BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.: 3452 of 2025
Date of complaint: 15.07.2025
Date of order: 08.09.2026

Nanak Chand Bajaj
Both R/O: - H.No. 1077/29, Gali No.8, krishna Colony, Gurugram.

Complainant

Versus

M/s RMG Developer Pvt. Ltd.
Regd. Office: SF-05. Ninex City Mart. Sohna Road, Gurugram.

Respondent

CORAM:
Shri Arun Kumar

Chairman

APPEARANCE:
Complainant In person
Shri Lokesh Kumar (Proxy Counsel)

Complainant
Respondent

ORDER

1. The present 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 provision of the Act or the

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

A. 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	RMG Residency, Sector-37 C, Gurugram
2.	Nature of the project	Affordable Group Housing
3.	RERA Registered/ not registered	Registration no. 206 of 2017 dated 15.09.2017
4.	License no. and validity	12 of 2015 dated 09.10.2015
5.	Unit no.	C-411, 4th floor, Tower-6, Block-C Unit type-II, 1 BHK, [As per allotment at page 17 & ABA at page 22 of complaint]
6.	Unit area admeasuring	481 sq. ft. carpet area [Page 17 & 22 of complaint]
7.	Date of booking	02.05.2016 [As per ABA at page 22 of complaint]
8.	Date of allotment	04.06.2016 [Page 17 & 22 of complaint]
9.	Date of Apartment Buyer Agreement [ABA]	13.12.2016 [Page 21 of complaint]
10.	Payment Plan	Time Linked Plan [As per payment plan at page 39 of complaint]
11.	Date of Approval of Building Plan	21.12.2015 [As per data available on DTCP website]

12.	Date of Approval of Environment Clearance [EC]	31.01.2017 [As per information obtained by Planning Branch]
13.	Possession clause	***3. POSSESSION*** *3.1 "...the Developer proposes to offer possession of the said Apartment to the Allottee(s) within a period of* ***4 (four) years from the date of approval of building plans or grant of environment clearance (hereinafter referred to as the "Commencement Date") whichever is later.*** *[Emphasis applied]* [As per ABA at page 25 of complaint]
14.	Due date of possession	31.01.2021 [As per possession clause 4 years from EC]
15.	Total consideration	Rs.19,59,747/- [As per ABA at page 23 of complaint]
16.	Amount paid by the complainant	Rs.20,79,912/- [As pleaded by complainant at page 13 of complaint and total as per payment receipts attached at page 47-50]
17.	Occupation certificate /Completion certificate	Not obtained
18.	Notice of possession	Not offered

B. Facts of the complaint:

3. The complainant has made the following submissions: -

I. The respondent had always advertised itself as a very ethical business group that lives onto its commitments in delivering its housing projects as per promised quality standards and agreed timelines. The respondent while launching and advertising any new housing project always commit and

promise to the targeted consumers that his/her/their dream home will be completed and delivered to him/he/them within the agreed timeline initially in the agreement while selling the dwelling residential unit to him/her/them. The respondent also assured the consumers like complainant that they have secured all the necessary sanctions and approvals from the appropriate authorities for the construction and completion of the real estate project sold by them to the consumers in general.

II. The respondent was very well aware of the fact that in today's scenario looking at the status of the construction of housing projects in India, especially in NCR, the key factor to sell any dwelling Residential Unit is the delivery of completed Unit within the agreed and promised timelines and that is the prime factor which a consumer would consider while purchasing his/her/their unit. Therefore, the respondent used this tool, which is directly connected to emotions of gullible consumers, in its marketing plan and always represented and warranted to the consumers that their unit will be delivered within the agreed timelines and consumer will not go through the hardship of paying rent along-with the installments of Home Loan like in the case of other builders in market.

III. That, somewhere in the year 2016, the respondent through its marketing executives had advertisement done through various medium and means approached the complainant with an offer to invest & buy a unit in the proposed project of respondent, which the respondent was going to launch the project under the name and style of **"RMG RESIDENCY"** at Sector-37C, Gurugram, District Gurugram (hereinafter to be referred to as "Said Project").

The respondent had represented to the complainant that the respondent is very ethical business in the field of construction of residential and commercial project and in case, the complainant invest in the project of respondent then they would deliver the possession of proposed unit on the assured delivery date as per the best quality assured by the respondent. The respondent had further assured to the complainant that the respondent has already secured all the necessary sanctions and approvals from the appropriate and concerned authorities for the development and completion of said project on time with the promised quality and specification. The respondent had also shown the brochures and advertisement material of the said project to the complainant given by the respondent and assured that the allotment letter and builder buyer agreement for the said project would be issued to the complainant within one week of booking to be made by the complainant. The complainant while relying on the representations and warranties of the respondent and believing those to be true had agreed to the proposal of the respondent to book the unit in the project of respondent. The representative of the respondent had also shown the brochures to the complainant.

IV. That the respondent arranged the visit of its representatives to the complainant and they also assured the same as assured by the respondent to the complainant, wherein it was categorically assured and promised by respondent that they already have secured all the sanctions and permissions from the concerned authorities/departments for the sale of said project and would allot the unit in the name of complainant immediately upon booking.

Relying upon those assurances and believing those to be true, the complainant booked a unit and subsequently was declared successful allottee of the unit **under the scheme of the Haryana Affordable Policy, 2013 and was allotted a 1 BHK TYPE-II FLAT** bearing FLAT No.**411, Unit Type-II, 1 BHK on Fourth Floor in Tower – 6, Block – C,** carpet area **476.102 Sq. ft.,** in the said project named, **RMG RESIDENCY,** situated at Sector-37C, Gurugram, District Gurugram, against a sale consideration of basic price of **Rs.19,59,747/-.** The said unit was allotted by the respondent to the complainant on **04.06.2016.**

V. That, at the time of allotment, it was assured and promised by the respondent that it would execute the agreement to sell in respect of the said unit as confirmation of the unit in favour of the complainant. Thereafter, on **13.12.2016**, the respondent had executed an apartment buyer agreement with the complainant. At the time of agreement, the complainant was assured by the respondent that the said unit shall be handed over to the complainant within a period of **4 (four) years.**

VI. That thereafter, respondent started raising the demand of money /installments from the complainant as per the agreed timelines and complainant as on the date of filing of the present complaint has paid **Rs.20,79,912/-** to the respondent.

VII. That, as per the Agreement, the respondent was required to handover the possession of the said unit to the complainant within **4 (four) years** from the date of agreement to the complainant. The date of possession was/is in **December 2020.** The respondent has failed utterly in delivering the

possession of the said Unit to the complainant; therefore, miserably defaulted in fulfilling its commitment as per the terms of the agreement.

VIII. That the respondent raised various demands for payments from time to time, which were duly paid by the complainant as per the schedule because the complainant has opted for the construction linked plan.

IX. That the respondent miserably failed in handing over the possession of the said unit to the complainant even after repeated requests of the complainant. It is pertinent to mention here that, when respondent miserably failed in handing over the possession of the said unit to the complainant well within stipulated time period.

X. That since the date of booking and till today, the respondent had raised various demands for the payment of installments on complainant towards the sale consideration of the said unit and the complainant has duly paid and satisfied all those demands without any default or delay on his part and has also fulfilled otherwise also his part of obligations but the respondent having fraudulent intention started construction of the project but levied unnecessarily demands, which were not the part of the agreement and assurances given to the complainant by the respondent and sold the said unit to complainant by misrepresentation as the respondent never had any such intention as promised by it to the complainant.

XI. That the complainant tried his level best to reach the representatives of the respondent to seek a satisfactory reply in respect of the said unit but all in vain. The complainant also informed the respondent about his financial hardship due to delay in delivering the possession of the unit. The

complainant requested the respondent to deliver the unit citing the extreme financial and mental pressure he was going through, but the respondent never cared to listen to his grievances and left him with the suffering and pain on account of its default and negligence.

XII. That the complainant undergone severe mental harassment due to the negligence on the part of the respondent to deliver the Unit on time agreed. The complainant had faced all these financial burdens and hardship from his limited income resources, only because of respondent's failure to fulfill its promises and commitments. Failure of commitment on the part of respondent has made life of the Complainant miserable socially as well financially as all his personal financial/fiscal plans and strategies were based on the date of delivery of possession as agreed by the respondent. Therefore, respondent has forced the complainant to suffer grave, severe and immense mental and financial harassment with no fault on his part. The complainant being common persons just made the mistake of relying on respondent's false and fake promises, which lured them to buy a Unit in the project of respondent. The respondent has trapped the complainant in a vicious circle of mental, physical and financial agony, trauma and harassment in the name of delivering their unit within deadline representing itself as a multinational real estate giant.

XIII. That the respondent committed grave deficiency in services by not delivering the possession of the Unit. On top of that the respondent has charged heavy rate of interest on delayed payment, which is at the rate of 18 percent per annum but miserably failed to perform it part of the agreement. The

complainant suffered a huge loss by paying a huge amount and still continues to suffer at the hands of respondent as being deprived of his money for a number of years without being delivered any possession of the said Unit or without being paid any interest on the huge amount.

XIV. That the cause of action accrued in favour of the complainant and against the respondent in year 2016, when complainant booked the said unit and it further arose when respondent failed/neglected to deliver the said unit. The cause of action is continuing and is still subsisting on day-to-day basis.

C. Relief sought by the complainant:

4. The complainants have sought following relief(s):
   I. Pass an order to direct the respondent to handover the possession of the said **unit /flat** to the complainant.
   II. Pass an order to direct the respondent to pay the interest at the prescribed rate of 18% per annum on the Sale Consideration paid by the complainant to the respondent.
   III. Pass an order to pay the penalty to the complainant on account of delay in delivering possession of the unit.
   IV. Pass an order to direct the respondents to pay an amount of **Rs.55,000/-**
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4)(a) of the Act to plead guilty or not to plead guilty.
6. Despite due service of notice and specific direction for filing reply in the matter, neither anyone has put in appearance on behalf of respondents before the Authority, nor any written reply to the present complaint has been received from it. Thus, the respondents were proceeded ex-parte. In view of the above, the Authority is deciding the complaint on the basis of these undisputed documents available on record and submissions made by the complainant.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

D. Jurisdiction of the authority

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

E.I Territorial jurisdiction

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

E.II Subject matter jurisdiction

10. 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.*

11. 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.

E. Relief sought by the complainants.

E.I Pass an order to direct the respondent to handover the possession of the said unit /flat to the complainant.

E.II Pass an order to direct the respondent to pay the interest at the prescribed rate of 18% per annum on the Sale Consideration paid by the complainant to the respondent.

E.III Pass an order to pay the penalty to the complainant on account of delay in delivering possession of the unit.

12. In the present complaint, the complainant intends to continue with the project and are seeking delay possession charges as provided under the Proviso to Section 18(1) of the Act. Section 18(1) Proviso reads as under:

> ***"Section 18: - Return of amount and compensation***
> *18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —*
> .....
> *Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*
>
> ***(Emphasis supplied)***

13. Clause 3 of the buyer agreement provides for handing over of possession and is reproduced below:

> ***3.1"..****"the Developer proposes to offer possession of the said Apartment to the Allottee(s) within a period of* ***4 (four) years from the date of approval of building plans or grant of environment clearance (hereinafter referred to as the "Commencement Date") whichever is later****..."....."*
>
> ***(Emphasis supplied)***

14. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the complainant not being in default under any provisions of these agreements and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by the allottees in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment date for

handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just to evade the liability towards timely delivery of subject unit and to deprive the allottees of their right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottees are left with no option but to sign on the dotted lines.

15. **Due date of possession and admissibility of grace period:** The respondents/promoter had proposed to hand over possession of the said unit within a period of four (4) years from the date of approval of the building plans or grant of Environmental Clearance, whichever is later (hereinafter referred to as the "Commencement Date"). The building plans were approved on 21.12.2015, whereas the Environmental Clearance was granted on 31.01.2017. Accordingly, the date of grant of Environmental Clearance, being the later of the two dates, shall be reckoned as the Commencement Date. Consequently, the stipulated period of four years expired on 31.01.2021 and the due date for handing over possession of the said unit was 31.01.2021

16. **Admissibility of delay possession charges at prescribed rate of interest:-** The complainants are seeking delay possession charges however, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under Rule 15 of the Rules, ibid. Rule 15 has been reproduced as under:

> ***"Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***
> *(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, ibid 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., 08.09.2026 is @ 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

19. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:

> ***"(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.***
> *Explanation. —For the purpose of this clause—*
> *the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.*
> *the 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;"*

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

21. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondents are in contravention of the section 11(4)(a) of the Act by not handing over possession

by the due date as per the agreement. By virtue of clause 2.1 of the buyer's agreement executed between the parties, the possession of the subject apartment was to be delivered within a period of ***4 (four) years from the date of approval of building plans or grant of environment clearance (hereinafter referred to as the "Commencement Date") whichever is later.*** The due date of handing over of possession comes out to be 31.01.2021 calculated from date of grant of environment clearance being later . However, the respondent hs failed to handover possession of the subject apartment till date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period.

22. Accordingly, it is the failure of the promoter to fulfil its obligations and responsibilities as per the agreement dated 13.12.2016 to hand over the possession within the stipulated period. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondents is established. As such, the allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 31.01.2021 till offer of possession plus 2 months or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

E.IV Direct the respondent to pay Rs.50,000/- towards the litigation charges of the present complaint.

23. The complainants are seeking the above-mentioned relief w.r.t. compensation. The Hon'ble Supreme Court of India in ***Civil Appeal nos. 6745-6749 of 2021*** titled as ***M/s Newtech Promoters and Developers Ltd. V/s State of UP & Ors.(supra),*** has held that an allottee is entitled to claim compensation and litigation charges under Sections 12, 14, 18 and section 19 which is to be decided by the adjudicating officer as per Section 71 and the quantum of compensation

and litigation expense shall be adjudged by the adjudicating officer having due regards to the factors mentioned in Section 72. The Adjudicating Officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses.

F. 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 is directed to pay interest to the complainant against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of a delay from the due date of possession, i.e., 31.01.2021 till offer of possession plus 2 months or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

II. The arrears of such interest accrued from 31.01.2021 till the date of order by the authority shall be paid by the promoter to the allottees within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.

III. The respondent/promoter is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainants.

IV. The complainants are directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.

V. The respondents/promoter shall not charge anything from the complainant which is not the part of the buyer's agreement dated 13.12.2016.

VI. The respondent/promoter is directed to handover possession of the flat/unit to the complainants in terms of Section 17(1) of the Act of 2016.

VII. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per Section 2(za) of the Act.

25. Complaint stands disposed of.

26. File be consigned to registry.

Arun Kumar
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 08.09.2026

HARERA
GURUGRAM