HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**1282 of 2024**
Date of filing:	**24.09.2024**
First date of hearing:	**28.10.2024**
Date of decision.:	**02.11.2026**

Surinder Kumar Bagaria and Janak Singh Rajput
VPO Gungara, Sikar, Rajasthan- 332038.

....COMPLAINANTS

VERSUS

Aerens Gold Souk Projects (Hisar) Pvt. Ltd,
'Gold Souk', 'C'- Block, Sushant Lok, Phase-1, Gurugram 122002, Haryana.

....RESPONDENT

Present: - Mr. Kunal Thapa, counsel for the complainants, through VC.
Mr. Neeraj Goel, counsel for the respondent through VC.

ORDER (NADIM AKHTAR - MEMBER)

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

2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

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

S.No.	Particulars	Details
1.	Name of the project	"Gold Souk Connaught Place Hisar", situated in village Hissar, Vakya Mauja, District Hissar, Haryana.
2.	Name of the promoter	M/s Aerens Goldsouk Projects (Hissar) Pvt. Ltd.
3.	Unit No. allotted	D-315, Third floor
4.	Super Built-up area	203 sq.ft.
5.	Date of allotment	Undated
6.	Date of Builder Buyer Agreement	15.07.2014
7.	Due date of offer of possession	Not available
8.	Possession clause in application form	*Clause 9. The Company shall endeavour to give possession of the said Bare Shell(s)/ Unit(s)/ Shop(s)/ Office(s)/ Retail Outlets(s)/ Restaurant(s)/ Hotel(s) /Banquet Hall(s)/ Shopping-cum-office space*

		(SCOs)/Club/Multiplex(es) Food Court(s) to the Allottee(s) approximately by December, 2014 with grace period of 6(six) months. However, subject to force-majeure circumstances and reasons beyond the control of the Company and also subject to receipt of all payments and other charges as per the Payment Plan or as may have been demanded by the Company from the date of Application and payable upto the date of possession of the said BareShell(s)/Unit(s)/Shop(s)/Office(s)/Retail Outlets(s)/Restaurant(s)/Hotel(s) banquet Hall(s)/Shopping-cum-office space (SCOs) Club Multiplex(es)/Food Court(s)according to the Payment Plan opted/applicable by/to the Allotttee(s) as also receipt of all applicable sanctions from the competent Statutory Authorities by the Company for the Proposed Project.
9.	Basic sale consideration	₹9,13,500/-
10.	Amount paid by complainant	₹3,43,440/-
11.	Offer of possession	Not given till date

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

(i) That complainant booked a unit in the project of the respondent, Aerens Goldsouk Projects (Hissar) Pvt. Ltd namely: "Gold Souk Connaught Place Hisar, situated in Hisar, Vakya Mauja Hisar, Tehsil and District Hisa vide application form dated 16.02.2014. Therefore, respondent issued allotted unit no.D-315, having super area of 203 sq. ft, in the project of the respondent. Copy of application form and allotment letter is annexed as Annexure C-1 (Colly).

(ii) That respondent through its authorised representative conveyed to the complainants at the time of booking of the unit that they possess all the requisite documents/clearances and certificates from the concerned statutory authorities for constructing and developing the said project but in reality the respondent was not having any of the said clearances or certificate for developing and constructing the said project.

(iii) That as per clause 9 of the booking agreement, the possession of the unit was to be handed over by December 2014 but the respondent has miserably failed to hand over the possession within stipulated period of time.

(iv)That complainants had opted for construction linked plan wherein the payment of instalment by the complainants was based on the developer attaining construction milestones as determined and stated by the builder himself. Complainants paid the entire amount as and when demanded by the

respondent and has complied with their legal obligations against the unit on time without fail. Total amount paid along with receipts is annexed as Annexure C-2 (Colly).

(v) That despite making payment of the amount by the complainant, the possession of the unit in question has not been offered till date to the complainants, therefore, the complainants seeks indulgence of the Hon'ble Authority seeking refund of the paid amount along with interest. Therefore being aggrieved person, complainant is filing the present complaint before this Hon'ble Authority.

C. RELIEFS SOUGHT

3. In view of the facts mentioned above, the complainants pray for the following reliefs:-

To direct the respondent to refund the complete amount which has been deposited with the respondent by the Complainants with interest from the actual date of deposit of each payment as per the Real Estate (Regulation & Development) Act, 2016 r/w Haryana Real Estate (Regulation & Development) Rules, 2017 at the rate prescribed under the Act.

D. REPLY ON BEHALF OF RESPONDENT

4. Contents of the reply dated 17.07.2026 submitted by respondent are as follows:

(i) That the project of the respondent has been duly registered with the Haryana Real Estate Regulatory Authority, Panchkula vide Registration No. HRERA-PKL-HSR-729-2025 dated 24.06.2025. The application for registration was submitted on 07.05.2025 bearing Temp Project Id RERA-PKL-PROJ-1542-2024. The allegation of the Complainants that the Project is 'un-registered' is thus no longer subsists, and the Project stands duly registered under the provisions of Section 5 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the 'Act'). True copy of the Registration Certificate is being filed as Annexure R-1.

(ii) That the Complainants are themselves in wilful default and breach of their contractual obligations. It is a matter of record that the total Basic Sale Price (BSP) of the allotted Unit No. D-315, 3rd Floor, admeasuring 203 sq. ft. (super area) was ₹9,13,500/- (calculated at ₹4,500/- per sq. ft.), besides applicable charges such as EDC, IDC, IFMS, Parking, Stamp Duty, Registration Charges, and other statutory levies. Against the aforesaid total consideration, the Complainants have admittedly paid only ₹3,43,440/-, which constitutes merely approximately 37.6% of the BSP alone.

(iii) The Complainants had opted for the Construction Linked Payment Plan, under which payments were contractually linked to the attainment of construction milestones. The Complainants have failed and/or neglected to make payments towards the subsequent instalments despite demands raised by the Respondent from time to time. An allottee who is himself in default

of payment obligations cannot be heard to complain of delay in construction and delivery of possession. The complaint is thus vitiated by the Complainants' own breach.

(iv) That the present Complaint is barred by delay and laches. The Complainants' own case is that the unit was booked on 16.02.2014 and the possession was to be handed over by December 2016 (even taking December 2014 as the committed date plus the 6-month grace period as per Clause 9 of the Allotment Letter). The Complainants therefore claim that the alleged cause of action arose in or around December 2016. However, the present Complaint bearing No. RERA-PKL-1164-2024 is filed only on 02.09.2024, i.e., after a delay of approximately eight years from the alleged date of default. The Complainants have offered no explanation whatsoever for this inordinate delay. It is well settled that the Limitation Act, 1963 applies to proceedings before the Authority, and the Complaint is barred under Article 113 read with Section 3 of the Limitation Act, 1963. Reliance is placed on the ratio of Dharmender Kumar vs M s Orris Infrastructure Pvt. Ltd. (HRERA, Gurugram) and other relevant precedents where complaints filed beyond the limitation period have been dismissed.

(v) That the allotment of the Unit was expressly subject to force majeure circumstances and reasons beyond the control of the Company as per Clause 9 of the Allotment Letter. The delay, to the extent it occurred, was

attributable to circumstances beyond the control of the Respondent, including but not limited to:

(a) the unprecedented COVID-19 pandemic (2020-2021), during which all construction activity was halted pursuant to Government Orders, and the consequent disruption of supply chains, labour availability, and economic activity for an extended period;

(b) changes in the regulatory and statutory framework, including the introduction of the Real Estate (Regulation & Development) Act, 2016 itself, GST implementation with effect from 01.07.2017, demonetization in November 2016, and various new compliance requirements;

(c) the necessity of obtaining revised/fresh building plans and statutory approvals from the competent authorities, the Building Plans having been approved on 23.04.2025;

(d) general economic slowdown affecting the real estate sector in Haryana, which impacted collections from allottees and consequently the pace of construction;

(e) default in payment of instalments by a large number of allottees, including the present Complainants, depriving the Respondent of the necessary funds to carry forward construction as per schedule.

The aforesaid circumstances squarely fall within the force majeure clause of the Allotment Letter and the Respondent is entitled to corresponding extension of time.

(vi) That the Complainants have failed to comply with their obligations under Section 19(6) and Section 19(7) of the Act, which mandate that every allottee shall make necessary payments in the manner and within the time as specified in the agreement and shall participate towards the registration of the conveyance deed. The Complainants, having paid only ₹3,43,440/- against a BSP of ₹9,13,500/- (approximately 37.6%), and having failed to execute the Builder Buyer Agreement or come forward for the same, are not entitled to seek any relief from this Hon'ble Authority while being in continuous default of their own obligations. An allottee cannot approbate and reprobate at the same time.

(vii) That the Respondent has been diligently pursuing the construction and development of the Project and has already invested approximately ₹6,691 Lakhs (including land cost of ₹4,000 Lakhs, construction expenditure of ₹2,000 Lakhs, and EDC/taxes of ₹691 Lakhs) in the Project. The infrastructure of the Project is 55% complete as on the date of application for RERA registration. The revised completion date of the Project as per the RERA Registration is 02.02.2030, co-terminus with the validity of the DTCP License. Out of a total of 373 commercial units in the Project, 151 units have been booked/sold, and the total amount received from allottees is

₹1,248.16 Lakhs against a total sale value of ₹2,378.85 Lakhs of booked units. The Respondent is committed to the timely completion of the Project and delivery of possession to all allottees in accordance with the revised timelines.

(viii) That as per Clause 33 of the Terms and Conditions forming part of the Application Form/Allotment, all disputes and differences arising pursuant to or as a consequence of the transaction shall be referred to Arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the venue of Arbitration proceedings shall be exclusively at Gurgaon (Haryana). Without prejudice to the Respondent's rights under this clause, the Respondent is filing this Reply under protest.

(ix) It is denied that the Complainants are 'aggrieved persons' within the meaning of the Act in as much as the Complainants themselves are defaulters who have paid only ₹3,43,440/- against the total BSP of ₹9,13,500/- and have failed to comply with their contractual obligations.

(x) That respondent is the developer of the Project 'Gold Souk Connaught Place' situated at Hisar, and that the Respondent has published advertisements to promote the Project. However, the characterization of the Project as merely 'residential space' is incorrect. The Project is a Commercial Complex comprising shops, offices, retail outlets, restaurants, banquet halls, shopping-cum-office spaces (SCOs), clubs, multiplexes, food courts, and related commercial facilities. The Respondent is the bonafide owner and

developer of the Project on the said land and possesses a valid DTCP License No. 54 of 2009.

(xi) It is admitted in the complaint that the Complainants were approached by a sales agent, namely Chauhan Computer Centre, and were invited to book a commercial unit in the Project. However, it is categorically denied that the Respondent or its agent made any false promises or misleading representations. The Project brochure, Application Form, and Terms and Conditions clearly set out the nature of the Project, the tentative timelines, and the conditional nature of the possession date. The Complainants have selectively quoted certain representations while ignoring the express disclaimers, conditions, and force majeure provisions contained in the allotment documents.

(xii) That the respondent has never made any false representation regarding possession of statutory clearances and certificates. The Respondent possessed the valid DTCP License No. 54 of 2009 dated 28.08.2009 at all material times. The allegation of unfair trade practice under Section 7(1)(c) of the Act is baseless and without any substance. The said provision pertains to unfair practices by promoters, and the Respondent has at all times acted in good faith and in accordance with the applicable laws.

(xiii) It is submitted that Clause 9 of the Allotment Letter clearly stipulates that the Company shall *"endeavour" to give possession "approximately by December, 2014 with a grace period of 6 (six) months"*. The use of the

word 'approximately' and 'endeavour' clearly indicates that the date was tentative and not a firm commitment. Furthermore, Clause 9 expressly makes the possession date subject to (a) force majeure circumstances and reasons beyond the control of the Company, and (b) receipt of all payments as per the Payment Plan and receipt of all applicable statutory sanctions. The Complainants, having defaulted on a substantial portion of the payments, to possession within the originally cannot claim entitlement contemplated timeline. The submission regarding the Supreme Court's ratio on reasonable period of 2-3 years is misconceived, as the said principles are to be applied in conjunction with the contractual terms, force majeure provisions, and the allottee's own compliance with payment obligations.

(xiv) It is admitted that the Complainants had opted for the Construction Linked Payment Plan. However, the Respondent denies that the Complainants have paid 'the entire amount as and when demanded'. The total BSP of the Unit was ₹9,13,500/-, and the Complainants have paid only ₹3,43,440/-, which is approximately 37.6% of the BSP. The Complainants have failed to make payments towards the subsequent milestone-linked instalments. The account statement/ledger itself is the bank account statement of the Complainants and does not constitute proof of payments made exclusively to the Respondent.

(xv) The allegation that 'there is absolutely no development work' and 'only a concrete structure was erected' is false and misleading. The Project has achieved 55% infrastructure completion as disclosed in the RERA registration application (Form REP-I, Part C). Significant expenditure has been incurred on construction of shops (₹1,000 Lakhs), roads and pavements (₹20 Lakhs), water supply (₹15 Lakhs), electricity supply (₹25 Lakhs), and storm water drainage (₹15 Lakhs), among other heads. The Building Plans have been duly approved on 23.04.2025. The allegation regarding security guards preventing site visits is denied. The Respondent has security arrangements at the construction site as a routine safety measure and has never prevented any allottee from visiting the site through proper channels.

(xvi) The construction of the Project has been ongoing, albeit with delays attributable to the force majeure events and regulatory changes described in the Preliminary Submissions hereinabove. The Respondent has made substantial investment in the Project and is firmly committed to its completion by 02.02.2030 as per the RERA Registration. The characterization of the Respondent's conduct as 'unfair trade practice' under Section 12 of the Act is denied.

(xvii) That respondent has been diligently carrying out development work on the Project. As submitted above, the infrastructure is 55% complete, substantial expenditure has been incurred, and a detailed quarterly

construction schedule has been submitted to the Authority as part of the RERA registration application. The allegation that the Respondent has been 'utilizing the money deposited by the Complainants for his own benefits without completing the said project' is baseless, defamatory, and denied in toto. The Respondent has not raised any loans against the Project and has been funding the construction from its own resources and collections from allottees.

(xviii) That the Complainant No. 2, Sh. Janak Singh Rajput D/o Padam Singh Rajput, is shown as a co- complainant. However, from the Application Form/Allotment Letter and payment records, it is not clear in what capacity and on what basis Sh. Janak Singh Rajput claims to be a co-complainant/co-allottee of theUnit. The Application Form was signed by Sh. Surendra Kumar Bagaria and the second applicant's details in the Application Form, if any, are not discernible. The locus standi of the Complainant No. 2 is thus questionable and the Respondent reserves its right to raise this objection at the appropriate stage.

(xix) That it is further submitted that the Respondent has already executed Builder Buyer Agreements (BBAs) with 151 allottees out of 373 units and will abide by the date of completion mentioned in the respective BBAs for those units, as recorded in the RERA Registration Certificate. The Respondent is committed to completing the Project and handing over possession to all compliant allottees within the revised timelines.

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS

5. Today, counsel for complainants and respondent reiterated the pleadings mentioned in complaint and reply respectively.

G. ISSUE FOR ADJUDICATION

6. Whether the complainant is entitled to refund of the amount deposited with the respondent along with interest in terms of Section 18 of the RERA Act of 2016?

H. OBSERVATIONS OF THE AUTHORITY

7. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both parties, Authority observes as follows:

i. The complaint is barred by limitation under Section 69 of the Real Estate (Regulation and Development) Act, 2016.

Reference in this regard is made to the judgement of Apex court Civil Appeal no. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise.

> *"It seems to us that the scheme of the Indian Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Indian Limitation Act, 1963 "" 20 In Kerala State Electricity Board v. T.P""*

The promoter has till date failed to fulfill his obligations because of which the cause of action is re-occurring. RERA is a special enactment with particular aim and object covering certain issues and violations relating to housing sector. Provisions of the Limitation Act 1963 would not be applicable to the proceedings under the Real Estate Regulation and Development Act, 2016 as the Authority set up under that Act being quasi-judicial and not Courts.

8. Admittedly, complainants booked a unit in the project of respondent namely; "Gold Souk Connaught Place Hisar, situated in village Hisar, Vakya mauja Hisar, Tehsil and District Hisar. Complainants were allotted Unit no. D-315, third floor, admeasuring 203 sq. ft in said project vide allotment letter undated. Thereafter, Unit buyer agreement was executed between the parties on 15.07.2014 for sale price of ₹9,35,000/-. Complainant had paid an amount of ₹3,43,440/- against the unit.

9. Now main question which arises in the present complaint is what is the deemed date of possession. In this regard, Authority examined the contractual framework governing the relationship between the parties. While the application form dated 16.02.2014 for allotment letter envisaged delivery of possession by December 2014 with a grace period of six months. Subsequently, builder buyer agreement was executed between the parties on 15.07.2014. However, there is no specific time frame prescribed in the possession clause no. 9.1 of the builder buyer agreement. Hence, reliance is

placed on Clause 9 of application form of provisional allotment, which is already reproduced in para 2 above. As per this clause, respondent was liable to give the possession of the unit to the complainants by December 2014. Respondent had taken plea of various force majeure conditions for delay in delivering the possession as already mentioned in para 4(v) above.

10. Now, the question arises for determination as to whether any force majeure situations or circumstances which could have happened prior to December 2014 due to which the respondent could not carry out the construction activities in the project can be taken into consideration. Looking at this aspect as to whether the said situation or circumstances were in fact beyond the control of the respondent or not? The obligation to deliver possession within timeline was not fulfilled by respondent. There is delay on the part of the respondent. The reason given by the respondent is ceasement of construction activities during the COVID-19 period .As far as delay in construction due to outbreak of Covid-19 is concerned, 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,2019. 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 by December 2014 and is claiming the benefit of lockdown which came into effect on 23.03.2020, whereas the due date of handing over possession was 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. To conclude, Authority observes that mere averment of force majeure without any relevant proof of the same for causing delay in offering the possession is not sufficient to justify the delay caused.

11. Respondent raised the another objection that complainants had opted for the Construction Linked Payment Plan, under which payments were contractually linked to the attainment of construction milestones and complainants have failed to make payments towards the subsequent instalments. In this regard, Authority observes that the complainants have already paid an amount of ₹3,43,440/- (approximately 40%) towards the basic sale consideration of ₹9,13,500/-. No formal demand notices or reminders alleging default have been placed on record by the respondent prior to the filing of this complaint. Furthermore, the respondent has failed to substantiate how the alleged dues, if any, are linked to the delay in offering possession. It is also pertinent to note that despite having received substantial

payment, the respondent has neither completed construction nor obtained the Occupation Certificate, nor made any formal offer of possession. In the absence of completion of construction and compliance with statutory requirements, any remaining payment obligations under the agreement cannot be used as a ground to deny relief or justify delay. Hence, the allegation of default is an afterthought and a diversionary tactic to escape liability for the inordinate delay in handing over possession. The objection is therefore liable to be rejected.

12. Considering December 2014 as the date for handing over of unit, the respondent has not disclosed in its reply the current status of construction, the stage of completion, or the status of the occupation certificate. No documents such as progress reports, completion certificates have been produced. The complete absence of documentary evidence to demonstrate readiness to hand over possession clearly indicates that the project is nowhere near completion and that the respondent was incapable of offering lawful possession, even by the deemed date of December 2014.

13. Despite making substantial payment towards booking of unit complainants have sought relief of refund of paid amount for the reason that respondent is not in a position deliver valid possession of the unit in coming years. Complainants had invested their hard earned money in the project with hopes of timely delivery of possession. Fact remains that respondent is yet to receive occupation certificate meaning thereby that a valid possession is yet

to be offered to the complainants. Furthermore, the act of respondent in not completing the construction and receiving of occupation certificate till date, i.e., year 2026 strengthens the belief of complainant as well as the Authority that possession of booked unit is not possible even in near future and in these circumstances, complainants cannot be forced to wait for an indefinite period in hope of getting possession of unit. Additionally, complainants have unequivocally stated that they are interested in seeking refund of the paid amount along with interest on account of inordinate delay caused in delivery of possession.

14. Respondent has raised an objection that the Complainant No. 2, Sh. Janak Singh Rajput D/o Padam Singh Rajput, is shown as a co- complainant. However, from the Application Form/Allotment Letter and payment records, it is not clear in what capacity and on what basis Sh. Janak Singh Rajput claims to be a co-complainant/co-allottee of the unit. The Application Form was signed by Sh. Surender Kumar Bagaria and the second applicant's details in the Application Form, if any, are not discernible. Therefore, the locus standi of the Complainant No. 2 is questionable. Authority observes that the application form dated 16.02.2014 bears two names, i.e. Mr. Surender Kumar Bagaria and Mr. Janak Singh Rajput and further, copy of the builder buyer agreement submitted by the respondent himself bears signatures of both the allottees on each page of the BBA and the BBA is duly signed by the Authorized representatives of the respondent. Hence, the

said objection raised by the respondent that complainant no. 2 has no locus standi is hereby rejected.

15. When an allottee becomes a part of the project it is with hopes that he will be able to enjoy the fruits of his hard earned money in terms of a safety and security of his own home. However, in this case due to peculiar circumstances complainants have not been able to enjoy the fruits of their investment capital as the possession of the unit in question is shroud by a veil of uncertainty. Complainants had invested an amount of ₹3,43,440/- with the respondent by the year 2014 to gain possession of a unit. Since respondent is not in a position to offer a valid offer of possession in foreseeable future, complainant who has already waited for so many years does not wish to wait for a further uncertain amount of time or a valid possession. Complainants are at liberty to exercise their rights to withdraw from the project on account of default on the part of respondent no. 1 to deliver possession and seek refund of the paid amount along with interest as per section 18 of RERA Act, 2016.

16. Further, Hon'ble Supreme Court in the matter of "*Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others* " in CIVIL APPEAL NO(S). 6745 - 6749 OF 2021 has observed that in case of delay in granting possession as per agreement for sale, the allottee has an unqualified right to seek refund of amounts paid to the promoter along with interest. Para 25 of this judgement is reproduced below:

"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."

The decision of the Supreme Court settles the issue regarding the right of an aggrieved allottee such as in the present case seeking refund of the paid amount along with interest on account of delayed delivery of possession

17. Authority observes that the project is already delayed by several years. It is still not complete and complainants wishes to withdraw from the project of the respondent, therefore, the Authority finds it to be a case fit for allowing refund in favour of the complainant. So, the Authority hereby concludes that complainant is entitled to receive a refund of the paid amount along with interest as per Rule 15 of HRERA Rules 2017 on account of failure on part of

the respondent. As per Section 18 of the RERA Act, interest shall be awarded at such rate as may be prescribed. Section 18 of RERA Act, 2016 is reproduced below for reference:

> *"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"*

18. Further, the definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

> *(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
>
> *Explanation.-For the purpose of this clause-*

(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;

(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;

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

"Rule 15: *"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12, section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.*

Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public"

20. Hence, Authority directs the respondents to refund to the complainants the paid amount along with interest at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017 i.e at the rate of SBI

highest marginal cost of lending rate SBI (MCLR)+ 2 % which as on date works out to 10.95% (8.95% + 2.00%) from the date amounts were paid till the actual realization of the amount.

21. Authority has got calculated the interest on total paid amount from date of payments till date of order (i.e 02.11.2026) and same is depicted in the table below:

Sr.no	Principal amount	Date of payments	Interest accrued till 02.11.2026
1.	₹1,70,000/-	14.03.2014	₹2,35,467 -
2.	₹1,03,700 -	01.07.2014	₹1,40,244
3.	₹69740/-	10.10.2014	₹92203 -
	Total- ₹3,43,440/-		₹4,67,914/-
Total amount to be refunded by respondent to complainant ₹3,43,440/- + ₹4,67,914/- = ₹8,11,354/-			

E. DIRECTIONS OF THE AUTHORITY

22. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to refund the entire paid amount of ₹3,43,440/- alongwith interest of ₹4,67,914/- to the complainants. It is further clarified that respondent will remain liable to pay interest to the complainant till the actual realization of the amount

(ii) No third party rights to be created on the unit of the applicants till the realization of entire amount to the allottees is paid.

(iii) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which, legal consequences would follow.

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

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NADIM AKHTAR
[MEMBER]