BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.: **2762 of 2025**
Date of complaint: **06.06.2025**
Date of order: **25.08.2026**

Parul Bhargava and Prashant Bhargava
R/O: - F-106, Ishpatika Apartments, Plot No. 29, Sector-4, Dwarka, Southwest Delhi..

Complainants

Versus

M/s Burman GSC Estates Pvt. Ltd.
Regd. Office: B-1/e-24, Mohan Co-operative Industrial Area, Mathura Road, New Delhi-110044.

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Shri Deepika Yadav (Advocate) Complainants
None Respondent

ORDER

1. The present complaint has been filed by the complainant/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

provision of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Project and unit related details

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

S. No	Particulars	Details
1.	Name of the project	"Gurgaon Spectrum Centre", Sector 82A, Gurugram, Haryana
2.	Project area	4.4375 Acre
3.	Nature of the project	Serviced Apartment
4	RERA Registered/ not registered	Registered
5	Serviced apartment no.	1201, 12th floor (page 38 of complaint)
6	Unit area admeasuring	663 sq.ft. (page 38 of complaint)
7.	Date of execution of agreement to sell	21.10.2016 (page 37 of complaint)
8	Possession clause 13.4	..... *the developer proposes to offer the possession of the serviced apartment to the allottee within a period of 45 months from the date of execution of this agreement. The allottee further agrees and understands that the developer shall additionally be entitled to a period of 180 days, after the expiry of the said commitment period to allow for unforeseen delays beyond the reasonable control of the developer*.....

9	Due date of possession	21.01.2021 **(grace period is allowed)**
10	Basic sale consideration	Rs. 59,48,768/- (page 45 of complaint)
11	Payment plan	Construction linked '(page 72 of complaint)
12	Amount paid by the complainant	Rs. 68,58,719/-
13	Occupation certificate /Completion certificate	19.11.2024 (Page 46 of reply)
14	Offer of virtual possession	NA
15	Rental pool agreement	21.10.2016 (page 74 of complaint)

B. Facts of the complaint

3. The complainant has made following submissions in the complaint:

a) That the complainants are law-abiding citizen and consumers who have been cheated by the malpractices adopted by the Respondent stated to be a builder and is allegedly carrying out real estate development. Since many years, the complainants being interested in the project as it is a commercial project, and the complainants needs his service apartment for their financial growth.

b) That it is also pertinent to mention here that the Validity of the aforesaid Project of the respondent has been expired on dated 30-06-2020, but the respondent had not extended it yet even after delay of 5 years that is clear violation of Section 3 and Section 5 of RERA Act 2006.

c) That one-sided buyer builder agreement and inordinate delay in possession have been one of the core concerns of buyers. The terms of the Agreement are non-negotiable and buyers even if they do not agree to a term, there are no option of modifying it or even deliberating it with the Builder. This aspect has often been unfairly exploited by the Builder, whereby the buyer imposes unfair and discriminatory terms and conditions. That the complainants were subjected to unethical trade practice as well as the subject of harassment, tactics and practice used by builder is guise of a biased, arbitrary and discriminatory.

d) That the complainants approached to the respondent for booking of a Service Apartment in Project "The Spectrum", Sector-82-A, Gurugram and paid booking amount Rs 300000/- (Rs. Three lakhs) through Receipt No. GSC/138/2014-15 dated 30-09-2014, cheques no. 506047 and 072710 Dated 19-08-2014.

e) That the complainants were allotted a furnished service apartment referred as Unit no. unit no.- 1201, 12th Floor, admeasuring 663 Sq. Ft. in the project **"The Spectrum"**, Sector- 82 A, Gurugram, Haryana through allotment letter dated 05-11-2015.

f) That the respondent to dupe the complainants in his nefarious net even executed a one-sided Builder Buyer Agreement Signed between Complainants (Mrs. Parul Bhargava and Mr. Prashant Bhargava) and M/s Burman Estate Pvt. Ltd, on dated 21-10-2016, just to create a false belief that the project shall be completed in time bound manner, and in the garb of this agreement respondents persistently raised demands due to which he was able to extract huge amount of money from the complainants.

g) That in continuation to the Space Buyer Agreement the Respondent also executed a "Rental Pool Agreement" which is absolutely biased, one-sided

and arbitrary as per which the Respondent appointed itself as a Rental Pool entity act as owners' exclusive manager for the management and operation of owner's Serviced Apartment, giving no rights to the actual owners of physical possession and even very ambiguous terms of rental income to be paid to the complainants.

h) That the total sale consideration of the said apartment is Rs. 67,47,118/- Including Basic, Covered Car Parking charges of Rs. 5,00,000/- including taxes and the complainants had paid Rs. 68,58,719/-, (More than Total Sale Consideration) in time bound manner.

i) That it is pertinent to mention here that as per the receipts, the complainants had paid a sum of Rs 68,58,719/- to the respondent till date (More than the total Sale Consideration) and the paid amount is demanded by the respondent without doing appropriate work on the said project and even after extracting more than the total sale consideration the respondent has not given offer of possession to the complainant even after the delay of 5 years, which is illegal and arbitrary.

j) That further, respondent raised the demand of Rs. 3,44,545/-vide demand letter dated 25-03-2021, with the head "On Commencement of Final Finishing" and the same paid by the complainants and same was acknowledged by the respondent by receipt no. GSC/023/2021-22 dated 07-04-2021.

k) That the construction of complainant's allotted unit has been completed, and while visiting the site and doing conversation with the respondent through mails, the complainants got to know that the respondent has leased out the unit to Lemon Tree hotels without the consent of the complainants and without providing any information to the complainants regarding leasing out of the unit which is completely illegal and arbitrary.

l) That as per construction status the allotted unit of the complainants has been completed but the respondent because of his malafide intention, is not willing to give offer of possession and constructive possession to the complainants, so that the respondent can grab the lease amount himself.

m) That the builder in last 5 years, many time made false promises for possession of flat but the respondent has not even offered the possession and that's how the builder has breached the trust and agreement. That as per section 19 (6) the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) Complainant has fulfilled his responsibility in regard to making the necessary payments in the time bound manner and within the time specified in the said agreement. Therefore, the complainant herein are not in breach of any of its terms of the agreement.

n) That the respondent has indulged in all kinds of tricks and blatant illegality in booking and drafting of FBA and Rental Pool Agreement with a malicious and fraudulent intention and caused deliberate and intentional huge mental and physical harassment of the complainants and his family. That the respondent has been rudely and cruelly dashed the savoured dreams, hopes and expectations of the complainant to the ground and the complainants is eminently justified in seeking constructive possession along with delayed possession charges.

o) That keeping in view the snail paced work at the construction site and half-hearted promises of the respondent, and trick of extract more and more money from complainants pocket seems and that the same is evident from the irresponsible and desultory attitude and conduct of the respondent, consequently injuring the interest of the buyers including the complainants who have spent their entire hard earned savings in order to buy this unit

and stands at a crossroads to nowhere. The inconsistent and lethargic manner, in which the respondent conducted its business and their lack of commitment in completing the project on time, has caused the complainants great financial and emotional loss.

p) That due to the malafide intentions of the respondent and non-delivery of the unit, the complainants have accrued huge losses on account of the career plans of their family member and themselves and the future of the complainants and their family are in rendered dark as the planning with which the complainants invested their hard-earned monies have resulted in subzero results and borne thorns instead of bearing fare ruts.

C. Relief sought by the complainant

4. The complainant has sought the following relief(s):

I. Pass an order to pay delay interest on paid amount of Rs 68,58,719/- from 21-01-2021 along with pendente lite and future interest till actual handover of possession.
II. Direct the respondent to immediately hand over the constructive possession of unit.
III. Direct the respondent to execute conveyance deed in favour of the complainant.
IV. Direct the respondent to quash the unilateral terms of Agreement.
V. direct the respondent not to lease out the allotted unit of complainants without prior consent of the complainants.
VI. direct the respondent to disclose all the necessary terms & conditions of the lease, in case the unit get leased out.

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 by the respondent

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

a) That it is submitted that before booking, the complainant made several visits to the office of the respondent to know about the details of the project titled as **"The Spectrum"**, Sector -82A [hereinafter referred to as **'Project'**] located at Sector 82-A, Gurugram, Haryana. That the complainant enquired about the veracity of the project of respondent and had immense interest to invest in the project for profits/financial gains, as it is a **commercial project**. Therefore, the complainant came forward to invest in the project of respondent to extract speculative gains. That the complainant booked a unit by paying the requisite booking amount in the project of the respondent subject to the payment plan as accepted there under in the application form.

b) That it is contended to note that the respondent being in a position of developer did not make any false promises or had not given fake assurances to the complainant. That all the terms and conditions were made crystal clear to the complainant at the time of booking and the application form therein and also at the time of execution of agreement to sell/Builder Buyers Agreement. That the complainant proceeded with the agreement to sell/builder buyers agreement will-fully agreeing to the same without any objections whatsoever.

c) That the project was delayed due to the reasons that the Hon'ble National Green Tribunal(NGT) had passed orders governing the entry and exit of vehicles in NCR region and the Hon'ble NGT has passed orders with regard to phasing out the 10 year old diesel vehicles from NCR. The pollution levels of NCR region have been quite high for the last couple of years at the time of change in weather in November every year. The delay in completion of project is mainly on account of orders of the National Green Tribunal (NGT) for banning construction activities at project site. The said orders were

passed by the NGT from time to time due to unforeseen rise in pollution and high risk in air quality index. It is pertinent to note that re-mobilization of resources and commencing works in full swing after lifting of the ban is a slow process and therefore the overall impact of the ban was much extensive as compared to the actual ban. The Contractor of respondent could not undertake construction for approximately 2-3 months every year, in compliance of the orders of Hon'ble National Green Tribunal. There were frequent disturbances and disruptions in completion of construction activity at the spot causing delays which were unforeseen and absolutely beyond the power and control of the respondent. The details of the ban on construction and the number of days affected due to the same are enumerated herein below:-

Sr. No.	Year	Start Date	End Date	No. of Days	Remarks
1	2018	01/11/2018	10/11/2018	9	Complete Ban
2	2019	01/11/2019	09/12/2019	38	Complete Ban
3	2019	09/12/2019	14/02/2020	67	Partial Ban
4	2020	Loss in productivity of manpower output.		90	
5	2020	COVID-19-Delay in procurement of Kitchen equipment package, loose furniture.		116	

Copies of the aforesaid orders of NGT are enclosed along with this form.

Validity of Registration Certificate=30th December 2020

Impact of NGT Ban & Covid-19 from date of registration until February 2020 = 320 days

d) Further the impact of lockdown to curb the spread of Novel Corona Virus (Covid 19) leading to a complete halt in all activities except essential services has led to substantial delays in re-mobilization of manpower followed by adherence of MHA guidelines that has led to loss of productivity

in manpower outputs to complete the works at site. Though we have ensured fast tracking the activities by targeting the completion of parallel work front and procurement of sourced items at site, few critical path activities have been delayed on the account of compliance of MHA guidelines to control the spread of Covid-19 in 2020 followed by Omicron in the year 2021 and the same is unforeseen delay beyond the control of the developer. Due to spread of Covid-19 and Omicron the Hon'ble Apex Court have extended all Kinds of Limitations from 15th March 2020 till 28th Feb 2022.

e) The developer/builder committed to handover timely possession and hence with facing the aforesaid difficulties the construction of the project has been completed in February 2023, the aforesaid fact of completion of work can be verified with the spot inspection. Promptly after completion of project, the developer/respondent had applied for the grant of occupation certificate but the same application has been returned in original by the DGTCP, by stating the reason that the company shall apply for change in name of company under the beneficial policy dated 18.02.2015 or after the decision of Hon'ble High Court in CWP No. 9586 of 2021 titled as Burman Estate Pvt. Ltd. Vs. State of Haryana. The respondent/developer was and still committed to give possession of the allotted unit within prescribed time but the unforeseen delay has been caused due to reasons stated above, which are beyond the power and control of the respondent/developer. The Occupation Certificate has been duly issued by the department of Town and Country Planning, Chandigarh, Haryana vide Memo No. ZP-464-Vol.-II/PA(DK)/2024/34907 dated 19.11.2024.

f) That the respondent/developer have already spent enormous amount of money towards the due construction and development of the project of

which occupation certificate was already applied but had been returned due to reason stated above. The respondent has filed their reply against show cause notice dated 02.04.2021 to The Director, town and Country Planning, Department Haryana in pursuant to order dated 10.10.2023 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh on which hearing has been conducted on dated 02.02.2024 and the order of DGTCP was awaited. Now the aforesaid matter has been decided and settled, all formalities has been completed and the occupation certificate has been duly issued by the department of Town and Country Planning, Chandigarh, Haryana vide Memo No. ZP-464-Vol.-II/PA(DK)/2024/34907 dated 19.11.2024 rather the complainant did not come forward to take possession of the unit allotted to him.

g) That the respondent/developers spent enormous sums of money (including funds borrowed from banks and financial institutions and other entities) and have duly performed their obligations have been unable to realize the proceeds of the said project from the complainant and the legitimate dues of the respondent/developers for no just and valid cause have been withheld by the allottees. The complainant has violated several provisions of the RERA Act, 2016 and Haryana RERA Rules, 2017 and are liable for the same. On account of such breaches, delays and defaults of the respondents it is the respondent/developers who are entitled to claim compensation from the allottees including complainant. That as per Section 38 of the RERA Act, 2016, this Hon'ble Authority has the power to impose penalty or interest in regard to any contravention of obligations casted upon the complainant under the RERA Act, 2016 or the Haryana RERA Rules, 2017 and the regulations.

h) That the complainant intentionally concealed material facts and filed present complaint with the sole purpose of avoiding the agreed terms of the agreement and to gain unlawful enrichment. That it is brought to the knowledge of the Authority that the complainant is guilty of placing untrue facts and are attempting to hide the true colour of the intention of the complainant. The present complaint is devoid of merit and thus liable to be dismissed. That the complainant has alleged some baseless allegations without stating as to how they are being aggrieved by the respondent. The complainant be put to the strict proof of the same. It is humbly submitted that the complainant has not come this court with clean hands and has withheld crucial information and the said complaint is liable to be dismissed on this ground alone.

i) That the complainant is trying to shift his onus of failure on the respondent as it is the complainant who failed to comply his part of obligation and miserably failed to pay the instalments in time, which clearly shows the gross misconduct and malafide motive of the complainant who has pre-determined mala-fide motive to cause harassment and financial loss to the respondent by raising baseless and absurd allegations which are not maintainable in the eyes of law.

j) That, it is evident that the entire case of the complainant is nothing but a web of lies and false and frivolous allegations made against the respondent and the same is an afterthought and a concocted story. That the various contentions and claims as raised by the complainant is fictitious, baseless, vague, and wrong and created to misrepresent and mislead this Authority, for the reasons stated above. That it is further submitted that none of the reliefs as prayed for by the complainant is sustainable before the Authority and in the eyes of law. Hence, the complaint is liable to be dismissed with

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

7. All other averments made in the complaint were 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 submission made by the parties.

E. Jurisdiction of the authority

9. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

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) The promoter shall-***
>
> ***(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 allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees 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 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 complainant at a later stage.

F. Findings on the objections raised by the respondent.

F. I Objection regarding delay due to force majeure circumstances.

13. The respondent-promoter raised contention that the construction of the project was delayed due to force majeure conditions such as lockdown due to outbreak of Covid-19 pandemic. But all the pleas advanced in this regard are devoid of merit. The authority has gone through the possession clause of the agreement and observed that the respondent-developer proposes to handover the possession of the allotted unit by 21.01.2021. Further, quoting HARERA notification no. 9/3-2020 dated 26.05.2020, the respondent requested for an extension of 6 months in lieu of Covid-19. However, it is observed by the Authority that a respondent has already obtained a 6-month extension due to being "unqualified" as per clause 23 of the buyer agreement and is now seeking a second extension based on the COVID-19 pandemic which is unjustified double-benefit. Therefore, any extension in timeframe for handover of possession in lieu of Covid-19

cannot be granted and the due date for handover of possession remains unaltered i.e 21.01.2021.

G. Findings on the relief sought by the complainants.

G.I Pass an order to pay delay interest on paid amount of Rs 68,58,719/- from 21-01-2021 along with pendente lite and future interest till actual handover of possession.

G.II Direct the respondent to immediately hand over the constructive possession of unit.

14. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges at prescribed rate of interest on amount already paid by her as provided under the proviso to Section 18(1) of the Act which reads as under:-

> ***"Section 18: - Return of amount and compensation***
> *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."*

15. Clause 13.4 of the buyer's agreement (in short, the agreement) provides the time period for handing over possession and the same is reproduced below:

> *"the developer proposes to offer the possession of the serviced apartment to the allottee within a period of 45 months from the date of execution of this agreement. The allottee further agrees and understands that the developer shall additionally be entitled to a period of 180 days, after the expiry of the said commitment period to allow for unforeseen delays beyond the reasonable control of the developer ...."*

16. **Due date of handing over possession:** As per clause 13.4 of buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit within a period of 45 months from the date of this agreement with a grace period 180 days after the expiry of the said

commitment period for unforeseen delays beyond the reasonable control of the developer. Accordingly, the due date of possession comes out to be 21.01.2021 including grace period.

17. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. Proviso to section 18 provides that where an allottee(s) 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, ibid. 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.*

18. The legislature in its wisdom in the subordinate legislation under the Rule 15 of the Rules, ibid has determined the prescribed rate of interest. The rate of interest, determined by the legislature, is reasonable and if the said Rule is followed to award the interest, it will ensure uniform practice in all cases.
19. 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., 25.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
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. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondents/ promoters which is the same as is being granted to them in case of delayed possession charges.

22. On consideration of the circumstances, the evidence and other records and submissions made by the parties, the Authority is satisfied that the respondent is in contravention of the provisions of the Act. The due date of handing over possession was 10.05.2021. As far as grace period is concerned, the same is allowed for the reasons quoted above. The occupation certificate has been received by the respondent on 19.11.2024 but no possession of the subject unit offered to the complainant till date. The authority is of the considered view that there is delay on the part of the respondent to offer possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities to hand over the possession within the stipulated period. Therefore, the delay possession

charges shall be payable from the due date of possession, i.e., from 21.01.2021 till valid offer of possession plus 2 months or actual handing over of possession whichever is earlier.

23. Further, as per Section 19(10) of Act of 2016, the allottees are under an obligation 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 19.11.2024. There is nothing on record which shows that respondent has offered possession to the complainant till date. So, it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. This 2 month of reasonable time is being given to the complainant keeping in mind that even after intimation of possession, practically he has 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. It is further clarified that the delay possession charges shall be payable from the due date of possession i.e., 21.01.2021 till valid offer of possession plus 2 months or actual handing over of possession whichever is earlier.

24. 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 complainant is entitled to delay possession at prescribed rate of interest i.e., 10.80% p.a. w.e.f. 21.01.2021 till valid offer of possession after obtaining occupation certificate from the competent Authority plus 2 months or actual handing over of possession whichever is

earlier. The respondent is further directed to handover the constructive possession of the unit within 30 days of this order.

G.III Direct the respondent to execute the conveyance deed in favour of the complainant.

25. Under Section-17(1) proviso of the Act, 2016, the respondent/promoter is under an obligation to execute the registered conveyance deed in favour of the allottee/complainant within three months from the date of issue of occupancy certificate. The relevant provision is reproduced below:

> *"Section 17 . Transfer of title*
> *(1) the promoter shall execute a registered conveyance deed .....local laws:*
> *Provided that, in absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from the date of issue of occupancy certificate.*
> *[Emphasis supplied]*

26. The Authority hereby directs the respondent to execute the conveyance deed in favour of the complainants within 60 days from the date of this order.

G.IV direct the respondent to quash the unilateral terms of Agreement.

27. The respondent is directed to withdraw and refrain from enforcing the unilateral, arbitrary and unfair terms and conditions incorporated in the Agreement for Sale, to the extent that such terms are contrary to the provisions of the Real Estate (Regulation and Development) Act, 2016, the applicable Rules and Regulations, or otherwise defeat the statutory rights of the complainant.

G.V Direct the respondent not to lease out the allotted unit of complainants without prior consent of the complainants.

G.VI Direct the respondent to disclose all the necessary terms and conditions of the lease, in case the unit get leased out.

28. It is pertinent to note that the Rental Pool Agreement was duly executed between the parties on 21.10.2016. The subject unit was intended exclusively for leasing under the rental pool arrangement. Accordingly, the respondent is liable to honour the terms and conditions of the executed rental pool agreement and provide the complainant with the lease rentals and other benefits payable thereunder. The respondent is directed to provide and disburse the lease rentals and other benefits in accordance with the Rental Pool Agreement dated 21.10.2016 and restrain the respondent from enforcing any unilateral terms inconsistent with the said agreement, subject to applicable law.

H. Directions of the authority

29. Hence, the authority hereby passes this order and issues 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):

I. The respondent is directed to pay delayed possession charges at the prescribed rate of interest i.e., 10.80% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due date of possession 21.01.2021 till the expiry of 2 months from the date of offer of possession plus 2 months, as per Proviso to Section 18(1) of the Act read with Rule 15 of the Rules, ibid.

II. The respondent is directed to pay arrears of interest accrued so far within 90 days from the date of order of this order as per Rule 16(2) of the Rules, ibid.

III. The respondent is directed to execute the registered conveyance deed in favour of the complainant within 60 days from the date of this order

IV. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

V. The rate of interest chargeable from the allottee 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 the allottee, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.

VI. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement.

VII. The respondent-promoter is not entitled to charge holding charges from the complainant-allottees at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 on 14.12.2020.

30. The complaint stand disposed of.

31. File be consigned to registry.

Arun Kumar
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 25.08.2026