BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	:	**127 of 2025**
Date of complaint	:	**03.02.2025**
Date of decision	:	**25.08.2026**

Navin Chandra Roy Chaudhary and Seema Roy,
Both **R/o:** - 71, Ekjot Apartment, Pitam Pura, New Delhi-110034.

Complainants

Versus

M/s Raheja Developers Limited.
Having Regd. Office at: W4D, 204/5, Keshav Kunj, Western Avenue, Cariappa Marg, Sainik Farms, New Delhi-110062.

Respondent

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Yogesh Kumar Goyal (Advocate) — Complainants
Vaibhav (Proxy Counsel) — Respondent

ORDER

1. This complaint has been filed by the complainant/allottee 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 thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, 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 of the project	"Raheja's Maheshwara", Sector 11 & 14, Sohna Master Plan Gurugram, Haryana
2.	Project area	9.23 acres
3.	Registered area	3.752 acres
4.	Nature of the project	Group housing complex
5.	DTCP license no. and validity status	25 of 2012 dated 29.03.2012 valid up to 28.03.2018
6.	Name of licensee	Ajit Kumar and 21 others
7.	RERA Registered/ not registered	Registered vide no. 20 of 2017 dated 06.07.2017
8.	RERA registration valid up to	5 Years from the date of revised Environment Clearance
9.	Unit no.	B-903, Tower/block- B
10.	Unit area admeasuring	1198 sq. ft.
11.	Date of execution of agreement to sell	29.08.2016 (page 29 of complaint)
12.	Possession clause	**21.** The company shall endeavour to complete the construction of **the said apartment within Forty-Eight (48) months plus/minus Twelve (12) months grace period of the date of execution of the agreement or environment clearance and forest clearance, whichever is later** but subject to force majeure, political disturbances, circumstances cash flow mismatch and reason beyond the control of the company. However, in case the company completes the construction prior to the said period of 48 months plus 12 months grace period the allottee shall not raised any objections in taking the possession after payment of

		Gross Consideration and other charges stipulated hereunder. The company on obtaining certificate of occupation and use for the building in which said apartment is situated, by the competent authorities shall hand over the said apartment to the allottee for his occupation and use and subject to the allottee having complied with all the terms and condition of the agreement to sell....."
13.	Grace period	Allowed being unqualified.
14.	Due date of possession	29.08.2021 (Note: - 48 months from date of agreement i.e., 29.08.2016 + 12 months grace period)
16.	Basic sale consideration	Rs.43,23,979/-
17.	Amount paid by the complainant	Rs.20,36,495/- (as alleged by the complainant at page 21 of CRA)
18.	Occupation certificate /Completion certificate	Not received
19.	Offer of possession	Not offered

B. Facts of the complaint

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

I. That the respondent has issued various advertisement about its project "**Raheja Maheshwara**" (hereinafter referred to as "**the said project**") at Sector 11 & 14, Sohna Master Plan, Sohna Road, Gurugram, Haryana, Pin - 122001 for inviting application for booking of the unit in this project.

II. That the complainants had applied for allotment of a residential apartment having gross area of 1198.11 Sq. Ft. vide application for booking dated **14.03.2016** with the respondent **"M/s Raheja Developers Limited"** project naming "**Raheja Maheshwara**" in Sector

11 & 14, Sohna Master Plan, Sohna Road, Gurugram, Haryana, Pin - 122001. The respondent had verbally promised to pay Pre – EMI interest till possession of the flat.

III. That the respondent had issued allotment letter dated 29.08.2016 to the complainants for Unit No. B-903, Tower-B, Having super area 1198.11 sq. ft. approx..

IV. That the "Agreement to Sell" was executed between the complainants and the respondent on 29.08.2016 for the abovesaid allotted Unit No. B-903, Tower-B, as per this agreement the respondent was under obligation to hand over the possession of the property till 28.08.2020 as per the clause No. 21 of the Agreement to sell. The possession of the flat was required to be given latest till 28.08.2021 after a grace period of 12 months.

V. The respondent had obtained "No Objection Letter" dated 21.09.2016 to sale the unit to the complainants from Axis Bank Ltd. After agreement to sell flat with the complainants.

VI. That the total cost of the flat is Rs. 43,23,979/- + IFMS Rs. 1,19,811/- + EDC & IDC Rs. 4,67,263/-. The respondent had issued various demand letters to the complainants and the complainants had paid Rs. 20,36,495/- till date time to time against these demand letters.

VII. That the complainants had to obtained housing loan from HDFC on the subject flat. The respondent had issued **"Permission to Mortgage"** to HDFC allowing HDFC to mortgage such unit. The **"Tripartite Agreement"** had been executed between the complainants, respondent and HDFC for the subject flat. The respondent had promised to pay pre–Emi Interest till 31.12.2019 against the subject Housing Loan.

VIII. That the respondent had paid Pre Emi interest till 31.12.2019 but after that no Pre Emi interest had been paid by the respondent till date. The complainants are forced to pay Pre Emi from its own pocket.

IX. That the complainant had done various communications with the respondent regarding possession of flat and delayed interest. But the respondent had never given any satisfactory answer about completion of project. Further period of Possession mention in **"Agreement to Sell"** has also lapsed and the respondent was failed to give possession of the flat. The complainants had visited the project site and found that project is stalled and even excavation in the project had not yet been completed till date. Further it is not possible to the respondent to complete the project in near future.

C. Relief sought by the complainant:

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

1. Direct the respondent to refund the entire amount paid by the complainant alongwith prescribed rate of interest.

5. The respondent-promoter has failed to file a reply despite several opportunities granted by the authority. It shows that the respondent is intentionally delaying the procedure of the Authority by avoiding to file the written reply. In view of the above, Hence, in view of the same, the Authority has no option but to proceed the ex-parte against the respondent.

D. Jurisdiction of the authority

6. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

D.I Territorial jurisdiction

7. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana

Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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.

D.II Subject-matter jurisdiction

8. 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.*

9. 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.

10. Further, the authority has no hitch in proceeding with the complaint and to grant a relief of refund in the present matter in view of the judgement passed by the Hon'ble Apex Court in ***Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. 2021-2022 (1) RCR (Civil), 357*** and reiterated in case of ***M/s Sana Realtors Private Limited & other Vs***

Union of India & others SLP (Civil) No. 13005 of 2020 decided on 12.05.2022wherein it has been laid down as under:

> *"86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

11. Hence, in view of the authoritative pronouncement of the Hon'ble Supreme Court in the cases mentioned above, the authority has the jurisdiction to entertain a complaint seeking refund of the amount and interest on the refund amount.

E. Findings on the relief sought by the complainant.

E.I Direct the respondent to refund the entire amount paid by the complainant alongwith prescribed rate of interest.

12. The complainant filed an application dated 06.07.2026 seeking revival of the present complaint, which had been adjourned *sine die* on account of the respondent being admitted into the Corporate Insolvency Resolution Process (CIRP) and the declaration of a moratorium by the Hon'ble National Company Law Tribunal (NCLT). The Authority, vide its order dated 18.09.2025, had adjourned the present complaint *sine die*. Subsequently, vide order dated 10.04.2026, the Hon'ble NCLT revived and restored the proceedings against the respondent to their original position.

In view of the aforesaid, the present application is allowed, and the complaint is restored to its original position for further proceedings.

13. The complainants state that they have booked unit no. B-903, Tower-B, in the project "Raheja Maheshwara" on 14.03.2016 and entered into an agreement to sell dated 29.08.2016, under which possession was to be delivered by 28.08.2020, or latest by 28.08.2021 after the grace period. The complainants paid approximately Rs. 20,36,495/- towards the unit and obtained a housing loan from HDFC Bank. The respondent paid the agreed Pre-EMI only up to 31.12.2019 and thereafter stopped making such payments. Despite expiry of the possession period and repeated requests, the respondent failed to hand over possession, and the project remains substantially incomplete/stalled, causing financial loss and hardship to the complainants.

14. In the present complaint, the complainants intend to withdraw from the project and is seeking return of the amount paid by her in respect of subject unit along with interest at the prescribed rate as provided under section 18(1) of the Act. Sec. 18(1) of the Act is reproduced below for ready reference.

> *"**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.-*
> *(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*
> *(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*
> ***he shall be liable on demand to the allottees**, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, **to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed** in this behalf including compensation in the manner as provided under this Act:*
> *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."
(Emphasis supplied)

15. **Due date of possession:** As per the documents available on record, BBA has been executed between the parties on 29.08.2016. Accordingly, the due date of possession is calculated as Forty-Eight (48) months plus/minus Twelve (12) months grace period of the date of execution of the agreement or environment clearance and forest clearance, whichever is later. Therefore, the due date of handing over of the possession for the unit/plot comes out to be 29.08.2021 including grace period being unqualified.

16. **Admissibility of refund along with prescribed rate of interest:** The complainant intends to withdraw from the project and is seeking refund of the amount paid by them in respect of the subject plot with interest at prescribed rate as provided 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]***
> *(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.: Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*

17. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

18. 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%.**

19. On consideration of the circumstances, the documents, submissions and based on the findings of the authority regarding contraventions as per provisions of rule **28(1),** the authority is satisfied that the respondent is in contravention of the provisions of the Act. The possession of the plot was to be offered to the allottee by 29.08.2021, however the same has not been offered till date. Further, the authority observes that there is no document placed on record from which it can be ascertained that whether the respondent has applied for completion certificate/part completion certificate or what is the status of construction of the project. In view of the above-mentioned fact, the allottee intend to withdraw from the project and is well within her right to do the same in view of section 18(1) of the Act, 2016.

20. The completion certificate/part completion certificate of the project where the plot is situated has still not been obtained by the respondent/promoter. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the allotted unit and for which they have paid a considerable amount towards the sale consideration and as observed by Hon'ble Supreme Court of India in ***Ireo Grace Realtech Pvt. Ltd. Vs. Abhishek Khanna & Ors., civil appeal no. 5785 of 2019, decided on 11.01.2021***

> *"... The occupation certificate is not available even as on date, which clearly amounts to deficiency of service. The allottees cannot be made to wait indefinitely for possession of the apartments allotted to them, nor can they be bound to take the apartments in Phase 1 of the project....."*

21. Further in the judgement of the Hon'ble Supreme Court of India in the cases ***of Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors. (supra) reiterated in case of M/s Sana Realtors Private Limited & other Vs Union of India & others SLP (Civil) No. 13005 of 2020*** decided on 12.05.2022. it was observed

25. *The unqualified right of the allottee to seek refund referred Under Section 18(1)(a) and Section 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."*

22. The promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a). The promoter has failed to complete or is unable to give possession of the plot in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottee, as they wish to withdraw from the project, without prejudice to any other remedy available, to return the amount received by it in respect of the unit with interest at such rate as may be prescribed.

23. 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 refund of the entire amount paid by her at the prescribed rate of interest i.e., @10.80% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount within the timelines provided in rule 16 of the Haryana Rules 2017 ibid.

H. Directions of the authority

24. 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/promoter is directed to refund the entire amount received by it from the complainant along with interest at the rate of 10.85% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount.

    ii. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.

    iii. The respondent is further directed not to create any third-party rights against the subject plot before full realization of the paid-up amount along with interest thereon to the complainant. Even if, any transfer is initiated with respect to subject unit, the receivables shall be first utilized for clearing dues of allottee/complainant.

25. Complaint stands disposed of.

26. File be consigned to registry.

Dated: 25.08.2026

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