BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Date of Order: 13.10.2026

NAME OF THE BUILDER		AGRANTE REALITY LIMITED	
PROJECT NAME		"KAVYAM"	
S. No.	**Case No.**	**Case title**	**APPEARANCE**
1.	CR/6116/2025	Vijay Kumar V/S Agrante Reality Private Limited	Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for Respondent
2.	CR/6117/2025	Pushpa V/S Agrante Reality Private Limited	Sh. Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for Respondent
3.	CR/6137/2025	Priyanka Vashist V/S Agrante Reality Private Limited	Sh. Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for Respondent
4.	CR/6216/2025	Devender Kumar V/S Agrante Reality Private Limited	Sh. Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for respondent
5.	CR/6217/2025	Mohan Lal Sharma V/S Agrante Reality Private Limited	Sh. Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for Respondent
6.	CR/6463/2025	Gowher Bashir Bhat V/S Agrante Reality Private Limited	Sh. Aakash Gupta Advocate for complainant Sanjiv Kumar Thakur Advocate for Respondent

CORAM:

Shri Arun Kumar **Chairman**

ORDER

1. This order shall dispose of all the complaints titled as above filed before this authority 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 there under or to the allottee as per the agreement for sale executed *inter se*.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Kavyam" (Affordable Group Housing Colony) being developed by the same respondent/promoter i.e., Agrante Reality Limited. The terms and conditions of the allotment, fulcrum of the issues involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of delayed possession charges and others reliefs.

3. The details of the complaints, reply to status, unit no., date of allotment, date of agreement, due date of possession, total sale consideration, total paid amount and relief sought are given in a table below:

Project Name & Location: Kavyam, Sector-108, Gurugram						
Possession clause: Clause 7.1 The promoter agrees and understands that timely delivery of possession of the Apartment is the essence of the Agreement. The Promoter, based on the approved plans and specifications, assures to hand over possession of the Apartment within four years from the starts of construction, unless there is delay or failure due to Court Order, Government Policy / guidelines, decisions, war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Apartment provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented.						
Occupation certificate- Not obtained.						
Sr. no	**Complaint no. / title/ date of filing of complaint/ date of reply received**	**Unit no. and area admeasuring (carpet area)**	**Date of execution of apartment buyer's agreement**	**Due date of Possession and offer of possession**	**Total sale consideration and amount paid by the Complainant (s)**	**Relief Sought**

1.	**CR/6116/2025** titled as Vijay Kumar V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TD-1407, 14th Floor, Tower-D** admeasuring 488.30 sq. ft. (As per page no. 35 of complaint)	**08.04.2022** (As per page no. of 28 complaint) **Allotment Letter-** 01.07.2019 (As per page no. 17 of reply)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs.19,123,347/-** (As per SOA at page 60 of the complaint) **AP: Rs. 21,50,595/-** (As per SOA at page 60 of the complaint)	1. DPC 2. Possession
2.	**CR/6117/2025** titled as Pushpa V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TD-1906, Tower- D** admeasuring 488.30 sq. ft. (As per page no. 17 of reply)	**Not Executed** **Allotment Letter-** 01.07.2019 (As per page no. 17 of reply)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs. 21,29,354/-** (As per SOA at page 58 of the complaint) **AP: Rs.20,24,932/-** (As per SOA at page 58 of the complaint)	1. DPC 2.Possession
3.	**CR/6137/2025** titled as Priyanka Vashist V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TD-807, 8th Floor, Tower-D** admeasuring 488.30sq. ft. (As per page no. 29 of complaint)	**07.01.2020** (As per page no. 29 of complaint) **Allotment letter-** 01.07.2019 (As per page no. 17 of complaint)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs. 22,38,269/-** (As per SOA at page 65 of the complaint) **AP: Rs.20,26,521/-** (As per SOA at page 65 of the complaint)	1. DPC 2. Possession

4.	**CR/6216/2025** titled as Devender Kumar V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TD-1815, 18th Floor, Tower-D** admeasuring 488.30 sq. ft. (As per page no. 35 of complaint)	07.02.2022 (As per page no. 28 of complaint) **Allotment letter-** 02.09.2021 (As per page no. 17 of complaint)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs. 21,49,739/-** (As per page no. 59 of complaint) **AP: Rs.19,64,549/-** (As per page no. 59 of complaint)	1. DPC 2. Possession
5.	**CR/6217/2025** titled as Mohan Lal Sharma V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TD-1816, 18th Floor, Tower-D** admeasuring 488.30 sq. ft. (As per page no. 35 of complaint)	**07.07.2022** (As per page no. 28 of complaint) **Allotment letter-** 02.09.2021 (As per page no. 17 of reply)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs. 21,49,919/-** (As per SOA at page 59 of the complaint) **AP: Rs. 19,70,549/-** (As per SOA at page 59 of the complaint)	1. DPC 2. Possession
6.	**CR/6463/2025** titled as Gowher Bashir Bhat V/S Agrante Reality Private Limited **DOR-** 22.12.2025 **Reply received on-** 04.08.2026	**TC-303, 3rd Floor, Tower-C** admeasuring 488.30 sq. ft. (As per page no. 18 of reply)	**09.11.2023** (As per page no. 28 of complaint) **Allotment letter-** 02.09.2021 (As per page no. 17 of reply)	**20.08.2023** (calculated as 4 years from date of environmental clearance i.e., 20.08.2019) Offer of possession- **Not Offered**	**TSC: Rs. 22,75,025/-** (As per SOA at page 49 of the complaint) **AP: Rs. 19,70,549/-** (As per SOA at page 49 of the complaint)	1. DPC 2. Possession

Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOR- Date of receiving complaint
TSC- Total Sale consideration
AP- Amount paid by the allottee(s)
DPC- Delayed possession charges

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the buyer's agreement and allotment letter against the allotment of units in the project of the respondent/builder and for not handing over the possession by the due date, seeking award of handover the physical possession of the allotted unit along with delayed possession charges and others.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/ respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant/allottee are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/6116/2025 titled as Vijay Kumar V/S Agrante Reality Private Limited*** are being taken into consideration for determining the rights of the allottee(s) qua handover the physical possession of the allotted unit along with delayed possession charges and others.

A. Unit and project related details

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

S. N.	Particulars	Details
1.	Name of the project	"Kavyam", Sector- 108, Gurgaon
2.	Nature of project	Affordable group housing
3.	RERA registered/not registered	Registered vide registration no. 23 of 2018 dated 22.11.2018
	Validity status	5 acres
	Licensed area	31.11.2022
4.	DTPC License no.	101 of 2017 dated 30.11.2017
	Validity status	29.11.2022
	Name of licensee	Arvinder Singh & others
	Licensed area	5 acres
5.	Allotment letter	01.07.2019 [Page no. 17 of the reply]
6.	Unit no.	TD-1407, 14th Floor, Tower- D [Page no. 35 of the complaint]
7.	Unit area admeasuring	488.30 sq. ft. [carpet area] [Page no. 35 of the complaint]
8.	Date of execution of buyer's agreement	08.04.2022 [Page no. 28 of the complaint]
9.	Possession clause	**7.1 Schedule for possession of the said Apartment** *The Promoter agrees and understands that timely delivery of possession of the Apartment is the essence of the Agreement. The Promoter, based on the approved plans and specifications, assures to hand over possession of the Apartment* ***within four years from the starts of construction****, unless there is delay or failure due to Court Order, Government Policy / guidelines, decisions, war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure*

		conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Apartment provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented. [Page 43 of complaint]
10.	Possession clause as per Affordable Housing Policy, 2013	**1 (iv)** *All such projects shall be required to be necessarily completed within **4 years from the date of approval of building plans or grant of environmental clearance**, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy.*
11.	Building plan approved on	06.07.2018 [As per project details]
12.	Environment clearance	20.08.2019 [Taken from another file of same project]
13.	Due date of possession	20.08.2023 [calculated as 4 years from date of environmental clearance i.e., 20.08.2019 as the same is later]
14.	Total sale consideration	Rs.19,123,347/- (As per SOA at page 60 of the complaint)
15.	Amount paid by the complainant	Rs.21,50,595/- (As per SOA at page 68 of the complaint)
16.	Occupation certificate	Not obtained
17.	Offer of possession	Not offered

B. Facts of the complaint:

8. The complainant has made the following submissions:

   a. The complainant, Mr. Vijay Kumar (hereinafter referred to as complainant), is peace loving and law-abiding citizens of India, who nurtured hitherto an un-realized dream of having their own house

in upcoming group housing complex with all facilities and standards, situated around serene and peaceful environment. The complainant always leads their life with full of honesty, simplicity and truthfulness and epitomize utmost kindness and humanism.

b. The grievance of the complainant relates to breach of contract, false promises, gross unfair trade practices and deficiencies in the services committed by the respondents in regard to the apartment no. TD-1407, 14th Floor under Tower no. D, having carpet area of 488.30 square feet and balcony area 79.73 square feet with two-wheeler parking in the project 'Kavyam' situated at Sector – 108, Gurugram, Haryana, bought by the complainant paying their hard-earned money.

c. In the builder buyer agreement (hereinafter referred to as "agreement"), it is stated that the group companies of respondent, Agrante Realty Limited (as mentioned in the agreement) collectively owns and possesses land admeasuring 5 acres approximately situated at, Sector – 108, Gurugram, Haryana. The Director, Town and Country Planning Haryana, Chandigarh had granted permission vide licence bearing no. 101 of 2017 dated 30-11-2017 to Agrante Realty Limited i.e. one of the group companies of respondent, for developing a residential group housing project comprising of multi storied residential apartments to be known as 'Kavyam.

d. Based on the licence, the respondents collected a huge amount from gullible and naïve buyers including the complainant from 2019 onwards and kept on promising the complainant for the delivery of possession of their apartment on time as per the agreement. The complainant had paid, the payable amounts, as and when demanded by the respondent, a total of Rs.19,12,347/- till July 2022 for the apartment. But the respondent has not yet completed the

construction works at the project site and have not offered the legitimate possession of the apartment to the complainant till date.

e. The genesis of the present complaint lies in the gross indifference, refusal and failure of the various obligations on the part of the respondent. The respondent initially enticed various customers including the complainant to pay their hard-earned money for the purchase of the apartment in the project.

f. On the time on executing of builder buyer agreement between the complainant and respondent, the respondent promised to deliver the possession by 31st august 2023 to the complainant and the same was mentioned under the terms and conditions of the BBA, which is in exclusive possession of the respondent.

C. Relief sought by the complainant:

9. The complainant has sought following relief(s):

i. Direct the respondent to complete the development of the apartment along with all facilities and amenities like water, electricity, roads, parks, club, etc. immediately.

ii. Direct the respondent to handover the legal and rightful possession of the apartment to the complainant, after receiving all the required permissions and approvals from the competent authorities.

iii. Direct the respondent to provide a definite and fixed date of delivery of possession, as the complainant cannot be made to wait till eternity for enjoying the rights over the apartment, with liberty to the complainant to seek appropriate remedy if the respondents fail to handover the possession on the date mentioned before the Haryana Real Estate Regulatory Authority, Gurugram.

iv. Direct the respondent to pay the arrear of Rs.4,71,495/- which was calculated from the date of possession to filing of this complaint for

delay in offering the possession of the apartment till the handing over the actual possession.

v. Direct the respondent to not charge anything beyond the charges stipulated in the apartment buyer's agreement.

vi. Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainant.

D. Reply by the respondent:

10. The respondent has contested the complaint on the following grounds:

a. The complainant has filed the present complaint seeking delay possession charges. The said complaint filed by the complainant is factually, legally and even otherwise untenable as the same is misconceived and is based on falsehood & lacks material deficiency in the filing of the requisite documents.

b. The complainant herein is Mr. Vijay Kumar had booked the unit/flat bearing apartment no. TD-1407, Tower No.- D, having a Carpet Area of 488.30 square feet in the project of the Respondent Company namely "*KAVYAM*", under the affordable housing policy 2013, which is situated at Revenue estate of Village Dharampur, Sector 108, Gurgaon- 122006, Haryana for a total consideration amount of Rs. 20.12,996/- inclusive of GST, exclusive of another expenses & schedule.

c. Subsequently, an allotment letter dated 01.07.2019 was issued to the complainant by the respondent. Thereafter, the apartment buyer agreement was executed on 08.04.2022 between the parties.

d. The respondent issued demand letters as per the payment plan, and the complainant against the flat made the payment of Rs. 19,12,347/- inclusive of GST, exclusive of another expenses & schedule out of the total sale consideration of Rs. 20,12,996/- inclusive of GST, exclusive of another expenses & schedule.

e. As per the clause 7.1 of the agreement, the possession was slated for delivery by August 2023. However, as a result of Covid-19, the Force Majeure clause was invoked, thereby leading to an unavoidable delay in delivering the possession of the unit, which was entirely beyond the control of the respondent.

f. The clause 7.1 of the agreement provides an exemption if the delay is caused beyond the control of the respondent, such as due to force majeure, which will be excluded from the calculated time period. Due to the disruption caused during the first wave of the Covid-19 outbreak, various relief measures were granted to the Real Estate industry by the State Government. Due to the worldwide pandemic, there was general shortage of the labour and material resulting in delay and same amount to the force majeure condition. The policy instructions were issued vide this memo No. Misc-1025/2020/13188 dated 28.07.2020 and order dated 04.08.2020, relaxation was provided to the real estate sector in the state of Haryana by providing a moratorium of seven months for making various compliances related approval of licensed colonies and CLU permission. Further Council of Minister in its meeting on 15.06.2021 extended the moratorium for two more months and considered the zero period from 1.04.2021 to 31.05.2021.

g. On 12.01.2017, the Environment Pollution (Prevention and Control), Authority for the National Capital Region implemented the Graded Response Action. The authority based on the forecast and prediction has decided that the measure put into the place for very poor/ severe category of GRAP from 15.10.2019 would be lifted because the region is expected to stay in moderate/poor category in terms of the air quality. However, same through the urgent notice put further ban from 15.10.2019 and directing to enforce poor/severe category

measures under GRAP which consequently delay in the construction of the flat/unit.

h. The complainant also did not adhere to the payment schedule, as most of the payment made after the expiry of the due dates resulted in violation of the agreement in turn affecting the obligation of the respondent in terms of handling over the possession of the unit. The respondent sent demand letters and various demand letters with other emails as complainant failed to pay the outstanding amount in timely manner. However, after sending multiple demand letters and reminders, complainant paid the outstanding amounts.

i. The project faced unforeseen market fluctuations, including an unprecedented rise in construction material costs, which impacted the construction schedule due to the outbreak of Covid-19 Pandemic Despite this, the respondent strived to keep the project on track. However, these factors which were beyond the control of the respondent inevitably led to delays in the completion of the project and the handing over of possession to the complainant.

j. Due to the disruptions caused by the COVID-19 pandemic, there was a significant impact on the supply chain, leading to delays in the procurement of essential construction materials. Additionally, the availability of labour was severely affected, as many workers returned to their home states during the lockdowns and were unable to return promptly due to travel restrictions and health concerns. These factors, beyond the control of the respondent, further contributed to the delay in completing the project and handing over possession to the complainant.

k. The respondent had throughout conducted the business in a *bonafide* manner and will be completed the project and deliver possession to the customers within the stipulated time. The delay in

the construction of the flat was neither intentional nor malevolent but due to reasons beyond the control of the respondent, as explained in the preceding paragraph.

l. On 30.11.2021, the Government of the National Capital Territory (NCT) of Delhi issued directions pursuant to the Writ Petition *Aditya Dubey v. Union of India and Ors., Writ Petition (Civil) No. 1135 of 2020.* The Commission for Air Quality in NCT and adjoining areas convened a meeting on 21.11.2021 and issued directions under Section 5 of the Environment Protection Act, 1986. These directions include stopped the entry of trucks into NCT of Delhi, except for those carrying essential commodities, until 7th December 2021, and the closure of all GNCT offices, autonomous bodies, and other offices till 26.11.2021. Moreover, the Hon'ble Supreme Court, in its order dated 24.11.2021, imposed a ban on all construction activities within the NCR as part of its interim order. These restrictions further contributed to the delay in construction activities, thereby impacting the timely possession of the unit.

m. The project was also affected by adverse weather conditions due to bad air quality all over the NCR region which caused delays in construction activities. The respondent took all possible measures to mitigate the impact of such weather conditions, but the delays were inevitable due to the safety concerns of the labour.

n. In 2022 Commission for Air Quality Management in National Capital Region and Adjoining Areas vide its order dated 29.10.22 implemented the actions under Stage-III of GRAP for Severe plus category of AQI in Delhi NCR and revoked the order of Stage-III GRAP vide its order dated 14.11.2022, in same manner the commission implemented and imposed Stage-III of GRAP through orders dated 04.12.2022, 30.12.2022, 06.01.2023, 02.11.2023, 22.12.2023,

14.01.2024, 14.11.2024, 03.01.2025 and 09.01.2025 and revoked the same through revocation orders dated 07.12.2022, 04.01.2023, 15.01.2023, 28.11.2023, 01.01.2024, 18.01.2024, 27.12.2024, 05.01.2025 and 12.01.2025 respectively, due to these reasons the construction work in Delhi NCR had stopped for approximately 129 days between 29.10.2022 to 12.01.2025.

o. On various occasions the time period between the revocation of Stage-III GRAP and Re-implementation of the Stage-III GRAP is less than 10 days, sometimes 4 days, made difficult for promoter to continue the construction and caused loss of time and money. In view of the above-mentioned reasons the procurement of materials, machinery, labour, collection was becoming impossible for respondent, due to which respondent was unable to utilize this short span of time between the GRAP period and caused stoppage in work for almost 10 months.

p. The possession of the unit as per the agreed clause in the apartment buyer agreement, was scheduled for August, 2023. However, due to unprecedented and unforeseen circumstances beyond the control of the respondent, such as the onset of the COVID-19 pandemic, the government-imposed moratorium period of 8 months, and various legal restrictions and bans, including construction bans due to environmental and health concerns, the completion of the project was unavoidably delayed. The combined effect of these external factors necessitated the extension of the project timeline. As a result, the delivery of possession has to be exempted from the original timeline and is reasonably be extended to March 2026. Therefore, Therefore, it is prayed to the Hon'ble authority to exempt the 9 months period of covid-19 as zero period as per DTCP notification and orders in addition to 129 days of GRAP period from the ambit of

delay and hence the present complaint is premature, not maintainable, and liable to be dismissed.

11. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

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

E.I Territorial jurisdiction

13. 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

14. 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.

15. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Finding on objections raised by the respondent:

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

16. The respondent has raised a contention that the delay in the construction of the project was attributable to force majeure events, including the inordinate and excessive delay in the renewal of the respondent's license by the Department of Town and Country Planning (DTCP) under the Haryana Development and Regulation of Urban Areas Act, 1975, restrictions and suspensions on construction imposed by various pollution control authorities in Haryana, the implementation of various social schemes by the Government of India, and various orders passed by the National Green Tribunal (NGT). However, the said contentions are devoid of merit, as the respondent-promoter has failed to deliver possession of the project within the timeline stipulated in the apartment buyer agreement dated 08.04.2022. The force majeure claims raised by the respondent do not absolve it from the contractual obligation to hand over possession as agreed upon, and consequently, the respondent's failure to comply with the terms of the agreement constitutes a breach of contract.

17. Furthermore, while it is acknowledged that certain allottees may have failed to make timely payments of instalments but all the allottees cannot be expected to suffer for the actions of a few. The orders passed by the government, authorities, or courts imposing temporary bans on construction in the NCR region were for a brief period, and such

contingencies should have been anticipated at the outset of the project. Therefore, these temporary setbacks cannot be cited as a justification for the respondent-promoter's delay in project completion. It is a well-established principle of law that a party cannot benefit from its own wrong, and as such, the respondent-promoter is not entitled to any leniency on the basis of the aforementioned reasons.

G. Findings on the relief sought by the complainant:

G.I Direct respondents to complete the development of the apartment along with all facilities and amenities like water, electricity, roads, parks, club, etc. immediately.

G.II Direct the respondents to handover the legal and rightful possession of the apartment to the complainant, after receiving all the required permissions and approvals from the competent authorities.

G.III Direct the respondents to provide a definite and fixed date of delivery of possession, as the complainant cannot be made to wait till eternity for enjoying the rights over the apartment, with liberty to the complainant to seek appropriate remedy if the respondents fail to handover the possession on the date mentioned before the Haryana Real Estate Regulatory Authority, Gurugram.

G.IV Direct respondent to pay the arrear of Rs.4,71,495/- which was calculated from the date of possession to filing of this complaint for delay in offering the possession of the apartment till the handing over the actual possession.

G.V Direct the respondents to not charge anything beyond the charges stipulated in the apartment buyer's agreement.

18. The aforesaid reliefs are being taken up and adjudicated conjointly, inasmuch as the same are interlinked and arise out of a common set of facts and cause of action.

19. The complainant was allotted a unit in the project of respondent "Kavyam" in Sector-108, Gurugram for a total sale consideration of Rs. 19,12,347/-. The buyer's agreement was executed on 08.04.2022 between the parties and the complainant started paying the amount due against the allotted unit and paid a total sum of Rs. 21,50,595/-.

20. As per clause 7.1 of the buyer's agreement dated 08.04.2022, due date of possession is to be calculated within four years from the starts of construction. The possession clause is reproduced below for the ready reference:

> ***Clause 7.1***
> *The Promoter agrees and understands that timely delivery of possession of the Apartment is the essence of the Agreement. The Promoter, based on the approved plans and specifications,* ***assures to hand over possession of the Apartment within four years from the starts of construction****, unless there is delay or failure due to Court Order, Government Policy / guidelines, decisions, war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of the real estate project ("Force Majeure"). If, however, the completion of the Project is delayed due to the Force Majeure conditions then the Allottee agrees that the Promoter shall be entitled to the extension of time for delivery of possession of the Apartment provided that such Force Majeure conditions are not of a nature which make it impossible for the contract to be implemented.*
>
> ***(Emphasis supplied)***

21. Therefore, the due date for possession is to be calculated as 4 years from date of environmental clearance i.e., 20.08.2019 as the same is later. Thus, the due date for possession of the unit comes to 20.08.2023.

22. The respondent in its reply mentioned that the occupation certificate of the project has not been obtained till date. As per the documents placed on record by the respondent, the Authority has observed that the due date of possession was 20.08.2023, however, the respondent has failed to handover the physical possession of the allotted unit within stipulated time frame.

23. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is continuing with the project and seeking delay possession charges. However, proviso to section 18 of the Act 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 the possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules 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.

24. 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.

25. 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., 13.10.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

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

(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.

Explanation. —For the purpose of this clause—

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

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.

27. On consideration of the documents available on record and submissions made by the parties regarding contravention as per provisions of the Act,

the authority is satisfied that the respondent is 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 7.1 of the buyer's agreement executed between the parties on 08.04.2022, and the due date of as per buyer's agreement as 20.08.2023. The authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the subject flat and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 08.04.2022 to hand over the physical possession within the stipulated period.

28. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate has not been granted by the competent authority to the respondent till date. Therefore, in the interest of natural justice, the complainant should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically they have to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.

29. The promoter is responsible for all the obligations, responsibilities and functions under the provisions of the Act, or the rules and regulations made thereunder or to the allottees as per agreement for sale under section 11(4)(a). The promoter has failed to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein. Accordingly, the promoter is liable to the allottees, as they wish to continue with the

project, without prejudice to any other remedy available, to pay the delay possession charges on amount received by him in respect of the unit with interest at such rate as may be prescribed.

30. 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 delayed possession charges 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%) from the due date of possession (20.08.2023) till the date of offer of possession or actual handing over of possession, whichever is earlier.

G.V. Direct the respondent to not charge anything beyond the charges stipulated in the apartment buyer's agreement.

31. The complainants have sought a direction restraining the respondent from levying or recovering any amount which does not form part of the agreed payment plan. It is observed that the financial obligations of the parties are governed by the terms and conditions of the buyer's agreement and the mutually agreed payment plan. The promoter is bound to raise demands strictly in accordance with the agreed terms and cannot unilaterally impose charges that are not contemplated therein or are otherwise contrary to the provisions of the Real Estate (Regulation and Development) Act, 2016 and the Rules framed thereunder.

32. Accordingly, the respondent shall ensure that all demands are raised strictly in conformity with the agreed payment plan and contractual stipulations. Any charge not forming part of the buyer's agreement shall not be recovered from the complainants.

G.VI Direct the respondent to pay legal expenses of Rs.1,00,000/- incurred by the complainant.

33. The complainant in the aforesaid relief is seeking relief w.r.t compensation. Hon'ble Supreme Court of India in civil appeal titled as

M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. (Civil appeal nos. 6745-6749 of 2021, decided on 11.11.2021), has held that an allottee is entitled to claim compensation 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 shall be adjudged by the adjudicating officer having due regard to the factors mentioned in section 72.

H. Directions of the Authority:

34. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the Act of 2016:

i. The respondent/promoter is directed to pay delay possession charges to the complainant against the paid-up amount at the prescribed rate of interest i.e. 10.80% p.a. for from the due date of possession i.e., 20.08.2023 till the date of offer of possession plus two 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 20.08.2023 till the date of order by the authority shall be paid by the respondent/promoter to the complainant 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 complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the

promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

iv. The respondent is directed to hand over possession of the subject unit to the complainant/allottees, upon payment of outstanding dues, if any, after obtaining the occupancy certificate.

v. The respondent is directed to execute the conveyance deed registered in favour of the complainants within 90 days as per section 17 of the Act, upon payment of requisite stamp duty charges and administrative charges as per norms of the state government.

vi. The respondent is directed to not to levy, demand, or recover any amount from the complainant which is not expressly stipulated in the builder buyer agreement.

vii. The respondent is directed to not to levy or recover maintenance charges for any period prior to the date of offer of possession.

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

35. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

36. The complaints as well as applications, if any, stands disposed of. True certified copies of this order be placed on the case file of each matter.

37. Files be consigned to the registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 13.10.2026