HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No.:	**1868 of 2024**
Date of Filing:	**27.11.2024**
First Date of Hearing:	**28.01.2025**
Date of Decision:	**27.10.2026**

Dalbir Singh
V.P.O. Mehrana, Dist. Jhajjar, Haryana .....COMPLAINANT

Versus

Omaxe Limited
Shop No. 19, First Floor,
Omaxe Celebration Mall,
Sohna Road, Gurgoan, Haryana, 122001. .....RESPONDENT

Present: Adv. Shubham, Ld. Counsel for Complainant.

Adv. Sanjeev Sharma, Ld. Counsel for Respondent.

ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the

Ratnee

Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project	"Shubhangan", Sector-4-A, Kassar Road Bahadurgarh, Haryana.
2.	Nature of the project.	Residential
3.	RERA Registered/Not Registered	Registered vide HRERA-PKL-202 of 2017
4.	Details of the unit	VHBH/Tower-19/Second/204
5.	Date of Floor Buyer Agreement	21.04.2014
6.	Possession clause 40(a) as per BBA dated 21.04.2014	The Company shall complete the development/construction of the Unit/Project within 18 (Eighteen) months from the date of signing of this Agreement by the Buyer(s) or within an extended period of 6 (Six) months. Completion of development of the Unit within such 24 (Twenty Four) months is

		subject to force majeure conditions [as mentioned in Clause (b) hereunder] and subject to timely payment by the Unit Buyer(s) or subject to any other reasons beyond the control of the Company. No claim by way of damages/compensation shall lie against the Company in case of delay in handing over the possession on account of any of the aforesaid reasons and the Company shall be entitled to a reasonable extension of time for the delivery of possession of the said Unit to the Buyer(s). The aforesaid period of development shall be computed by excluding Sundays, Bank Holidays, enforced Govt. holidays and the days of cessation of work at site in compliance of order of any Judicial/concerned State Legislative Body.
7.	Due Date of Possession	21.04.2016
8.	Basic Sale Consideration	₹20,24,750/- (as per BBA dated 21.04.2014)
9.	Amount paid by the complainant	₹21,65,282.39/-
10.	Occupation Certificate	Memo No. ZP-448-Vol.II/JD(RA)/2026/7678 dated 05.03.2026
11.	Offer of Possession	10.04.2026

B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT

3. That the respondent had widely advertised and promoted its group housing residential project named "Omaxe Shubhangan (2BHK)" situated at Sector-4-A, Kassar Road, Bahadurgarh, Tehsil Bahadurgarh, District Jhajjar, Haryana, representing and assuring the prospective buyers that the actual physical possession of the allotted residential units would be handed over within a committed timeframe of 24 months from the date of execution of the builder-buyer agreement. Induced by such representations and assurances of the respondent promoter, the complainant booked the subject unit by tendering an initial booking amount of ₹2,42,506.55/- vide cheque dated 06.06.2012. Consequently, the respondent issued a Provisional Allotment Letter-cum-Demand Letter dated 06.01.2014, followed by the formal execution of an allotment letter and a builder buyer agreement dated 21.04.2014 in respect of Unit No. VHBH/TOWER-19/SECOND/204. In terms of the covenants of the said agreement, the respondent promoter was under a strict contractual obligation to deliver actual physical possession of the fully completed flat within 24 months from the date of its execution, whereby the benchmark date for delivery of possession was fixed as 21.04.2016.

4. That the complainant consistently fulfilled his contractual obligations by remitting installments strictly in accordance with the prescribed payment schedule and the progressive demands raised by the respondent from time to time, as duly evidenced by the statement of account issued by the respondent. Against the total sale consideration, the complainant has deposited a substantial sum amounting to ₹21,65,282.39/- up to March 2019. It is contended that despite having received the substantial consideration and despite the complainant adhering to his financial commitments, the respondent completely failed to complete the construction of the subject unit, obtain the requisite statutory completion certificates, or deliver actual physical possession of the flat by the committed due date of 21.04.2016 or anytime thereafter, thereby resulting in an unconscionable delay of over eight years (more than 96 months) from the agreed due date. It is further submitted that the respondent cannot even claim the benefit of any grace period, as the benefit of such grace period is conditional upon the promoter actually completing the construction and offering possession within that period, failing which liability for delay charges remains absolute.

5. That the complainant has further highlighted his personal plight, stating that he is a senior retired individual suffering from a locomotor disability who had invested his hard-earned life savings into the property with the legitimate expectation of shifting into his own home along with his family to

secure a settled retired life and facilitate better educational opportunities for his child in the National Capital Region. It is averred that the complainant served a formal notice upon the respondent seeking updates regarding the status of construction and delivery of possession, but the same elicited no response. It is alleged that the persistent failure, omission, and malafide conduct on the part of the promoter in withholding physical possession while retaining substantial consideration has caused severe financial prejudice, undue hardship, and acute mental agony to the allottee. Accordingly, without prejudice to his right to initiate separate claims for damages, the complainant has approached this Hon'ble Authority praying for directions to the respondent to immediately hand over actual physical possession of the allotted flat complete with all statutory completion and occupation approvals, along with interest for every month of delay from the committed date of possession until actual delivery, together with litigation costs.

C. RELIEF SOUGHT

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

   i. The respondent be directed to hand over the possession of the unit to the complainants as per allotment (with all approvals qua completion) along with penalty levied as Interest for Delayed Possession @ 24% per annum compounded half yearly (interests rate levied by the respondent) for every year of delayed possession

to be calculated proportionately to every day of delay from date of payment till realization.

ii. All payments made as stated in Clause 1, an interest @24% per annum compounded half yearly may be paid to the Complainants till the date of payment of said interest.

iii. The respondent be directed to pay interest at the rate of 24% per annum on the entire payment made by the complainant to the respondent from the date of handing over possession till the flat is transferred in the name of the complainants.

iv. The respondent be directed to pay ₹10,00,000/- for mental harassment to the complainants.

v. The cost of the proceedings of ₹3,00,000/- may also be awarded.

D. REPLY ON BEHALF OF RESPONDENT

7. Learned counsel for the respondent filed detailed reply on 19.02.2025 pleading therein:

8. That respondent company, M/s Omaxe Ltd., a company duly incorporated under the provisions of the Companies Act, 1956, having its registered office at Shop No. 19B, First Floor, Omaxe Celebration Mall, Sohna Road, Gurugram, contested the complaint by filing its written reply through its authorised signatory, Mr. Parveen Kumar, whose letter of authority has been placed on record as Annexure R-1. At the outset, the respondent asserted that it is a well-established real estate development company possessing substantial goodwill,

having developed and handed over multiple residential and commercial townships.

9. That the respondent raised a serious preliminary objection regarding the maintainability of the complaint, invoking the clean hands doctrine and the equitable principle of uberrima fides (utmost good faith). It is contended that the complainant has approached this Authority by practicing deliberate suppression of material facts (suppressio veri) and active misrepresentation (suggestio falsi) by falsely setting up a claim that he is the original allottee of Unit No. VHBH/Tower-19/Second/204. In reality, the subject unit was originally booked on 14.06.2012 by one Mr. Shashi Kant Juneja and was only subsequently transferred in the name of the complainant.

10. That prior to the issuance of the allotment in his favour, the complainant executed a Transfer Application along with supporting documentation, including the Assignment of Allotment Rights, addition/deletion affidavits, and affirmations confirming independent verification and acceptance of all terms, conditions, and pricing of the project. Thereafter, the complainant entered into an Agreement for Sale dated 21.04.2014 (Annexure R-2) with open eyes. The respondent argued that concealing this initial transaction history was a calculated attempt to mislead the Authority and distort the factual matrix of the dispute.

11. That the respondent placed strong reliance upon landmark rulings of the Hon'ble Supreme Court in Dalip Singh v. State of U.P. & Ors. (2010) 2 SCC 114 and

Kishore Samrite v. State of U.P. (2013) 2 SCC 398, submitting that any litigant who approaches a judicial forum with unclean hands and suppresses vital facts forfeits the right to be heard on the merits of the case. The respondent invoked the legal maxim "*jure naturae est neminem cum alterius detrimento et injuria fieri locupletiorem*" (no one should enrich themselves at another's loss or injury), urging that the complaint deserves outright summary dismissal with heavy punitive costs for prevarication and abuse of process.

12. That the complainant has specifically prayed for physical possession of the unit, signifying an unequivocal intention to remain in the project rather than seeking a refund or withdrawal. The respondent placed reliance upon the decision of the Hon'ble Supreme Court in Imperia Structures Ltd. v. Anil Patni & Ors. (2020 INSC 625), specifically paragraph 23, which delineates the dual tracks available under Section 18 of the Act, establishing that an allottee who elects to stay in the project is strictly covered under the proviso to Section 18(1).

13. That the respondent further cited the precedent of this Hon'ble Authority in Jaswinder Singh v. M/s Omaxe Chandigarh Extension Pvt. Ltd. (RERA/ADC No. 0052/2022). Relying upon paragraphs 19 and 20 of the said order, the respondent asserted that where a complainant chooses to retain the property, the sole and exclusive remedy under the law is delayed possession interest on the amount deposited, from the stipulated date of possession until actual completion/handover, and no separate claim for general compensation, damages, or mental harassment is legally maintainable.

14. Regarding the allegations of delay, the respondent vehemently denied that it defaulted on its contractual commitments under the Agreement for Sale dated 21.04.2014, asserting that the progress of the project was disrupted by circumstances entirely beyond its reasonable control. It is contended that the nationwide COVID-19 pandemic constituted an unprecedented force majeure event that severely crippled the construction sector due to extensive lockdowns, sudden exodus and shortage of labor, breakdown of supply chains, and administrative halts in procuring governmental approvals.

15. The respondent pointed out that regulatory bodies and consumer forums including the Hon'ble SCDRC Chandigarh and the Hon'ble NCDRC have judicially recognized the pandemic as an excusable force majeure circumstance precluding delay liabilities. Furthermore, this Authority itself acknowledged the extraordinary disruption by issuing Circular No. HRERA-PKL/ED/2020/3167-73 dated 26.05.2020 granting an automatic six-month extension, followed by a further three-month extension vide resolution dated 02.08.2021, covering registered projects including the impugned project.

16. That the respondent also placed reliance upon the orders passed by the Hon'ble Supreme Court in Suo Motu Writ Petition (C) No. 3 of 2020 (In Re: Cognizance for Extension of Limitation), wherein the Apex Court directed the exclusion of the entire period from 15.03.2020 to 28.02.2022 across all judicial and quasi-judicial proceedings. Consequently, the respondent submitted that the period running from March 2020 up to May 2022 stands excluded from the delivery

timeline under the force majeure clauses of the contract, meaning no actionable default can be attributed to the promoter.

17. The respondent asserted that the complainant is barred from claiming delay charges as he himself committed recurrent defaults in adhering to the payment schedule. Despite multiple demand notices and payment reminder letters issued from time to time (placed on record as Annexure R-3 Colly), the complainant delayed and failed to remit the instalments due against the unit. The respondent averred that an allottee who fails to perform reciprocal financial obligations cannot turn around and claim damages, and that such conduct exhibits an intent to unjustly enrich himself.

18. That the respondent submitted that the project has been constructed transparently in substantial adherence to the approved plans and statutory regulations. The allegations levelled in the complaint regarding fraud, cheating, criminal liability under the Bharatiya Nyaya Sanhita, and mental harassment were strongly refuted as baseless, speculative, and devoid of evidential backing. The respondent maintained that it has acted throughout in good faith and prayed that the complaint be dismissed in its entirety with exemplary costs.

E. APPLICATION FILED BY THE COMPLAINANTS ON 21.05.2026

19. During the pendency of the present proceedings before this Authority, the complainant moved an application under Section 151 of the Code of Civil Procedure, 1908, seeking amendment of the original complaint. It has been averred by the complainant that while drafting the original complaint, certain

inadvertent mistakes and omissions had crept into the factual matrix, which are substantial and vital for the proper, effective, and complete adjudication of the case. The complainant has submitted that the proposed amendments are essential to determine the real questions in controversy between the parties and will help avoid multiplicity of litigation, without altering the fundamental character or nature of the proceedings or causing any prejudice to the respondent.

20. By way of amendment, the complainant seeks to amend paragraph D(3) of the complaint to bring on record the complete transaction history regarding the acquisition of the unit. It is sought to be incorporated that the subject flat was originally booked in the year 2012 by one Mr. Shashikant Juneja by depositing an initial booking amount of ₹2,50,000/- vide cheque dated 06.06.2012 drawn in favour of the respondent company. The complainant subsequently purchased the unit from the said original allottee, pursuant to which the Provisional Allotment Letter-cum-Demand Letter dated 06.01.2014 was delivered to the complainant on 21.04.2014, and the unit came to be formally transferred in his name.

21. The complainant seeks to substitute paragraph D(16) of the complaint in order to streamline the statutory nature of the claim. While reiterating that the respondent retains the allottee's hard-earned money and has failed to deliver possession even after an inordinate delay of over eight years, the complainant seeks to clarify that without prejudice to his right to initiate separate legal

proceedings for claiming damages, the present complaint is being pressed specifically for the grant of monthly delay interest for each month of delay until the actual handing over of physical possession of the subject unit.

22. Lastly, the complainant seeks to substitute paragraph 6 of the complaint to comprehensively reconstruct and augment the reliefs claimed. Under the amended prayer, the complainant seeks directions to the respondent to hand over physical possession of the allotted flat complete with all statutory approvals and completion certification. Alongside possession, the complainant prays for interest on delayed possession at the rate of 24% per annum compounded half-yearly (being the reciprocal rate alleged to be levied by the respondent on delayed payments) on the entire deposited amount, calculated proportionately for every day of delay from the date of payment until realization, as well as on the entire payment from the date of handing over possession until the title is duly conveyed. In addition, the complainant seeks compensation of ₹10,00,000/- for mental harassment and an enhanced litigation cost of ₹3,00,000/-.

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANTS AND RESPONDENT

23. Ld. Counsel for the complainants and the respondent, both reiterated the same facts as stated in their pleadings.

G. ISSUES FOR ADJUDICATION

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

H. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

25. The Authority has gone through the facts of the complaint as submitted by the complainant. In light of the background of the matter, the Authority observes that the subject unit, bearing Unit No. VHBH/Tower-19/Second/204 in the project "Shubhangan", Sector-4A, Bahadurgarh, was initially booked by one Mr. Shashi Kant Juneja on 06.06.2012 by depositing the initial booking amount. Crucially, no Builder Buyer Agreement was ever executed by the respondent promoter with the said original allottee, and consequently, binding contractual terms, reciprocal timelines, and covenants were never crystallized between them. Subsequently, the present complainant, Dalbir Singh, stepped into the shoes of the allottee on 06.01.2014, and pursuant thereto, a Builder Buyer Agreement was executed directly between the complainant and the respondent promoter on 21.04.2014. It was through this agreement dated 21.04.2014 that the mutual terms, covenants, and delivery milestones were crystallized for the very first time, wherein it was specifically agreed and stipulated that the actual physical possession of the unit would be handed over within a period of 18 months along with an extended period of 6 months (total 24 months) from the date of signing of the agreement. The basic sale consideration was agreed at

₹20,24,750/- (excluding statutory taxes and allied levies), against which the complainant has deposited an aggregate sum of ₹21,65,282.39/- up to March 2019.

26. The term "allottee" as defined in the Act also includes and means the subsequent allottee, hence is entitled to the same relief as that of the original allottee. The definition of the allottee as provided in Section 2(d) of the Act of 2016 is reproduced as under:

> *"In this Act, unless the context otherwise requires— (d) 'allottee' in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent."*

Accordingly, following are allottees as per this definition:

(a) Original allottee: A person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter.

(b) Allottees after subsequent transfer from the original allottee: A person who acquires the said allotment through sale, transfer or otherwise. However, allottee would not be a person to whom any plot, apartment or building is given on rent.

From a bare perusal of the definition, it is clear that the transferee of an apartment, plot or building who acquires it by any mode is an allottee. This may include (i) allotment; (ii) sale; (iii) transfer; (iv) as consideration of services; (v) by exchange of development rights; or (vi) by any other similar means. It can be safely reached to the only logical conclusion that no difference has been made between the original allottee and the subsequent allottee and once the unit, plot, apartment or building, as the case may be, has been re-allotted in the name of the subsequent purchaser by the promoter, the subsequent allottee enters into the shoes of the original allottee for all intents and purposes and he shall be bound by all the terms and conditions contained in the builder buyer's agreement including the rights and liabilities of the original allottee. Thus, as soon as the unit is re-allotted in his name, he will become the allottee and the nomenclature "subsequent allottee" shall only remain for identification for use by the promoter. Therefore, the Authority does not draw any difference between the allottee and subsequent allottee per se.

27. The issue regarding the statutory rights of a subsequent allottee is no longer *res integra* and stands authoritatively settled by the Hon'ble Supreme Court of

India in ***Laureate Buildwell Pvt. Ltd. v. Charanjeet Singh*, 2021 SCC OnLine SC 1006**, wherein the Hon'ble Apex Court, while examining the rights of a purchaser who steps into the shoes of the original allottee, observed and held as under:

> *"31. .....it cannot be said that a subsequent purchaser who steps into the shoes of an original allottee of a housing project in which the builder has not honoured its commitment to deliver the flat within a stipulated time, cannot expect any - even reasonable time, for the performance of the builder's obligation. Such a conclusion would be arbitrary, given that there may be a large number- possibly thousands of flat buyers, waiting for their promised flats or residences; they surely would be entitled to all reliefs under the Act. In such case, a purchaser who no doubt enters the picture later surely belongs to the same class."*

28. Applying the ratio laid down by the Hon'ble Apex Court in *Laureate Buildwell (supra)* to the facts of the present case, the respondent promoter, having consciously accepted the assignment of allotment rights, endorsed the transfer, accepted substantial subsequent consideration directly from the complainant, and formally executed the Builder Buyer Agreement dated 21.04.2014 directly with him, cannot now blow hot and cold to dispute the status or statutory entitlements of the complainant. The complainant has stepped into the shoes of

the allottee for all practical and legal intents and purposes with effect from 21.04.2014.

29. As per clause 40(a) of the apartment buyer's agreement dated 21.04.2014 respondent/developer was under an obligation to hand over the possession to the complainant within a period of 18 months along with an extended period of further 6 months, from the date of execution of the agreement, i.e by 21.04.2016. Possession clause 40(a) of the builder buyer's agreement dated 21.04.2014 is reproduced here for ready reference:

> *"The Company shall complete the development/construction of the Unit/Project within 18 (Eighteen) months from the date of signing of this Agreement by the Buyer(s) or within an extended period of 6 (Six) months. Completion of development of the Unit within such 24 (Twenty Four) months is subject to force majeure conditions [as mentioned in Clause (b) hereunder] and subject to timely payment by the Unit Buyer(s) or subject to any other reasons beyond the control of the Company. No claim by way of damages/compensation shall lie against the Company in case of delay in handing over the possession on account of any of the aforesaid reasons and the Company shall be entitled to a reasonable extension of time for the delivery of possession of the said Unit to the Buyer(s). The aforesaid period of development shall be computed by excluding Sundays, Bank Holidays, enforced Govt. holidays and the days of cessation of work at site in compliance of order of any Judicial/concerned State Legislative Body."*

30. Admittedly delivery of possession of the unit in question has been delayed beyond the stipulated time. Respondent has attributed this delay in construction to disruption in construction activity due to COVID-19 outbreak and delay in payment of instalments by the complainant/allottee. In this regard it is observed that the COVID-19 outbreak hit construction activities post 22.03.2020, whereas the delivery of possession of the unit in question was to be handed over by 18.04.2016. Therefore, as far as delay in construction due to outbreak of Covid-19 is concerned, respondent cannot be allowed to claim benefit of COVID19 outbreak as a force majeure condition. Further, reliance is placed on judgement passed by Hon'ble Delhi High Court in case titled as **M/s Halliburton Offshore Services Inc. vs Vedanta Ltd & Anr. bearing OMP (I) (Comm.) No. 88/2020 and I.A.s 3696-3697/2020 dated 29.05.2020** has observed that:

> "69. *The past non-performance of the contractor cannot be condoned due to Covid-19 lockdown in March,2020 in India. The contractor was in breach since september,2018. Opportunities were given to the contractor to cure the same repeatedly. Despite the same, the contractor could not complete the project. The outbreak of pandemic cannot be used as an excuse for non-performance of a contract for which the deadline was much before the outbreak itself.*
>
> *The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over by August, 2022 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore,*

Authority is of view that outbreak of pandemic cannot be used an excuse for non-performance of contract for which deadline was much before the outbreak itself"

31. Respondent cannot be allowed to take the plea of force majeure conditions towards delay caused in construction of the project/delivery of possession as the same did not affect the construction activities at the site of the project during the proposed possession timeline.

32. The respondent has further sought to resist the claim of delay interest by alleging that the complainant was a chronic defaulter who delayed payment of instalments despite multiple reminders placed on record as Annexure R-3. The Authority has perused and scrutinized the said demand reminders alongside the statement of accounts on record. It is revealed that prior to the contractual due date of possession (21.04.2016), the respondent issued three reminders: the reminder dated 01.09.2014 was honoured by the complainant on 09.09.2014; the reminder dated 01.06.2015 was cleared on 06.07.2015; and the reminder dated 02.03.2016 was satisfied on 16.03.2016. All remaining reminders placed on record by the promoter were issued well after the expiry of the committed due date of possession. More significantly, the respondent accepted all such payments without demur, never initiated cancellation proceedings, and progressively collected an aggregate sum of ₹21,65,282.39/- against the basic sale consideration of ₹20,24,750/-. By accepting substantial payments and

treating the contract as alive, the promoter waived any technical objection of delayed tender and cannot now set up an artificial defense of default.

33. Authority observes that following the receipt of the statutory occupation certificate (OC) dated 05.03.2026 granted by the competent authority in respect of Tower Nos. 2 to 20, Tower 26, and the EWS Block, respondent promoter issued an offer of possession letter dated 10.04.2026 to the complainant. The factum of procurement of the said Occupation Certificate stands explicitly recorded and communicated to the allottee in the offer letter itself. The respondent promoter has duly placed on record copies of both the occupation certificate and the offer of possession letter, the advance copies whereof were duly served upon the complainant. In the scheme of the Real Estate (Regulation and Development) Act, 2016, once the dwelling unit is duly certified by the competent statutory authority as fit, safe, and habitable, and a formal offer is tendered to the buyer, the statutory clock of delay ceases to run against the promoter. Under Section 19(10) of the Act of 2016, a reciprocal statutory obligation is cast upon the allottee to come forward and take physical possession of the apartment within a period of two months from the date of issuance of the occupation certificate for the said apartment, plot or building as the case may be. The law seeks to maintain a delicate and fair equilibrium, while it firmly penalizes promoter for an unconscionable delay of over a decade in delivering the roof over a consumer's head, it equally expects the buyer to

reciprocate with diligence once the property is lawfully ready and tendered for occupancy. Consequently, the offer of possession dated 10.04.2026, issued after procuring the Occupation Certificate and served upon the complainant is held to be a legally valid and effective offer under the law, and the promoter's liability to pay delayed possession charges under Section 18(1) of the Act of 2016 shall cease to accrue and stands capped up to 10.04.2026.

34. The Authority further observes that along with the offer of possession letter dated 10.04.2026, the respondent promoter had furnished a detailed statement of account reflecting the outstanding financial dues and demanding a balance sum of ₹2,27,656/-. The record reveals that ample and fair opportunity was extended to the complainant to scrutinize the said statement of accounts and raise objections or contest any specific demand heads, if aggrieved. In fact, vide interim order dated 25.08.2026, opportunity was granted by this Authority to the complainant to file objections, which is reproduced herein below for ready reference:

> *"5. Furthermore, Ld. counsel for the complainant sought an adjournment to submit objection regarding the statement of accounts furnished by the respondent.*

6. Acceding to the request, the Authority grants the complainant 10 days to file objections, with an advance copy served upon the opposite party. The respondent shall be at liberty to file a counter-reply within 10 days of receiving the said objections, with an advance copy supplied to the complainant.

7. Case is adjourned to 27.10.2026 for arguments and consideration."

Despite the explicit liberty granted by this Authority, the complainant chose not to file any objections or point out any discrepancy, or calculation error in the statement of accounts tendered by the promoter. The principles of natural justice require that once an opportunity to rebut a financial statement is consciously granted and not availed, the doctrine of acquiescence and non-traverse operates against the party remaining silent. The legal process cannot be kept open-ended, where an allottee is provided a fair forum to dispute accounts and elects not to contest the figures, the accounts placed on record must be treated as verified and accepted between the parties. Consequently, in the absence of any demur or objection from the complainant, the statement of account issued alongside the offer of possession letter dated 10.04.2026 has attained finality and the outstanding balance reflected therein shall be adjusted against the delayed possession interest determined by this Authority.

35. Consequently, the complainant is held entitled to delayed possession interest on the amount deposited by them with the respondent, calculated with effect from the committed due date of possession, i.e., 21.04.2016, up to the date of the valid offer of possession, i.e., 10.04.2026.

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

> *(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
>
> *Explanation.-For the purpose of this clause-*
>
> *(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
>
> *(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;*

Rule 15 of 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 (NCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public"

37. As per the website of the State Bank of India (https://sbi.co.in), the highest Marginal Cost of Lending Rate (MCLR) as on 27.10.2026 is 8.95%. Accordingly, in terms of HRERA rules, the prescribed rate of interest shall be MCLR + 2% = 10.95% per annum.

38. The complainant has prayed for interest @24% per annum. However, the RERA Act, 2016, read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, prescribes interest at the rate of SBI MCLR + 2%, which, as on date, works out to be **10.95% per annum**. Accordingly, the interest shall be calculated and awarded at this statutory rate.

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

Sr. No.	Amount Paid (in ₹)	Due date of Possession or date of payment whichever is later	Interest (in ₹) till offer of possession i.e., 10.04.2026
1.	₹15,02,087.50/-	21.04.2016	₹16,41,181/-

2.	₹2,02,475/-	31.05.2016	₹2,18,794/-
3.	₹1,01,237.31/-	24.06.2016	₹1,08,668/-
4.	₹1,01,237.31/-	19.08.2016	₹1,06,967/-
5.	₹95,693.97/-	22.06.2017	₹92,297/-
6.	₹1,46,779.30/-	02.04.2018	₹1,29,063/-
7.	₹15,772/-	19.03.2019	₹12,208/-
	Total		**₹23,09,178/-**

40. The complainant is seeking ₹10,00,000/- for mental harassment and ₹3,00,000/- as litigation cost. It is observed that the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 6745-6749 of 2021, M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors. (supra)***, has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18, and 19 of the RERA Act, 2016. The Court further clarified that such claims are to be adjudicated by the learned Adjudicating Officer under Section 71 of the Act, 2016, and the quantum of compensation and legal expenses is to be determined having due regard to the factors enumerated in Section 72 of the Act, 2016. Accordingly, the Authority observes that the claim for compensation and litigation costs cannot be adjudicated in the present proceedings. The complainants are, therefore, advised to approach the learned Adjudicating Officer for seeking relief in respect of compensation and litigation expenses.

I. DIRECTIONS OF AUTHORITY

41. 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. That, the respondent is directed to pay upfront delay interest of ₹20,81,522/- [(₹23,09,178 - ₹2,27,656) i.e., after adjusting the final demand raised by the respondent of ₹2,27,656/-], to the complainant towards the delay already caused in handing over possession within a period of 90 days from the date of this order.

ii. Further respondent is directed to hand over the physical possession of the unit to the complainant within 30 days.

42. **Disposed of.** Files to be consigned to record room after uploading of order on website.

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DR. GEETA RATHEE SINGH
[MEMBER]