

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

Date of decision : 23.07.2026

NAME OF THE BUILDER		M/s Vikas Park Private Limited	
PROJECT NAME		"Hero Homes", Sector-104, Gurugram	
Sr. No.	Case No.	Case title	APPEARANCE
1.	CR/2713/2025	Mr Radhey Shyam & Mrs Jyoti Versus M/s Vikas Park Private Limited	Ms. Yamini (Advocate) Avinash Singh (Advocate)
2.	CR/2537/2025	Lalita and Vidya Bhushan Upadhyaya Versus M/s Vikas Park Private Limited	Ms. Yamini (Advocate) Avinash Singh (Advocate)

CORAM:

Shri Phool Singh Saini

Member

ORDER

1. This order shall dispose of both the complaints titled as above filed before this authority in form CRA under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
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, "Hero Homes, Sector-104, Village Dhanwapur, Gurugram" being developed by the same respondent-promoters i.e., "**Vikas Park Private Limited**". The terms and conditions of the builder buyer agreement and allotment letter against the allotment of unit in the said project of the respondent/builder and fulcrum of the issues involved in these cases pertains to failure on the part of the promoter to complete the construction of the project, seeking unpaid assured return along with interest at the prescribed rate, delay possession charges and the execution of the conveyance deeds.

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

Possession Clause: "7. Possession of the apartment for residential usage: 7.1... The promoter assures to handover possession of the apartment for residential usage along with parking on or before 31.08.2023 unless there is delay or failure due to "Force Majeure". Occupation certificate received on 20.01.2025.[Tower 1 to 4]					
Sr. No.	Complaint No./Date of filing/ Reply status	Unit no. and area	Date of execution of agreement for sale	Due date of possession and offer of Possession (OP)	Total Sale Consideration, Paid-up amount and Assured return paid by respondent to complainant (in Rs.)
1.	CR/2713/2025 Mr. Radhey Shyam & Mrs.Jyoti Versus M/s Vikas Park Pvt. Ltd. DOF:- 30.05.2025 DOR:- 18.09.2025	2102, 21 st floor, tower-2, 2BHK Admeasuring 1099 sq. ft (super area) [Pg.45 of complaint]	11.04.2019 (as per page 41-42 of complaint)	Due date - 29.02.2024 [Pg.50 of complaint including 6 month grace period] OP - 25.02.2025 [Pg.58 of reply]	TC -Rs.71,00,639/- [as per payment plan along with agreement at Pg.50 of reply] AP- Rs.71,94,605/- (as mentioned in the customer ledger dated 06.05.2025 at page 62 of reply)
2.	CR/2537/2025	2401, 24 th floor, Tower-T-02	11.04.2019 (as per page 41-57 of complaint)	Due date - 29.02.2024	TC- Rs.71,00,639 /- [as per payment plan along with agreement at Pg.48 of reply]



Lalita and Vidya Bhushan Upadhyaya Versus M/s Vikas Park Pvt. Ltd. DOF:- 30.05.2025 DOR:- 18.09.2025	Admeasuring 1099 sq. ft (super area) [Pg.61 of complaint]	page 41-57 of compl aint)	[Pg.50 of complaint including 6 month grace period] OP - 25.02.2025 [Pg.58 of reply]	AP- Rs.71,94,605 /- (as mentioned in the customer ledger dated 04.06.2025 at page 64 of reply)
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List of Abbreviations used:

DOF	Date of Filing
DOR	Date of Reply Received
OP	Offer of Possession
TC	Total Consideration
AP	Amount Paid

Relief Sought by complainants in both the complaints:-

- Direct the respondent to pay the remaining delay possession charges amounting to Rs.9,40,523/- [for complaint bearing no. 2713/2025] and Rs.9,40,523/- [for complaint bearing no. 253/2025].
- Direct the respondent to handover a complete unit to the complainants in accordance with the specifications mentioned in the agreement.
- Direct the respondent to pay delayed possession charges to the complainants on the principal amount paid by the complainants, from the due date of possession till the date of actual handing over after receipt of valid occupation certificate and after completing the unit as per the specifications mentioned in the agreement;
- Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.
- Direct the respondent to not levy any holding charges from the complainants;
- Direct the respondent to not levy any maintenance charges from the complainants till date of actual handover.

- It has been decided to treat the aforesaid 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.
- The facts of both the complaints filed by the complainants are similar. Out of the above-mentioned cases, the particulars of lead case **CR/2713/2024 titled**



as **"Mr Radhey Shyam & Mrs Jyoti Versus M/s Vikas Park Private Limited"**
 "are being taken into consideration for determining the rights of the parties.

A. Project and unit related details:

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

CR/2713/2024 titled as "Mr Radhey Shyam & Mrs Jyoti Versus M/s Vikas Park Private Limited"

S. N.	Particulars	Details
1.	Name and location of the project	"Hero Homes", Sector-104, Village Dhanwapur, Gurugram
2.	Project area	9.053 Acres (Total area 34.0228 acres)
3.	Nature of the project	Group Housing Colony
4.	DTCP license no. and validity status	246 of 2007 dated 29.10.2007 valid up to 28.10.2024, 56 of 2011 dated 23.06.2011 valid up to 22.06.2024, 37 of 2012 dated 22.04.2012 valid up to 21.04.2025, 66 of 2012 dated 21.06.2012 valid up to 20.06.2025, 67 of 2012 dated 21.06.2012 valid up to 20.06.2025, 43 of 2014 dated 16.06.2014 valid up to 15.06.2024, 44 of 2014 dated 16.06.2014 valid up to 15.06.2024.
5.	Name of the Licensee	M/s Mabon Properties Pvt. Ltd. & others
6.	RERA registered/ not registered and validity status	Registered 24 of 2018 dated 13.11.2018 Valid up to 13.08.2023
7.	RERA Extension	Extension No. 01 of 2024 dated 29.04.2024



8.	RERA Extension	PROJECT CONTINUATION- RC/REP/HARERA/GGM/24 of 2018/7(3)/64/2025/06 DATED 27.03.2025, Valid up to 28.02.2027
9.	Unit no.	2102, 21 st floor, tower-2, 2BHK [Pg.45 of complaint]
10.	Unit area	1099 sq. ft (super area) & 683.83 sq. ft. (carpet area) [Pg.45 of complaint]
11.	Allotment letter	25.01.2019 [Pg.35 of reply]
12.	Date of execution of buyer's agreement	11.04.2019, registered on 15.04.2019 (as per page 41-42 of complaint)
13.	Possession clause	7. Possession of the apartment for residential usage: <i>7.1... The promoter assures to handover possession of the apartment for residential usage along with parking on or before 31.08.2023 unless there is delay or failure due to "Force Majeure".</i> (Emphasis supplied) [Pg.50 of complaint]
14.	Due date of possession	29.02.2024 [31.08.2023 + grace period of 6 months on account of Covid-19] (as mentioned in para 7.1 of the buyer's agreement at page 50 of complaint)
15.	Total Sale consideration	Rs.71,00,639/- [as per payment plan along with agreement at Pg.50 of reply]
16.	Amount paid by the complainants	Rs.71,94,605/- (as mentioned in the customer ledger dated 06.05.2025 at page 62 of reply)
17.	Occupation certificate	20.01.2025 [For Tower- 1 to 4] & 07.01.2026 [For Tower- 5 to 7] (As per copy of OC available at TCP, Haryana Official website)
18.	Offer of possession	25.02.2025



		(Page 58 of reply)
19.	Amount paid by Respondent on account of compensation for delay	Rs.2,33,906/- [At pg.8 of complaint & confirmed by respondent on pg.10 of reply]

B. Facts of the complaint:

7. The complainant is making the following submissions:
- That the present complaint highlights the gross misconduct on part of the respondent company and the injustice meted out to innocent buyers by the former. A stringent action against the said respondent company for defrauding the innocent buyers and for violation of the provisions entailed in Real Estate (Regulation and Development) Act, 2016 is sought by way of said complaint.
 - That the respondent advertised about the launch of its new group housing project namely "Hero Homes" (hereinafter called as 'the project' in question) located in Sector-104, Dwarka Expressway, Gurugram, Haryana. The said respondent painted a rosy picture of the project in their advertisement making tall claims and representing that the project nurture wellness and enhance lifestyle with a host of unique and modern facilities providing seamless connectivity to Delhi through a network of flyovers. It was further represented that the project will be a paradise in its own right, featuring 2BHK and 3BHK with a carpet area of over 1000 square feet, equipped with more than 100 amenities such as an indoor planting, reflexology garden, themed gardens, no vehicular movement on the ground, electric car charging points, healing gardens, jogging track, cycling track, cricket pitch, putting greens, modular kitchen with chimney & hob, split air conditioners in living and bedrooms, wooden flooring in all the bedrooms, club house with latest state of the art facilities like Gym, spa,



- restaurant, swimming pool, party hall, squash court, tennis court, badminton court, and many other facilities.
- c. That believing the false assurances and misleading representations of the respondent in their advertisements and relying upon the goodwill of the respondent company, the complainants booked a unit by making a payment of Rs.1,00,000/- vide instrument bearing no. 621983 dated 25.11.2018 and Rs.3,00,000/- vide instrument bearing no. 621986 dated 22.12.2018 drawn on HDFC Bank against the total sale consideration of Rs.70,45,689/- .
- d. That on 25.01.2019, the respondent sent an allotment letter allotting the unit bearing no. 2102 (Apartment 2 BHK 2 Toilet 3 Balcony) on 21st floor located in tower-T-02, ad measuring carpet area 683.83 sq. ft. and super area 1099 sq. ft. along with basement parking no. B2-472 ad-measuring 134.55 sq. ft. in basement no.02 in the group housing society known as Hero Homes, Sector-104, Dwarka Expressway, Gurugram, Haryana.
- e. That thereafter, an agreement for sale was executed between the complainants and the respondent on 11.04.2019 for the unit in question wherein under clause 7.1, the respondent undertook to complete construction, handover possession of the unit in question along with parking within 52 months from the date of execution of agreement to sale i.e., by 31.08.2023.
- f. That the respondent kept raising payment demands and the complainants kept making payment in accordance with said demands only in the hope of getting possession of their unit and fearing cancellation of her unit as threatened by the respondent time and again. Till date, the complainants have made 99% payment of



Rs.69,70,869/-as against the total sale consideration of Rs. 70,45,689/- in accordance with the demands raised by the respondent.

- g. That at the time of purchase of the unit in question, the respondent assured the complainants that the project will be completed on time and all the necessary government approvals would be obtained on time and subsequently; after obtaining Occupation Certificate (herein referred to as "OC") from the concerned Department, the respondent shall endeavor to handover the possession of the unit to the complainants. Accordingly, the complainant paid a substantial amount towards the purchase of the unit in question, for which the complainant took a loan from Union Bank of India. A tripartite agreement dated 13.03.2024 was executed between the complainant, respondent company and HDFC Bank of India which was duly acknowledged by the respondent company. That the complainant had no choice but to rely on the representations made by the respondent. However, despite the passing of the possession due date as per the agreement for sale, the respondent has clearly failed to deliver possession of the unit on agreed date.
- h. That all through this while, the complainants kept reiterating that the delay in handover of possession has caused extreme mental agony as well as financial hardship to him. Accordingly, by way of the present complaint, the complainants seek direction to the respondent for handing over of possession of the unit in question along with delay possession charges owing to the delay in handing over of possession in accordance with the builder buyer agreement.
- i. That the complainants have been severely exploited at the hands of the builder/respondent. The aforesaid series of events clearly portray the



amount of harassment and mental agony the complainants have gone through till date. Even after a lapse of 5 years from the date of booking, the complainants have been left empty handed, under financial distress as the respondent has failed in offering and handing over possession of the unit booked by the complainants, thereby duping the complainants of their hard-earned money and causing them great mental trauma.

- j. That later, vide letter dated 25.02.2025 titled as "demand notice and offer of possession", the respondent informed the complainants that the unit bearing no. 2102, located on 21st floor is ready for physical possession. Subsequently, the respondent requested the complainants to clear the pending dues as per the said letter dated 25.05.2025.
- k. That on 25.03.2025 the complainants received a revised customer ledger from the respondent wherein the respondent has paid an amount to the complainant as a compensation against the delay possession charges amounting to Rs.1,16,953/- vide instrument bearing no. BORECEIPTS/0105324 dated 24.02.2025 and Rs.1,16,953/- vide instrument bearing no. BORECEIPT/0030724 dated 24.02.2025 totalling the amount to Rs. 2,33,906/- as per the calculation of the respondent.
- l. That on 03.04.2025, the complainant sent an email to the respondent regarding the amount received from the respondent as they include the time of NGT relaxation order along with the dates of construction bans imposed over the last few years and COVID-related six-month extension order that Impacted the project's timeline. The GST Council reduced the applicable GST rate on residential properties from 12% to 5%. Furthermore, it is to be noted that despite the said reduction the



- respondent continued to levy and collect GST at the rate of 18% from the complainant on the amount payable towards the said property.
- m. That the present complaint has been filed in order to seek delayed possession charges on the principal amount paid by the complainants along with interest at the rate prescribed as per RERA, 2016 and HRERA Rules, 2017 from the due date of possession, along with other reliefs mentioned herein below. Hence, this complaint.
 - n. That the present complaint has been filed in order to seek possession of the unit and interest on the delayed possession along with the other reliefs as mentioned in the relief clause of the complaint.
 - o. That as per section 11 (4) of the RERA Act, 2016, the promoter is liable to abide by the terms and agreement of the sale and as per section 18 of the RERA 2016, the promoter is liable to pay interest to the allottees of an apartment, building or project for a delay or failure in handing over of such possession as per the terms and agreement of the sale.
 - p. Accordingly, the complainant(s) are entitled to get interest on the paid amount along with interest at the rate as prescribed by the Authority per annum from due date of possession as per flat buyer agreement till the date of handing over of possession.
 - q. The complainants also reserve their right to file separate complaint for compensation as and when required before the appropriate forum/ authority.

C. Relief sought by the complainant:

8. The complainants have sought the following relief(s):

- 1. Direct the respondent to pay the remaining delay possession charges amounting to Rs.9,40,523/-.



- II. Direct the respondent to handover a complete unit to the complainants in accordance with the specifications mentioned in the agreement.
- III. Direct the respondent to pay delayed possession charges to the complainants on the principal amount paid by the complainants, from the due date of possession till the date of actual handing over after receipt of valid occupation certificate and after completing the unit as per the specifications mentioned in the agreement;
- IV. Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.
- V. Direct the respondent to not levy any holding charges from the complainants;
- VI. Direct the respondent to not levy any maintenance charges from the complainants till date of actual handover.
9. 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) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

10. The respondent has contested the complaint on the following grounds:
 - a. That the respondent i.e., M/s Vikas Parks Private Limited, a company duly registered and incorporated under the Companies Act, 1956, as amended upto date and existing under the Companies Act, 2013 and a subsidiary company of Hero Realty Private Limited, real estate arm of prestigious "Hero Group". The respondent is engaged in the business of construction and development of real estate projects and is known amongst the customers of the real estate and infrastructure sector for its trust and ethical conduct, synonymous with the name and brand "Hero". The present reply for and on behalf of the respondent is being filed through Mr. Ravi



- Prakash, who has been duly authorized by the Board of Directors of the respondent vide board resolution dated 10.06.2025, to inter-alia sign, submit and verify the present reply and to do all such acts ancillary thereto.
- b. That at the outset, the respondent humbly submits that each and every averment and contention, as made/raised in the present complaint under reply, unless specifically admitted, are categorically denied and may be read as travesty of facts. The complainants may be put to strict proof in respect thereof.
- c. That the respondents issued the allotment letter dated 25.01.2019 in favour of the complainants and confirmed the allotment of flat / apartment no.- 2102, T-02/2102, tower no. - 02, Floor-21st, Area 1099 sq. ft. (hereinafter referred to as the "unit /apartment"), along with pro rata share in the common areas for total sale consideration Rs.71,94,605/- in residential project "HERO HOMES" situated at, Sector - 104, Dwarka Expressway, Gurugram, Haryana, India -122006, along with the annexure of Possession Linked Payment Plan.
- d. That subsequent to the above allotment of the said apartment, the complainant executed an agreement for sale dated 11.04.2019 with the respondent and thereafter the said agreement for sale got registered on 15.04.2019 in the office of sub-registrar, at Kadipur, Gurugram, for the delivery of the possession of the said apartment exclusively on the agreed terms and conditions as contained in the agreement for sale.
- e. That as per clause no. 7 sub-clause 7.1, of the aforesaid agreement for sale dated 11.04.2019, the parties specifically agreed on the possession terms and conditions that for the purpose of possession clause/ agreement, the date of submission of application with the competent authority for obtaining completion/ occupancy/ part-occupancy certificate in respect of



the tower, in which the apartment is comprised, shall be reckoned as the date of completion of the development/ possession of the tower/ apartment and the promoter shall be deemed to have fulfilled its responsibility qua the completion of development and possession as mentioned in this agreement. No claim by way of damages/ compensation shall lie against the promoter in case of delay in handing over possession of account of the said reason and the promoter shall be entitled to extension of time for the period the authorities take for providing the occupancy / part-occupancy / completion certificate.

- f. The promoter/respondent assured to hand over possession of the apartment for residential usage along with parking on or before 31/08/2023 unless there is delay or failure due to "force majeure", Court Orders, Government policy / guidelines, decisions affecting the regular development of the real estate project. If, the completion of the Project is delayed due to above conditions, then the allottees/complainant agree that the promoter/respondent shall be entitled to the extension of time for delivery of possession of the apartment for residential usage as per the agreed terms of the agreement for sale.
- g. That the complainant failed in timely payment of the demanded installments, despite repeated demands, reminders and regular follow-ups. If the complainants have defaulted in timely payments of the due installments, then the complainant loses its entitlement to claim any compensation/interest by raising false grounds of delay in timely possession. Because timely payment by the allottees make the project complete on time. So, timely payment of the due installments is the essence of the contract executed between the Complainants and the Respondent.

- h. That in the light of the abovementioned specifically agreed terms and conditions regarding possession by the Complainant, it is said that the delivery of possession was always subject to force majeure circumstances, receipt of occupancy certificate and Complainant having timely completed with all obligations and duties under the agreement of sale. That after the completion of the Tower No. 1 to Tower 4, in all manner and after obtaining Fine NOC on 17.01.2024, the Respondent applied to the Director, Town and Country Planning, Haryana at Chandigarh, vide its application dated 21.02.2024 alongwith all requisite documents for the grant of occupation certificate (OC) for tower 1 to tower 4, which was submitted on 22.02.2024. After filing of the Application for grant of OC, the DTCP did not raise any concern regarding construction of the tower no. 1 to 4, as the same was completed in all manner and only submission of relevant documents were to be verified. All documents were again submitted in the office of DTCP on 09.07.2024, and thereafter the occupation Certificate was granted for the tower no. 1 to tower 4, by the office of DTCP on 20.01.2025.
- i. That after receipt of the occupation certificate on 20.01.2025, the respondent offered the possession to the complainant on 25.02.2025 with complete guidelines to complete the remaining final payments within 15 days and take the physical possession after requisite documentations in this regard by the complainant.
- j. That the respondent has given the benefit in the form of adjustment / discounts of Rs.5,00,000/- as inaugural discounts which has been adjusted against the price of the apartment before deciding total sale consideration. The respondent has also credited an amount of Rs.2,33,906/- on 24.02.2025 as compensation for delayed possession without prejudice to its right to defend itself in the ongoing complaint under reply. The same is



reflected in the customer/applicant ledger/ statement of account provided by the respondent to the complainant at the time of offering the possession. The complainants have acknowledged the receipt of the same in their complaint. The final demand was raised after adjustment of the compensation /DPC amount. In spite of all support from the respondent, the complainants failed to take the possession of the apartment in question.

- k. That it is also most respectfully submitted that the complainant is defaulter, having deliberately failed to make the payment of installments including final installments against the Apartment No.- 2102, T-02/2102 in residential project "HERO HOMES" situated at, Sector - 104, Dwarka Expressway, Gurugram, Haryana, India - 122006, within the time prescribed. The same is reflected from the SOA already shared with the complainants.
- l. That if the complainant was the genuine user and not an investor, then she would have certainly completed the requisite formalities for taking the physical possession of the apartment in question on receipt of the intimation of offer of possession by the respondent after obtaining the Occupation Certificate. The Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the RERA Act) U/S 19(10) puts the allottees under duty to take possession of the apartment, within a period of two months of the occupancy certificate issued for the said apartment in question. The respondent has offered the possession to the complainant on 25.02.2025, but till date the Complainant has not taken the physical possession of the apartment in question, which clearly indicates that the complainant is not the end user of the apartment and is investor, and the present complaint has been filed by her inspite of knowing that the OC has been obtained by the respondent and only formalities are left to initiate the



possession formalities, but the complainant intentionally filed the complaint to harass the respondent and take undue advantages for no reasons and extract more money on the basis of this false and frivolous complaint in question. The complaint is liable to be dismissed on this ground alone.

- m. That the statement of account/customer ledger reflects that the complainant was not asked any demand in between September 2019 till December 2021, almost for 2 years. The respondent did not put any burden on the allottees / Complainant for the loss incurred by the Respondent due to pandemic/COVID-19 and force majeure situations which was beyond the control of the respondent. Under the payment plan chosen by the complainant at the time of booking of the apartment in question, the installments were demanded after achieving the construction milestone by the respondent. The expenditure against the construction was managed by the developer/ respondent from its own sources or in some situations by managing finance against the project construction cost. In all these difficult and adverse situations, the allottees were immunized against any increase in the project cost. As there is no extra burden shifted towards the allottees, the developer/ respondent's adverse situations should also be taken into account, and the Authority is humbly requested to consider the developer / respondent's condition, in the larger interest of all the allottees, who are coming forward to take possession without dragging the respondent in unwarranted litigations to fulfil their illegal demands. In the light of the above situations, the Authority is humbly submitted to dismiss the present complaint under reply.
- n. That it is clear from the above that the complainant is investor and due to financial crunch, the complainant became defaulter, having deliberately



failed to make the payment of installments within the time prescribed, and avoiding taking the physical possession in spite of the duty on them (under RERA Act) to take the possession within two (2) months from the date of occupation certificate. The conduct of the complainant shows that she has no regard for the law of the land.

- o. That if the possession of the apartment was due on 31.08.2023, then the complainant should have approached the Authority much before just after the lapse of the due possession date. The complainant has not pleaded in their complaint any reason for waiting till the last moment when the respondent was obtaining the occupation certificate (OC). The complainant was aware that the possession will be offered very soon, but only with an intension to harass, disrepute, bad mouthing and extract money from the respondent, the complainant has filed this complaint under reply. The complainant was also aware that the COVID-19 / epidemic / pandemic/ Lock-down situations started from beginning of 2020 and continued till 2021, spread all over the world, had put everything on halt including real estate development in India, and this unforgettable force majeure incident of COVID - 19 / pandemic / epidemic resulted into millions of deaths, which was never anticipated by human being in last 100 years. The complainant was expected to appreciate this fact that in spite of all such COVID - 19 / pandemic / epidemic / lockdown situations, the respondent has tried efficiently to handover the possession. Many of the developers have not been able to manage the Covid-19 situations, and ultimately could not complete the projects, leaving the allottees without any remedy. In the light of the above situations, the Authority is humbly requested to dismiss the present complaint under reply.



- p. The complainant never raised any issue in the past regarding terms of the agreement, construction timeline and any other issues whatsoever since the allotment, which clearly reflects that the complainant was fully understanding the COVID-19 situations, and other hardships faced by the Developer/Promoter/Respondent herein. Now this Complaint has been filed on false and frivolous grounds only with an intention to avoid the payment of the outstanding amount and delay the possession formalities.
- q. That the outbreak of Covid-19 has been declared as a pandemic by the World Health Organization on 11.03.2020. The directions for lockdown and various restrictions have been issued by the Government of India as also State Govt. regarding COVID-19. The said pandemic has also serious consequences and was so deadly and contagious that complete lockdown was imposed several times not only in Haryana but in whole of India and rest of the world also. The Government of India, Ministry of Housing & Urban Affairs vide Memo No. O-17024/230/2018-Housing-UD-/EFS-9056405 dated 13.05.2020 and State Government of Haryana vide Memo No. 1/32/2020-ITCP dated 15.05.2020 issued advisory pertaining to the COVID-19. Pursuant to the advisory issued regarding outbreak of above situations of COVID-19, the Haryana Real Estate Regulatory Authority (HARERA), Gurugram vide notification dated 26.05.2020 had given extension of 180 days starting from 25Th of MARCH, 2020 till 24th September 2020 under Force Majeure keeping in view of the Covid-19 pandemic situation in the country. The date of completion of the project extended automatically by 6 Months.
- r. That the RERA Authority, Panchkula observed that as per office memorandum issued by the Government of India, para 6 (ii), it was also decided that the Regulatory Authority may, on their own discretion



consider to further extend the date of completion as per registration for another period up to three (3) months, if the situation in their respective state or any part thereof for reasons to be recorded in writing needs special consideration of evoking force majeure in current pandemic. Keeping in view of the second wave of COVID-19 has adversely hit all sections of society and it being cause of natural calamity, the Authority granted 3 Months general extension of 91 days from 01.04.2021 to 30.06.2021, considering it a force majeure event. Keeping in view the above, it is submitted that the Respondent is entitled for grant of exclusion of the period of delay caused due to 2nd wave of Covid-19 and construction ban imposed by competent authorities being decisions affecting the regular development of the real estate project for a period of at least Nine (9) months.

- s. That Hon'ble Supreme Court banned all construction activities in Delhi / NCR in the leading Writ Petition (S) (Civil) No(s). 13029 / 1985 on November 04, 2019 and the restrictions on constructions activities were continued till 14th February 2020. The restrictions on construction activities imposed by the Hon'ble Supreme Court vide its order dated 04.11.2019 were recalled completely on 14th February 2020 after complete ban/stop of construction activities for 102 Days.
- t. At page 10 of the Order dated 04.11.2019, the Hon'ble Supreme Court directed that "With respect to demolition and construction activities we direct that no demolition and construction activities take place in Delhi and NCR region. In case it is found that such activity is done, the local administration as well as the municipal authorities including the Zonal Commissioners, Deputy Zonal Commissioners shall be personally held



responsible for all such activities. They have to act in furtherance of the Court's order and to ensure that no such activity takes place."

u. Also, at page 14 and 15 of the Order dated 04.11.2019, the Hon'ble Supreme Court vide directed that "As per the Air Quality Inspection Construction and demolition activities in Delhi/NCR region causing damage in NOIDA, Faridabad, Gurugram, Ghaziabad as well as instances of Delhi have also been mentioned.

1. Construction and demolition
2. There is open dumping of waste/garbage.
3. Unpaved road/pit.
4. Road dust.
5. Garbage burning.
6. Traffic congestion.

"We direct that construction, demolition and activities be stopped forthwith as well as garbage burning. In case, any person is found in construction and demolition activity and garbage burning in Delhi and NCR region, he/she shall be penalized. Any person is doing construction and demolition activity in violation of this order, shall be penalized with Rs.1 Lac for such activity. For garbage burning he/she shall be penalized with Rs.5,000/- and besides liable for violation of the order passed by this Court to be dealt with in accordance with law."

v. Once the construction activity gets stopped at the project sites, then all the labours, construction machinery, entire construction set ups gets disturbed and completely halted. The fixed workers / Labours at sites starts moving to their hometowns/ away from the project site and the developer has no option other than paying the labours / workers to make them available at site without any work / construction activities. Apart from the labours/ workers, the developer has to pay to the contractors, machinery cost, towards construction materials, employees' salary, maintenance cost and all other expenditure even in a situation where the construction work has been stopped completely by the judicial pronouncement. The Authority that



the adversities faced by the developer/ respondent should also be taken into consideration while deciding any delay in delivery of possession of apartment in question.

- w. That the Hon'ble Supreme Court, considering situation arisen due to spread of Covid-19, vide order dated 23.03.2020 in SUO MOTO WRIT PETITION (CIVIL) No. 3/ 2020, also extended the period of limitation with effect from 15.03.2020 in all proceedings before Courts/ Tribunals across the country till further orders. The order passed by the Hon'ble Supreme Court on 20.03.2020 has come to end on 14.03.2021 by virtue of order dated 08.03.2021 after which the Hon'ble Supreme Court of India vide its Order dated 27th April 2021, restored the order dated 23.03.2020 due to sudden and second outburst of Covid-19 Virus through the nation and in continuation of order dated 8TH March 2021, directed that the period of limitation, shall extended till further orders. As such the respondent is also exempted from charge of delay interest claimed by the complainants in this complaint under reply.
- x. That the Commissioner of Municipal Corporation Gurugram vide Order dated 11.10.2019 issued direction to issue challan for construction activities & lodging of FIR from 11th October to 31st December 2019 as per direction issued by the chairman of Environment Protection Committee Authority (EPCA) vide letter EPCA-R/2019/L-42 dated October 09, 2019.
- y. That Gurugram falls within the area of NCR and different competent authorities such as the National Green Tribunal (NGT), Municipal Corporation Gurugram (MCG), Haryana State Pollution Control Board (HSPCB) etc. had directed ban on the construction activities in DELHI / NCR due to rise in pollution level mainly in winter season for various periods



- (including from October 2019 to February 2024) thereby severely affecting the regular development of the real estate projects for 209 Days.
- z. That after the completion of the Tower No. 1 to Tower 4, the respondent applied to the Director, Town and Country Planning, Haryana at Chandigarh, vide its application dated 21.02.2024 alongwith all requisite documents for the Grant of Occupation Certificate (OC) for Tower 1 to Tower 4, which was submitted on 22.02.2024. After filing of the application for grant of OC, the DTCP did not raise any concern regarding construction of the Tower No. 1 to 4, as the same was completed in all manner and only submission of relevant documents were to be verified. All documents were again submitted in the Office of DTCP on 09.07.2024, and thereafter the occupation certificate was granted for the tower no. 1 to tower 4, by the Office of DTCP on 20.01.2025. That the pandemic and ban on construction activity by competent authorities are force majeure events which are beyond the control of the parties to prevent the same or its consequences and as in view of clause 7(7.1) of the AGREEMENT FOR SALE dated 11.04.2019, the Respondent is entitled to exclusion of period where the constructions of the project was affected due to orders/directions of statutory authorities / court orders / government orders etc.
- aa. That the respondent would have completed the project within given time, but due to force majeure events covid-19 and restrictions imposed, which were beyond the control of the respondent, the project could not be completed on the expected time. That the Authority is requested to consider such period as force majeure events and the burden of payment of interest for the period must not be put on the respondent as the delay for grant of occupation certificate has been caused without any fault of the respondent. The burden of interest claimed by the complainants from 31.09.2023 till



- 25.02.2025 (17 Months) must not be put on the respondent, as the reasons of delay were completely out of the control of the respondent /developer.
- bb. That due to change in location for development of EWS (economically weaker section) Flats in compliance of statutory requirements, the project building plan, site plan etc. were revised time to time and the same caused completion time extended time to time from 17 months to 24 months.
- cc. That there is no fault on the part of the respondent in carrying its obligations towards the completion of the project and its delivery. The respondent has already offered the physical possession of the apartment to the complainant on 25.02.2025 after obtaining Occupation Certificate on 20.01.2025. The respondent has already made payment of delay period compensation/ credited for more than 5 months (153 days). The complaint is liable to be dismissed/rejected on the grounds mentioned hereinabove.

E. Jurisdiction of the Authority:

11. 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

12. 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 the entire Gurugram District for all purposes 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



13. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per the agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(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 with the obligations cast upon the promoters, the allottees, and the real estate agents under this Act and the rules and regulations made thereunder.

14. Hence, given 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 complainants at a later stage.

F. Findings on relief sought by the complainant:

- F.I Direct the respondent to pay the remaining delay possession charges amounting to Rs.9,40,523/-.**
- F.II Direct the respondent to handover a complete unit to the complainants in accordance with the specifications mentioned in the agreement.**
- F.III Direct the respondent to pay delayed possession charges to the complainants on the principal amount paid by the complainants, from the due date of possession till the date of actual handing over after receipt of valid occupation certificate and after completing the unit as per the specifications mentioned in the agreement;**
- F.IV Direct the respondent not to charge any amount beyond the amount as mentioned in builder buyer agreement.**



15. The above-mentioned reliefs F.I, F.II, F.III and F.IV sought by the complainants are being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.
16. The complainants applied for allotment in a group housing project i.e., "Hero Homes" located in sector-104, Gurugram being developed by the respondent i.e., "Vikas Park Private Limited". The respondent issued an allotment letter dated 25.01.2019 in favour of the complainants and thereby intimated about the allotment of unit no. 2102, 21st floor, tower-02, 2BHK along with parking in the project of the respondent. Thereafter, the agreement for sale was executed between the parties on 11.04.2019 (registered on 15.04.2019) against a total sale consideration of Rs.71,00,639/-. The complainants have paid a sum of Rs.71,94,605/- towards the subject unit.
17. As per documents available on record, the respondent has offered the possession of the allotted unit on 25.02.2025 i.e., after obtaining of occupation certificate from competent authority on 20.01.2025. The complainants took a plea that offer of possession was to be made on or before the due date of possession i.e., 31.08.2023 (excluding grace period of 6 months) as per clause 7.1 of agreement for sale, but the respondent has failed to handover the physical possession of the allotted unit within stipulated period of time.
18. In the present complaint, the complainants intend to continue with the project and are seeking possession of the unit along with 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

"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."

19. Due date of handing over possession: In terms of clause 7.1 of the Agreement for sale executed between the parties, the promoter has proposed to handover the possession on 31.08.2023. Further, as per HARERA notification no. 9/3-2020 dated 26.05.2020, an extension of 6 months is granted for the projects having completion date on or after 25.03.2020, the completion date of the aforesaid project in which the subject unit is being allotted to the complainants is 31.08.2023 i.e., after 25.03.2020. Therefore, period of 6 months is allowed. In view of the above, the due date of handing over of possession comes out to be 29.02.2024.

20. Admissibility of delay possession charges at prescribed rate of interest:

The complainants are continuing with the project and seeking delay possession charges. Proviso to Section 18 provides that where an allottees 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 *ibid*, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable



and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

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., 23.07.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
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 complainants shall be charged at the prescribed rate i.e., 10.80% (marginal cost of lending rate +2%) by the respondent/promoter which the same as is being granted her in case of delayed possession charges.
25. 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 agreement for sale dated 11.04.2019,



and the due date comes out to be 29.02.2024. Occupation certificate was granted by the concerned authority on 20.01.2025. 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 offer physical possession of the subject unit and it is failure on part of the promoter to fulfil its obligations and responsibilities as per the agreement for sale dated 11.04.2019 to hand over the physical possession 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 20.01.2025. The respondent offered the possession of the unit in question to the complainants only on 25.02.2025, so it can be said that the complainants came to know about the occupation certificate only upon the date of offer of possession. Therefore, in the interest of natural justice, the complainants should be given 2 months' time from the date of offer of possession. These 2 months of reasonable time is being given to the complainants 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.
27. 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 allottee shall be paid by the promoter interest for every month of delay from the due date of possession i.e., 29th February 2024 till the date of valid offer of possession i.e., 25.02.2025 plus 2 months i.e., 25.04.2025.; 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, *ibid*. After adjusting the amount already paid by the respondent on account of delayed payment/compensation.

28. As per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainants. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. In view of the above, the respondent is directed to handover possession of the flat/unit as per specifications provided in the agreement for sale executed between the parties and execute conveyance deed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months from date of this order.

F.V Direct the respondent to not levy any holding charges from the complainants;

29. In the case of *Varun Gupta vs Emaar MGF Land Limited, Complaint Case no. 4031 of 2019 decided on 12.08.2021*, the Authority had already decided that the respondent is not entitled to claim holding charges from the complainants at any point of time even after being part of the builder buyer agreement as per law settled by the *Hon'ble Supreme Court in Civil Appeal nos. 3864-3899/2020 decided on 14.12.2020*. The relevant part of same is reiterated as under:

"134. As far as holding charges are concerned, the developer having received the sale consideration has nothing to lose by holding possession of the allotted flat except that it would be required to maintain the apartment. Therefore, the holding charges will not be payable to the developer. Even in a case where the possession has been delayed on account of the allottee having not paid the entire sale consideration, the developer shall not be entitled to any holding charges



though it would be entitled to interest for the period the payment is delayed."

30. Therefore, in view of the above the respondent is directed not to levy any holding charges upon the complainants.

F.VI Direct the respondent to not levy any maintenance charges from the complainants till date of actual handover.

31. The Authority observes that the occupation certificate for the tower in question was obtained by the respondent on 20.01.2025, whereas possession of the unit was offered to the complainant only on 25.02.2025. The Authority observes that after issuance of occupation certificate, it is presumed that the building is fit for occupation. In multi-storied residential and commercial complexes, various services like security, water supply, operation and maintenance of sewage treatment plant, lighting of common areas, cleaning of common areas, garbage collection, maintenance and operation of lifts and generators etc. are required to be provided. Expenditure is required to be incurred on a consistent basis in providing these services and making available various facilities. Therefore, the demand on account of maintenance charges can only be demanded by the respondent at the time of offer of possession of unit to the complainant and not before. Keeping in view the facts above, the Authority is of the view that the respondent is right in demanding advance maintenance charges at the rate prescribed therein at the time of offer of possession.

G. Directions issued by the Authority:

32. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance with 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 is directed to pay delay possession charges at the prescribed rate of interest @ 10.80 % per annum from the due date of possession i.e., 29.02.2024 till valid offer of possession i.e., 25.02.2025 plus two months, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, *ibid*, after adjusting the amount already paid by the respondent on account of delayed payment/compensation.
- II. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges, and other reliefs as per above within a period of 30 days from the date of this order. The complainants are directed to pay outstanding dues if any remain, after adjustment of delay possession charges within a period of next thirty days.
- III. The respondent shall not charge anything from the complainant which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainant/allottees at any point of time even after being part of the builder buyer agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.
- IV. The respondent is directed to handover the possession of the allotted unit to the complainants as per the specifications of buyer's agreement executed between the parties within the next 60 days of this order.
- V. The respondent is directed to pay arrears of interest accrued within 90 days from the date of order of this order as per Rule 16(2) of the Rules, *ibid*.
- VI. The respondent is directed to execute conveyance deed in favour of the complainants in terms of Section 17(1) of the Act of 2016 on payment



of stamp duty and registration charges as applicable, within three months after handing over possession to the complainant.

- VII. The respondent is directed to pay the cost of Rs.10,000/- imposed vide order dated 13.11.2025, in each case for not filling of reply on time.
- VIII. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.
33. This decision shall mutatis mutandis apply to both cases mentioned in para 3 of this order.
34. Complaint as well as applications, if any, stand disposed off accordingly.
35. File be consigned to the Registry.



(Phool Singh Saini)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 23.07.2026

HARERA
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