, promoter and enabler of the real estate sector shall take a considerate view, as otherwise any adverse order or any order of awarding delay interest to the complainant, would be a double whammy for the respondent herein, whose financial position is already stressed due to various factors, obvious to this Authority.

u. That the complainants have consciously and willfully suppressed material facts from this Authority, particularly their admitted and repeated defaults in adhering to the agreed payment schedule under the agreement for sale. Despite clear contractual timelines, the respondent, acting bona fide and in a spirit of commercial fairness, granted the complainants liberty to make payments beyond the stipulated due dates and permitted delayed remittances without immediately enforcing the consequences contemplated under the agreement. Such indulgence was extended purely as a matter of goodwill and without prejudice to the respondent's contractual and legal rights, and the same is duly reflected in the customer ledger. At that point of time the complainant had no qualms in accepting the benefit from the respondent but now has approached this Authority wearing the veil of a victim that purportedly had faced extreme hardship at the hands of the respondent.

v. Given the same, the respondent herein pleads that this Authority may dismiss the captioned complaint in the interest of justice. The complaint is liable to be dismissed/rejected on the grounds mentioned hereinabove.

7. All other averments made in the complaint denied in toto.

8. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

E. Jurisdiction of the Authority:

9. The respondent has raised a preliminary submission/objection that the Authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

E.I Territorial jurisdiction

10. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

11. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

> ***"Section 11(4)(a)***
>
> *Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;*
>
> *34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee and the real estate agents under this Act and the rules and regulations made thereunder."*

12. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings regarding relief sought by the complainants:

F.I. Direct the respondent to pay delayed possession charges to the complainants on the principal amount paid by the complainants, from the due date of possession till the date of actual handing over of the possession;

F.II. Direct the respondent to not to charge any amount beyond the amount as mentioned in BBA;

F.III Direct the respondent to handover the possession of parking allotted as per the agreement;

F.IV. Any other relief as the Authority may deem fit and proper in the facts and circumstances of the case.

13. The above-mentioned relief sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

14. In the present case, the complainants booked an apartment in the project namely "HERO HOMES" located in Sector-104, Gurugram, being developed by the respondent herein. Vide allotment letter dated 29.12.2022, they were allotted an apartment bearing no. 3304, 33rd floor in tower T-04 admeasuring 861.97 sq. ft. carpet area & 1359 sq. ft. super area along with car parking bearing B2-509 admeasuring 134.55 sq. ft. in the project namely "Hero Homes" located in Sector 104, Gurugram. Thereafter, on 06.01.2023, an agreement for sale was executed between the complainants and the respondent and according to clause 7.1 of the agreement for sale, the respondent was obligated to complete the construction of the unit as provided under Rule 2(1)(f) of Rules, 2017 i.e., by 30.09.2024 (as mentioned in agreement to sale dated 06.01.2023). The complainants have paid an amount of Rs.1,14,45,245/- against the total sale consideration of Rs.1,12,60,511/-.

15. As per documents available on record, the respondent has offered the possession of the allotted unit on 25.02.2025 after obtaining of Occupation Certificate from the Competent Authority on 20.01.2025. The complainants took a plea that the offer of possession was to be made in 2025, but the respondent has failed to handover the physical possession of the allotted unit within stipulated period of time.

16. In the present complaint, the complainants intend to continue with the project and are seeking delay possession charges as provided under the provisions of Section 18(1) of the Act which reads as under:

> ***"Section 18: - Return of amount and compensation***
> *(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, — ..... 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"*

17. Clause 7.1 of the agreement for sale dated 06.01.2023 provides the time period for handing over possession and the same is reproduced below: -

> ***"7.1 POSSESSION OF THE APARTMENT FOR RESIDENTIAL USAGE***
> *7.Schedule for possession of the said Apartment for residential usage – The Promoter agrees and understands that timely delivery of possession of the Apartment for residential usage along with parking to the Allottee(s) and the common areas to the association of allottees or the competent authority, as the case may be, as provided under Rule 2(1)(f) of Rules, 2017, is the essence of the Agreement....*
>
> *The promoter assures to handover possession of the apartment for residential usage along with parking* ***on or before 30.09.2024****unless there is delay or failure due to "Force Majure"*
>
> ***(Emphasis supplied)***

18. **Due date of handing over of possession:** By virtue of clause 7.1 of the agreement for sale executed between the parties, the possession of the said unit was to be as per Rule 2(1)(f) of Rules, 2017 and the promoter has proposed to handover the possession on 30.09.2024, Therefore, the due date of handing over of possession comes out to be 30.09.2024.

19. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to Section 18 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 and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

> ***"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***
> *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."*

20. The definition of term 'interest' as defined under Section 2(za) of the Act provides that 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. The relevant section is reproduced below:

> *"(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;"*

21. Consequently, as per website of the State Bank of India i.e., https://sbi.co.in, the marginal cost of lending rate (in short, MCLR) as on date i.e., 14.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

22. **Rate of interest to be paid by complainants/allottee for delay in making payments:** The definition of term 'interest' as defined under Section 2(za) of the Act provides that 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.

23. Therefore, interest on the delay payments from the complainants shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges.

24. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 7.1 of the agreement for sale executed between the parties, the possession of the said unit was to be as per Rule 2(1)(f) of Rules, 2017. Therefore, the due date of handing over possession comes out to be 30.09.2024. In the present case, the complainants were offered possession by the respondent on 25.02.2025 after obtaining occupation certificate dated 20.01.2025 from the competent authority. Copies of the same have been already placed on record. The Authority is of the considered view that there is delay on the part of the respondent to offer possession of the allotted unit to the complainants within the stipulated time period as per the terms and conditions of the agreement for sale dated 06.01.2023 executed between the parties.

25. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate was granted by the competent authority on 20.01.2025. However, the respondent offered the possession of the unit in question to the complainants only on 25.02.2025. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 (two) months of

reasonable time is being given to the complainants keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.

26. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with Section 18(1) of the Act on the part of the respondent is established. As such the complainants are entitled to delay possession charges at prescribed rate of the interest @ 10.80% p.a. from due date of possession i.e., 30.09.2024 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act, 2016 read with Rule 15 of the Rules, ibid.

27. The respondent/ promoter is further directed to deliver the possession the car parking bearing no. B2-509 admeasuring 134.55 sq. ft. (Equivalent Car Space), as per the agreed terms and conditions of the agreement for sale dated 06.01.2023.

F.V Direct the respondent to refund the interest charged on account of delay payment @Rs.59,600/-;

28. The complainants have submitted that the respondent has arbitrarily charges interest from the complainant on account of delay payment @Rs.59,600/- Thus, the said amount be refunded to the complainants and the respondent be directed to refund the interest charged on account of delay payment amounting to Rs.59,600/-.

29. After considering the documents available on record as well as submissions made by the parties, it is determined that the conveyance deed against the subject unit has already been executed in favour of the complainants on 17.07.2025. The Authority observes that the financial liabilities between the allottee(s) and the promoter come to an end after the execution of the

conveyance deed except for the statutory rights under the Act of 2016. The complainants took the possession of the unit as per the agreement for sale and got the conveyance deed executed, without any demur, protest or claim. The complainants have neither raised any grievance at the time of taking over the possession or at the time of execution of the conveyance deed, nor reserved any right in the covenants of the conveyance deed, to claim any refund of amount of Rs.59,600/-, interest charged on account of delayed payment. Also, it is a matter of record that no allegation has been levelled by the complainants that conveyance deed has been got executed under coercion or by any unfair means. The complainants could have asked for the above claim before the conveyance deed got executed between the parties. Therefore, after execution of the conveyance deed, the complainants cannot seek any refund of charges other than statutory benefits, if any pending. Once the conveyance deed is executed and accounts have been settled, no claims remain. So, no relief in this regard can be effectuated at this stage.

G. Directions of the Authority:

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

a. The respondent is directed to pay interest at the prescribed rate i.e. 10.80% per annum for every month of delay on the amount paid by the complainants from the due date of possession i.e., 30.09.2024 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, ibid.

b. The arrears of the interest accrued so far shall be paid to the complainants within 90 days from the date of this order as per Rule 16(2) of Rules, ibid.

c. Also, the amount, if any, so paid by the respondent towards compensation against delayed possession charges shall be adjusted towards the delay possession charges to be paid by the respondent in terms of proviso to Section 18(1) of the Act, 2016.

d. The respondent is further directed to deliver the possession the car parking bearing no. B2-509 admeasuring 134.55 sq. ft. (Equivalent Car Space), as per the agreed terms and conditions of the agreement for sale dated 06.01.2023.

e. The respondent shall not charge anything from the complainants which is not the part of agreement for sale.

31. Complaint as well as application, if any, stands disposed of accordingly.

32. File be consigned to registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 14.08.2026