

**BEFORE THE HARYANA REAL ESTATE REGULATORY  
AUTHORITY, GURUGRAM**

Complaint no. : 3040 of 2025  
Date of complaint : 09.07.2025  
Date of Decision : 17.07.2026

Maulik Devang Kumar Dave  
R/o: H. no. Villa No. V 95, Ezdan 24 Al Wukair,  
Doha, Qatar.

**Complainant**

Versus

AMB Infraventures Pvt. Ltd.  
Address: Plot No. 18, Second Floor, Sector-44,  
Gurugram, Haryana – 122002

**Respondent****CORAM:**

Shri Arun Kumar

**Chairman****APPEARANCE:**

Shri Gaurav Bhardwaj (Advocate)  
Shri Dhruv Rohtagi (Advocate)

**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 provisions of the Act or the

Rules and regulations made there under or to the allottees 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          | AMB Selfie Street, Sector-92, Gurugram                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2.    | Project area                 | 3.175 acres                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.    | Nature of the project        | Commercial Project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 4.    | RERA Registered or not       | Registered vide no. 80 of 2017 dated 23.08.2017 valid upto 21.08.2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 5.    | DTCP License no.             | 10 of 2015 dated 18.09.2015 valid upto 17.09.2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 6.    | Unit no.                     | G-19A, Ground Floor<br>(page no. 47 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 7.    | Unit area admeasuring        | 294 sq. ft.<br>(page no. 47 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 8.    | Provisional allotment letter | 20.01.2020<br>(page no. 44 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 9.    | Welcome letter               | 20.01.2020<br>(page no. 45 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 10.   | MOU                          | 20.01.2020<br>(page no. 47 of complaint)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11.   | Assured return clause        | 2.5 The Developer agrees to pay the amount towards Assured Return to the Allottee on monthly basis <b>till issuance of letter of offer of possession</b> after deducting the applicable taxes and after the letter of offer of possession the Developer would also pay the Assured Return to the Allottee <b>till the execution of First Lease or 24 months from the letter of offer of possession whichever is earlier</b> , at quarterly intervals (on or before 7 <sup>th</sup> of the month succeeding the quarter) after adjustment of any interest due and payable by the Allottee on the amount payable by |

|     |                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                                                                                              | <p>the Allottee towards balance amount and other charges &amp; taxes against the Premises subject to the allottee has made all the payments as per the payment plan. It is specifically agreed and understood between the parties that once the developer has got first lease deed in respect of the aforesaid space/unit executed, it shall no longer be responsible or liable to make any assured return for a span of 24 months beyond the date of letter of offer of possession. In the event of commission of default by the lessee, the matter shall be mutually settled between the allottee and the lessee and no liability of any nature shall be fastened on the developer.<br/>         (Page no. 49 of complaint)</p> |
| 12. | Addendum to MOU regarding [AR shall be adjusted in the future dues payable by the allottee to the Developer] | <p>29.10.2020<br/>         (page no. 57 of complaint)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 13. | Buyer' agreement annexed by respondent                                                                       | <p>11.02.2020<br/>         (page no. 42 of reply)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 14. | Possession clause                                                                                            | <p>16. Possession of the Unit<br/>         16.1 The Company based upon its present plans and estimates and subject to all exceptions, proposes to handover possession of the Unit within <b>36 months computed from the date of execution of buyer's agreement, excluding additional grace period of 12 months</b> subject to force majeure circumstance and reasons beyond the control of the Company.<br/>         (page no. 85 of complaint)</p>                                                                                                                                                                                                                                                                               |
| 15. | Due date of possession                                                                                       | <p>11.02.2024<br/>         (as per possession clause including grace period of 12 months)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 16. | Sale Consideration                                                                                           | <p>Rs. 45,85,518/-<br/>         (as per payment plan at MOU at page 63 of complaint)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 17. | Amount paid by the complainant                                                                               | <p>Rs. 53,21,123/-<br/>         (as per SOA at page no. 91 of reply)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|     |                        |                                           |
|-----|------------------------|-------------------------------------------|
| 18. | Occupation certificate | 07.05.2024<br>(Page no. 84 of reply)      |
| 19. | Offer of possession    | 07.05.2024<br>(page no. 87 of reply)      |
| 20. | Conveyance deed        | 17.01.2025<br>(page no. 124 of complaint) |

**B. Facts of the complaint:**

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

- I. That the complainant booked a commercial in the said project by paying an amount of Rs. 1,00,000/- dated 23.12.2019 and Rs. 46,960/- dated 23.12.2019.
- II. That thereafter vide welcome letter and provisional allotment letter dated 20.01.2020 the respondent gave a unit no. G-19 A to the complainant and allotted an independent commercial space on Ground Floor admeasuring super area of 294.00 sq. ft. for the total sale consideration of Rs. 45,85,518/-. This was followed by issuance of welcome letter dated 20.01.2020.
- III. That pursuant to the afore-mentioned payment by the complainant, the respondent executed a memorandum of understanding dated 30.12.2019 with the complainant thereby allotting the commercial space bearing unit no. G-19A located in ground floor. That prior to execution of the said MOU, the complainant opted for "Assured Return Scheme". As per clause 2.1 and 2.5 of MOU the respondent shall pay assured return amounting of Rs. 29,400/- to the complainant till the execution of First Lease or 24 months from the letter of the offer of possession whichever is earlier, at quarterly intervals.
- IV. That on 29.10.2020 the addendum memorandum of understanding was duly executed between the parties. In the said addendum, in clause (vii) the respondent has sought additional time to fulfill its obligations, citing

the impact of the COVID-19 pandemic. The respondent has further stated therein that it has been unable to pay the assured return amount as originally agreed, owing to financial constraints and unforeseen disruptions caused by the said pandemic.

- V. That the complainant received the letter dated 20.01.2020 from the respondent regarding the signature affixed on the BBA, which was duly witnessed by the complainant and also assured that the complainant received the original copy of the BBA within 30 days from the receipt of the BBA. Subsequently, the complainant again received a letter dated 11.02.2020 regarding the execution of the builder buyer agreement dated 11.02.2020.
- VI. That after 5 years the complainant received the copy of the builder buyer agreement dated 09.01.2025 was executed between the complainant and the respondent on 11.02.2020 for the unit in question wherein under clause 16.1, the respondent undertook to complete the construction of the complex within 48 months from the date of execution of the buyer agreement whichever is later and apply for occupation certificate i.e. by 11.02.2024.
- VII. That as per the abovementioned BBA signing document the area of the allotted unit was stated to be 294 sq. ft. super area. However, at the time of execution of the BBA, the respondent unilaterally increased the area of the unit i.e. 299 sq. ft. super area without obtaining the complainant's prior consent.
- VIII. That the aforesaid MOU contained various unfair clauses, one being where no specific date of offer of possession being committed by the respondent. Similarly, the MOU nowhere mentioned about the delay compensation charges to be payable in case of delay in offer of

possession. On the contrary, in case of delay of payment by the buyer, the memorandum of understanding clearly laid down an interest @ 18% p.a. to be levied by the respondent. The said clauses are completely one sided and are liable to be declared as null and void.

- IX. That the complainant received vide letter dated 07.05.2024 titled as "offer of possession" dated in which the respondent informed that the occupation certificate has been successfully obtained by the respondent company, Subsequently, the respondent also informed that the final statement of demand letter along with compliance to proceed for registration of conveyance deed of the unit and requested the complainant to complete all the payment and necessary documentation within 30 days from the date of issuance of above said letter.
- X. That the respondent sent an email dated 02.07.2024 informed the complainant that subsequent to obtaining occupation certificate, the architect and the project team were engaged in enhancing various project features including but not limited to the grand entrance, landscaping, and water features. The respondent further enclosed the revised price list reflecting changes made post receipt of the OC and conveyed that the final demand statement, outlining the remaining payment obligation and requisite documentation, would be issued in due course.
- XI. That later vide letter dated 17.07.2024 titled as "Demand in reference to offer of possession", the respondent requested the complainant regarding the common area maintenance charges amounting of Rs. 50,806/-. Subsequently, on the same day the complainant received the "Statement of Demand" wherein it was observed and dismay that despite making all the payments in a timely manner, the respondent had

nonetheless included charges towards delayed payment interest in the above-mentioned letter. Thereafter, the complainant vide email dated 21.07.2024 request the respondent to share the detailed breakdown of the payment amounting to Rs. 53,21,124/-, but to no avail.

- XII. That the complainant sent an email dated 17.10.2024 to the respondent regarding the confirmation of the abovementioned payment made by the complainant on 07.08.2024 and also requested the respondent to provide timely guidance regarding the registration process, including the relevant dates, well in advance. It is further Submitted that, vide email dated 18.10.2024, the respondent apprised the complainant that the request for registration had already been initiated and was currently under process.
- XIII. That the complainant on multiple occasion sent an email to the respondent seeking clarity on the date of the registration. It is also stated that the complainant specifically informed the respondent that the complainant is in India and available till 10.01.2025. Despite this express communication and repeated requests, the respondent continuously deferred the matter, stating that the registration was under process.
- XIV. That on 10.02.2025 the complainant sent an email to the respondent regarding the completion of the conveyance deed of the unit in tehsil office on 17.01.2025 and also requested the respondent to send the original BBA and conveyance deed. However, the complainant received the conveyance deed and BBA. Later, the complainant again sent an email dated 17.03.2025 regarding the formalities related to the possession of the unit and also informed that as per MOU the

complainant is entitled for the rental income of Rs. 100 per sq. ft. per month which has not been received by the respondent.

- XV. That the respondent simply duped the complainant of her hard-earned money and life savings. The aforesaid arbitrary and unlawful acts on the part of respondent have resulted in to extreme kind of financial hardship, mental distress, pain and agony to the complainant.
- XVI. That the present complaint has been filed in order to seek delayed possession charge and assured returns on the principal amount paid by the complainant along with interest at the rate prescribed as per RERA Act, 2016 and HRERA Rules, 2017 from the due date of possession, along with other reliefs mentioned herein below. Hence, this complaint.

**C. Relief sought by the complainant:**

4. The complainant sought following relief(s).
  - i. Direct the respondent to pay delay possession charges along with interest to the complainant on the principal amount paid by the complainant from the due date of possession till the actual handing over of possession.
  - ii. Direct the respondent to pay pending assured rental amount from the date of offer of possession i.e., 07.05.2024 amounting Rs. 3,94,535/- till tentative date.
  - iii. Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.
  - iv. Direct the respondent not to levy any holding charges from the complainant.
  - v. Direct the respondent not to levy any maintenance charges from the complainant till date of actual handover.

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.

**D. Reply by the respondent.**

6. The respondent vide reply dated 27.10.2025 contested the complaint on the following grounds: -
- I. That the present complaint is not maintainable in law or on facts. The present complaint is not maintainable before this Hon'ble Authority as the Authority does not have the jurisdiction to grant the relief sought by the complainant. The present complaint is liable to be dismissed on this ground alone.
  - II. That the complainant has got no locus standi or cause of action to file the present complaint and the same is barred by limitation.
  - III. That the present complaint is not filed in accordance with the provisions of law especially with the provisions of the RERA Act and rules and regulations made thereunder thus, the complaint is liable to be dismissed.
  - IV. That the complainant is stopped from filing the complaint for his act, conduct, admission, commission and laches.
  - V. That the complaint is bad for non-joinder and mis-joinder on necessary and un-necessary party.
  - VI. That the complaint is barred by the principal of res-judicata, estoppel, waiver, acquiescence and hence the present suit is not maintainable thus liable to be dismissed.
  - VII. That the complainant is estopped by their own acts, conduct, acquiescence, laches, omissions etc. from filing the present complaint.

The complainant has been enjoying the said unit without any demur/protest. That the possession was offered to the complainant on 07.05.2024 and thereafter, executed a conveyance deed dated 17.01.2025. The lack of bonafide of the complainant is apparent that after conclusion of the entire transaction on the execution of the conveyance deed and the completion of all obligations of the respondent, they chose to remain silent for such a long period and have approached this authority to extort money.

- VIII. That the complainant is not an "aggrieved party" or "allottee" as defined under the Act but are investors who had admittedly booked the unit as a speculative investment in question in order to realise quick profits from its resale.
- IX. That the present complaint seeking the relief of assured returns. The respondent cannot pay the "assured returns" to the complainant by any stretch of imagination in the view of prevailing laws. That on 21.02.2019 the Central Government passed an ordinance "Banning of Unregulated Deposits, 2019", to stop the menace of unregulated deposits, the "Assured Returns Scheme" given to the complainant fell under the scope of this Ordinance and the payment of such returns became wholly illegal. That later, an act by the name "The Banning of Unregulated Deposits Schemes Act, 2019" (hereinafter referred to as "the BUDS Act") notified on 31.07.2019 and came into force. It is provided in section 8 of the act that there will be establishment of designated court to handle cases related to these scheme like assured return. That under the said Act all the unregulated deposit schemes such as "Assured Returns" have been banned and made punishable with strict penal provisions.

- X. That the present complaint has been filed to claim the relief of assured return basis an MOU dated 09.07.2020 and addendum MOU dated 29.10.2020 which are an independent investment agreement and not a buyer's agreement or an allotment agreement. The present complaint, seeking performance of the commercial obligations between the parties, arising out of an investment agreement/ MOU dated 09.07.2020 and Addendum MOU dated 29.10.2020 is not maintainable before this forum, nor does this Authority, under the RERA Act, is empowered or vested with the jurisdiction to grant any reliefs of the nature as sought by the complainant.
- XI. That the complainant approached the respondent and evinced an interest to purchase a unit in the commercial colony being developed under the name and style of "AMB Selfie Street" situated in Sector 92, Gurugram. It is pertinent to mention that only after being fully satisfied with regard to all aspects of the project, including but not limited to the capacity/ capability of the respondent to undertake conceptualization, promotion, development and construction of the same, the complainant took an independent and informed decision to purchase a unit in the said project.
- XII. That the complainant duly accepted the terms and conditions forming part of the application form and undertook, inter alia, to execute the buyer's agreement in the standard format of the respondent.
- XIII. Thereafter, unit bearing no. G-19A, Ground Floor tentatively admeasuring 294 square feet of the said project was allotted in favour of the complainant.
- XIV. That thereafter, the respondent issued an allotment letter dated 20.01.2020, to the complainant confirming their allotment of unit

bearing no. G-19A, Ground floor, in the project in question on the terms and conditions contained therein.

- XV. That thereafter, unit buyer agreement having analogous terms and conditions were executed between the respondent and the complainant for the unit. That as per clause 16 of the buyer's agreement the respondent company proposed to handover the possession of the unit within 36 months from the date of execution of buyer's agreement with a further grace period of 12 months. However, the said period of handover was subject to force majeure condition.
- XVI. That the unit buyer's agreement was executed on 11.02.2020 before the onset of global pandemic of COVID-19. The world at large has witnessed COVID-19 pandemic and the Government of India imposed a lockdown on all commercial activities in the light of the ongoing pandemic situation from 22nd March 2020. Due to uncertainty and fearing sickness and the epidemic, most of the construction workers left for their home towns. Although the contractors received the permission to commence work on site during the Month of May, the non-availability of manpower impacted the productivity very severely. The above has resulted in delays in construction of the project, for reasons that essentially lie beyond the control of respondent no. 1. Further, to increase the misery of the OP, the Laborers started migration towards their hometown. Post lockdown, the laborers did not returned full-fledged. Surge of Covid Second wave and apprehension of Covid third wave also delayed the return of laborers to work sites and hence, delays were caused.
- XVII. That the respondent was also gravely affected by the various construction bans and lockdowns imposed by the Union and State

authorities due to the effects of Covid-19 upon real estate. The committed date of possession fell at the time of Covid-19, when the entire nation was under lockdown and considering the same, the Ministry of Finance (MOF), vide Office Memorandum No. F.18/4/2020-PPD, dated 13.05.2020, had considered the period of covid-19 lockdown as *force-majeure* circumstance and had allowed the parties to the contract with an extension of 6 (six) months period for fulfilling the contractual obligations. Further, the Ministry of Housing and Urban Affairs vide Office Memorandum no. O-17024/230/2018-Housing-UD/EFS-9056405, dated 13.05.2020, had considered the said covid-19 situation as *force majeure* for real estate projects and advised the Regulatory Authorities to extend the registration date, completion date, revised completion date and extended completion date automatically by 6 (six) months due to outbreak of covid 19.

- XVIII. Further, the Ld. Haryana Real Estate Regulatory Authority at Panchkula upon considering the obstructions/challenges faced by various Real Estate Developers due to second wave of Covid-19, had allowed special extension of 3 months from 01.04.2021 to 30.06.2021, considering the same as *force majeure* event. Thus, the respondent is also entitled to additional extension for 3 months for completion of the project.
- XIX. Subsequently, upon removal of the Covid-19 restrictions it took time for the workforce to commute back from their villages, which led to slow progress of the completion of project. Despite, facing shortage in workforce, materials and transportation, the respondent managed to continue with the construction work and completed the project. That the respondent also has to carry out the work of repair in the already constructed building and fixtures as the construction was left

abandoned during the period of Covid-19 lockdown. This led to further hurdle in timely completion of the project.

- XX. That in addition to the above hindrances it is also pertinent to mention here that construction of real estate projects in Delhi NCR region was put on halt on various occasions by the various Courts, Authorities etc. to mitigate the adverse effects of the pollution. Due to such ban on construction, the Promoter was constrained to halt the development work in compliance of various order which effected the timely completion of the project.
- XXI. That after having timely completed the construction of the unit the application for occupation certificate was made and the occupation certificate was obtained on 07.05.2024.
- XXII. That possession of the unit was offered to the complainant by offer of possession letter dated 07.05.2024. The complainant was also called upon to pay the EEC/ DHBVN connection charges, electricity connection/ meter charges in terms of clause 4.12, labour cess, IFMS and sinking fund in terms of clause 4.4 of the buyer's agreement. Thus, the demands so raised by the respondent are all in terms of the buyer's agreement and legitimate which the complainant is liable to pay.
- XXIII. That the total sale consideration of the unit at the time of sale was Rs. 45,85,518/-. The final area of the unit after completion has increased from tentative booked area of 294 sq. ft. to 299 sq. ft., thereby increasing the basic sale price, EDC, IDC, and other charges. The total sale price of the unit after completion is Rs. 48,05,520/-. That the assured return committed has already been adjusted in the sales price of the unit allotted and other dues.

XXIV. That pursuant to the issuance of the offer of possession and issuance of final demand, the complainant paid due amount and the conveyance deed of the unit in question was executed between the parties on 17.01.2025. Simultaneously, the complainant has also executed the maintenance services agreement dated 17.01.2025 with the service provider. The transaction between the complainant and the respondent stands concluded and no right or liability can be asserted by the respondent or the complainant against the other.

6. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submissions made by the complainant.

**E. Jurisdiction of the authority**

7. The respondent in its reply has raised an objection that the Authority has no jurisdiction to adjudicate the matter. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

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

**E.II Subject-matter jurisdiction**

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees 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.*

10. 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. Findings on the objections raised by respondent**

**F.I Objection regarding the complainant being investor.**

11. The respondent/promoter has taken a stand that the complainant is the investors and not consumer, therefore, he is not entitled to the protection of the Act and thereby not entitled to file the complaint under section 31 of the Act. The authority observes that the Act is enacted to protect the interest of consumer of the real estate sector. It is pertinent to note that any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates any provisions of the Act or rules or regulations made thereunder. At this stage, it is important to stress upon the definition of term allottee under the Act, the same is reproduced below for ready reference:

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

12. In view of above-mentioned definition of "allottee" as well as all the terms and conditions of the apartment buyer's agreement executed between promoter and complainant, it is clear that the complainant is allottee(s) as the subject unit was allotted to him by the promoter. The concept of investor is not defined or referred in the Act. As per the definition given under section 2 of the Act, there will be "promoter" and "allottee". Thus, the contention of promoter that the allottee being an investor is not entitled to protection of this Act stands rejected.

**G. Findings on the relief sought by the complainant.**

- i. **Direct the respondent to pay delay possession charges along with interest to the complainant on the principal amount paid by the complainant from the due date of possession till the actual handing over of possession.**
- ii. **Direct the respondent to pay pending assured rental amount from the date of offer of possession i.e., 07.05.2024 amounting Rs. 3,94,535/- till tentative date.**

13. In the present complaint, the complainant booked a unit in the project of the respondent namely, AMB Selfie Street, situated at Sector- 92 of Gurugram. The complainant was allotted a unit bearing no. G-19A on Ground Floor admeasuring 294 sq. ft. The Memorandum of Understanding (MOU) was executed between the parties on 20.01.2020. Subsequently the buyer's agreement was also executed between the parties on 11.02.2020. Thereafter an addendum to MOU

was executed on 29.10.2020. The total sale consideration of the unit was Rs. 45,85,518/- out of which the complainant has paid an amount of Rs. 53,21,123/-. The respondent has obtained the occupation certificate on 07.05.2024 and subsequently offered the possession of the unit on 07.05.2024. Thereafter, the conveyance deed also got executed on 17.01.2025.

14. The complainant in the present complaint has sought relief regarding payment of assured return as well as delay possession charges. The respondent refused to pay the assured by taking a plea that the same is not payable in view of enactment of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the Act of 2019), citing earlier decision of the authority (Brhimjeet & Anr. Vs. M/s Landmark Apartments Pvt. Ltd., complaint no 141 of 2018) whereby relief of assured return was declined by the authority. The authority has rejected the aforesaid objections raised by the respondent in CR/8001/2022 titled as Gaurav Kaushik and anr. Vs. Vatika Ltd. wherein the authority has held that when payment of assured returns is part and parcel of builder buyer's agreement (maybe there is a clause in that document or by way of addendum, memorandum of understanding or terms and conditions of the allotment of a unit), then the builder is liable to pay that amount as agreed upon and the Act of 2019 does not create a bar for payment of assured returns even after coming into operation as the payments made in this regard are protected as per section 2(4)(I)(iii) of the Act of 2019. Thus, the plea advanced by the respondent is not sustainable in view of the aforesaid reasoning and case cited above.

15. However, with respect to the relief of assured return, the Authority observes that the occupation certificate in respect of the project was granted on 07.05.2024 and the offer of possession was made to the complainant on the same date, i.e., 07.05.2024. Thereafter, the conveyance deed in respect of the subject unit came to be executed between the parties on 17.01.2025.
16. The Authority is of the view that upon execution of the conveyance deed between the complainant and the respondent, all financial liabilities inter se the parties stand extinguished, save and except the statutory rights accruing to the allottee under the Act. It is, however, pertinent to note that execution of the conveyance deed does not divest the purchaser of his right to claim compensation/delayed possession charges for the delay in handing over possession of the unit, such right being statutory in nature and surviving the execution of the conveyance deed.
17. In the present complaint, the complainant is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 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)***

18. Clause 16 of the buyer's agreement dated 11.02.2020 provides for the schedule for possession of the unit and the same is reproduced below:

*16. Possession of the Unit*

*16.1 The Company based upon its present plans and estimates and subject to all exceptions, proposes to handover possession of the Unit*

*within 36 months computed from the date of execution of buyer's agreement, excluding additional grace period of 12 months subject to force majeure circumstance and reasons beyond the control of the Company.*

**19. Due date of handing over possession and admissibility of grace**

**period:** As per clause 16 of the buyer's agreement, the possession of the allotted unit was supposed to be offered within a stipulated timeframe of 36 months from the date of execution of agreement excluding additional grace period of 12 months. The date of execution of agreement is 11.02.2020 therefore, the due date of possession comes out to be 11.02.2023 further there shall be a grace period of 12 months as it is unqualified. Hence, the due date of possession comes out to be 11.02.2024.

**20. Admissibility of delay possession charges at prescribed rate of**

**interest:** The complainant is seeking delay possession charges in terms of proviso to section 18 of the Act which 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. 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.***

**21. 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.

22. 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., 17.07.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80% per annum.

23. 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;*
- (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;"*

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

25. On consideration of the documents available on record and submissions made by the parties, 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 dated 11.02.2020 executed between the parties. It is a matter of fact that agreement containing terms and conditions regarding the said unit was executed between the parties on 11.02.2020. As per the clause 16 of the agreement, the possession of the booked unit was to be handed over within 36 months from the date of execution of agreement excluding additional grace period of 12 months. The date of execution of agreement is 11.02.2020 therefore, the due date of possession comes out to be 11.02.2023 further there shall be a grace period of 12 months as it is unqualified. Hence, the due date of possession comes out to be 11.02.2024. The respondent has obtained the occupation certificate of the project by the competent authority on 07.05.2024 and subsequently offered the possession of the unit on 07.05.2024. Copies of the same have been placed on record. The authority is of the considered view that there is delay on the part of the respondent to handover the physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations within the stipulated period.

26. 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 was granted by the competent authority on 07.05.2024. The respondent offered the possession of the unit in question to the complainant only on 07.05.2024, so it can be said that the complainant came to know about the occupation certificate only upon the date of offer of possession. 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 has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit.

27. Accordingly, 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 respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 11.02.2024 till offer of possession (07.05.2024) after obtaining occupation certificate plus two months i.e., 07.07.2024 at prescribed rate i.e., 10.80 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

**iii. Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.**

28. The respondent shall not charge anything from the complainant, which is not the part of the buyer's agreement.

**iv. Direct the respondent not to levy any holding charges from the complainant.**

29. The respondent is not entitled to claim holding charges from the complainant/allottee at any point of time even after being part of the buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

**v. Direct the respondent not to levy any maintenance charges from the complainant till date of actual handover.**

30. The respondent is right in demanding advance maintenance charges at the rates' prescribed in the builder buyer's agreement at the time of

offer of possession. However, the respondent shall not demand the advance maintenance charges for more than one year from the allottee even in those cases wherein no specific clause has been prescribed in the agreement or where the AMC has been demanded for more than a year.

#### **H. Directions of the Authority**

31. 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 the interest at the prescribed rate i.e. 10.80% per annum for every month of delay on the amount paid by the complainant from the due date of possession i.e., 11.02.2024 till the date of offer of possession 07.05.2024 plus two months i.e., 07.07.2026, as per the provisions of section 18(1) of the Act read with rule 15 of the rules.
- ii. The respondent is directed to pay arrears of interest accrued within 90 days from the date of this order as per rule 16(2) of the rules.
- iii. The rate of interest chargeable from the allottees by the promoter, in case of default shall be 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 to the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- iv. The respondent shall not charge anything from the complainant, which is not the part of the buyer's agreement.

- v. The respondent is not entitled to claim holding charges from the complainant/allottee at any point of time even after being part of the buyer's agreement as per law settled by hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
32. Complaint as well as applications, if any, stands disposed off accordingly.
33. File be consigned to registry.



**(Arun Kumar)**

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 17.07.2026



**HARERA**  
GURUGRAM