

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

Complaint no.: 5075 of 2025
Date of filing of complaint: 10.10.2025
Date of decision: 23.07.2026

1. Mrs. Sangeeta Aggarwal
R/o: - Plot No. 4, Pocket-9, Sector-23 B, Dwarka
Southwest Delhi
2. Mrs. Kamla Devi
3. Mrs. Varsha Aggarwal
Both RR/o: -, 56, New Anaj Mandi, Ward-6, Sohna,
Gurugram

Complainants**Versus**

M/s Chintels India Private Limited
Regd. Office: - A-11, Kailash Colony, New Delhi- 110048
Corporate Office at: -Chintels Corporate Park, Near
Chintels Chowk, Sector-114, Gurugram- 122017

Respondent**CORAM:**

Shri Phool Singh Saini

Member**APPEARANCE:**

Sh. Satyender Kumar Goyal (Advocate)
Sh. Shubham Dayma (Advocate)

Complainants
Respondent

ORDER

1. This complaint has been filed by the complainant/allottees 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 details

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

S. No.	Particulars	Details
1.	Project name and location	"International City-Plots" at Sector 106, Gurugram, Haryana
2.	Project area	149.093 acres (As per BBA at page no.19 of complaint)
3.	Nature of project	Residential Plotted Colony
4.	RERA registered/not registered	Not Registered
5.	DTCP license no.	190 of 2008 dated 22.11.2008
	Valid up to	21.11.2025
	Name of Licensee(s)	Chintel Export Pvt. Ltd., Ashok Solomon, Chintels India Ltd., Raj Kiran Pvt. Ltd., Ramesh, Chintels Credit Corporation Ltd. and others
6.	Allotment letter in favour of original allottees Mrs. Rajni Kumar, Brig. Narender Kumar and Mr. Jayant Kumar	27.05.2016 (As per page no. 15 of the complaint)
7.	Date of execution of buyer's agreement with the original allottees	17.08.2019 (As per page no. 18 of the complaint)
8.	Endorsement in favour of complainants herein	18.04.2022 (As per page no. 40 of the complaint and agreement to sell at page no. 43 of complaint)
9.	Unit No.	L-001, Block L





		(As per allotment letter at page no. 15 of complaint and BBA at page 23 of complaint)
10.	Unit area admeasuring	577 sq. yards (As per allotment letter at page no. 15 of complaint and BBA at page 23 of complaint)
11.	Possession Clause	"IV COMPLETION AND POSSESSION <i>Subject to timely payments by the Buyers), the Company shall make its all efforts to complete development of the Plot within on or before 48 (forty eight) months from the date of signing of this Agreement, subject to further grace period of 6 (six months to complete the Development of the allotted Plot, Force Majeure events, restraints or restrictions from any courts/statutory authorities etc., circumstances which is beyond the control of the Company. In case of delay in possession of the Plot beyond the agreed period including the grace period and subject to Force Majeure and other circumstances as stipulated, the Company/Chintels Group shall pay to the Buyer compensation at the rate of Rs. 5/- per sq. ft. on the saleable area of the Plot per month for the period of delay. Apart from the said compensation the Company/Chintels Group shall not be liable to pay any other compensations/damages for the period of delay in offering possession."</i> (As per BBA at page 26 of complaint)
12.	Due date of possession	17.02.2024 (Note: - Due date of possession is calculated from the date of execution of buyer's agreement i.e., 17.08.2019 + 6 months grace period for force majeure)
13.	Total Sale consideration	Rs.2,72,42,000/-

		(As per allotment letter at page no. 15 of complaint and BBA at page 24 of complaint)
14.	Total amount paid by the complainant	Rs.1,32,71,000/- (As per receipt dated 25.04.2022 on page no. 48 of the complaint)
15.	Occupation certificate	Not obtained
16.	Offer of Possession	Not Offered

B. Fact of the complaint

3. The complainants have made the following submissions: -

- I. That Mrs. Rajni Kumar D/o Col. R.D. Atri (Retd.), Brig. Narender Kumar and Mr. Jayant Kumar Son of Sh. Narender Kumar applied for booking a plot in the respondent company's new project namely "**International City Plots**" situated in sectors-106, 108 & 109, Gurugram, Haryana and on application they were allotted the plot no. L-001 measuring 482.44 sq. meters (577 Sq. Yds.) for total sale consideration of Rs.2,72,42,000/- vide allotment letter dated 27.05.2016. The respondent induced the allottees as well as the complainants by showing rosy pictures of the project and painting a very glorified picture to the plaintiff about its above said project.
- II. That the original allottees applied for the provisional allotment of a residential plot in the project of respondent vide application dated 29.03.2016 and got allotted a residential plot bearing no. L-001 having plot area 482.44 sq. mtr. (577 sq. yards.) in Block-L of the project vide allotment letter dated 27.05.2016 for total sale consideration of Rs.2,72,42,000/- as mentioned in the annexure-1 of the allotment letter dated 27.05.2016 and the same is reproduced hereby for ready reference. The reference of the annexure attached with the allotment letter is as under:



Particulars	Rate	Amount (Rs.)
Basic sale price	Rs. 41000/-SQ.YDS.	Rs.2,36,57,000.00
Club Charges	Rs.2,00,000.00	Rs.2,00,000.00
EDC & IDC-Plots	Rs.5000/- SQ. YDS.	Rs.28,85,000.00
Interest Free Maintenance Security	Rs.5,00,000.00	Rs.5,00,000.00
Total		Rs.2,72,42,000.00

- III. That after some days the respondent got executed plot buyer's agreement dated 17th August 2019 with the original allottees in respect to plot no. L-100, International City, Sectors 106, 108 & 109, Gurugram measuring 482.44 sq. mtr. (577 sq. yards) approx. for the total sale consideration agreed between the respondent and the original allottees is Rs.2,72,42,000/-.
- IV. That the payment plan for the said plot as per the plot buyer agreement dated 17.08.2016 was agreed to be as under:

S. No.	Occasion Name	Charge Name	Due Amount	Net Amount
1.	On Booking	5% Net Sale Price*	Rs.13,27,100.0	Rs.13,27,100.00
2.	On or Before 15 th July 2016	20% Net Sale Price*	Rs.53,08,400.00	Rs.53,08,400.00
3.	On or Before 30 th September 2016	25% Net Sale Price*	Rs.66,35,500.00	Rs.66,35,500.00
4.	On Possession	50% Net Sale Price* Club Charges Interest Free Maintenance Security	Rs.1,32,71,000.00 Rs.2,00,000.00 Rs.5,00,000.00	Rs.1,39,71,000.00
	Total Cost (Rs.)			Rs.2,72,42,000.00

*Net sale price is Combined of Cost of Basic Sale Price (BSP) + EDC & IDC charges.

- V. That the original allottees have paid a total sum of Rs.1,32,71,000/- to the respondent as per the plot buyer's agreement and the remaining



amount was to be paid at the time of handing over the possession of the said plot.

- VI. That however after some time the original allottees approached the complainants for selling of the said plot to the complainants. The terms and condition were settled between the complainants and original allottees and after mutual understanding the complainants agreed to purchase and the original allottees agreed to sell the said plot and the original allottees & the complainants entered into the agreement to sell dated 08.04.2022. The original allottees further assured the complainants to get the names of the complainants recorded in the records of the respondent regarding the ownership of the said plot in place of the names of the original allottees.
- VII. That in terms of the agreement between the complainants and the original allottees, they approached the respondent and apprised its officials about the same and after verification of all the documents, the respondent duly endorsed the complainants as owner/allottees of the said plot vide endorsement dated 18.04.2022 duly mentioned in the plot buyer agreement dated 17.08.2019 and a separate endorsement of transfer document was also confirmed separately. A letter of transfer acknowledgement dated 08.04.2022 was also issued by the respondent accordingly in favour of the complainants acknowledging and confirming the complainants as transferor/allottees of the said plot. The amount of Rs.1,32,71,000/- paid by the original allottees to the respondent was paid by the complainants to them and the same was also transferred by the respondent in its records accordingly in the name of complainants vide receipt dated 25.04.2022.



- VIII. That in this way, the complainants have become allottees of the said plot under the respondent which is duly admitted, acknowledged and accepted by the respondent and the same is duly reflected in the records of the Respondent since 18.04.2022.
- IX. That as per the plot Buyer agreement, the respondent assured the timely delivery of possession of the said plot on or before 18.08.2023 i.e., within a period of 48 months from the date of signing of the Plot Buyers Agreement, however the respondent never delivered the same on time and even till date the respondent has been miserably failed to handover the actual, physical and peaceful possession of the Said Plot complete in all respect to the complainants despite there being inordinate delay of more than 2 years from the due date. The respondent even cannot count the grace period in the total period agreed for handing over the actual, physical possession of the Said Plot complete in all respects, as the same can only be considered when the respondent is able to deliver the actual, physical and peaceful possession of the said plot within the grace period, failing which the respondent is liable to pay the interest and penalty for this period also.
- X. That the complainants have been asking the respondent time and again about the delivery of the possession of the Said plot vide various visits in the office of respondent and telephonically call to the officials of the respondent company, however the respondent always gave evasive replies and never apprised the complainants about actual state of affairs or the date and time of delivery of possession of the said property. That the complainants and many other people have invested their hard-earned money with hope of having their properties on time, which they



could use for their personal use, but now they are left with no other alternative and nowhere to go except approaching this Authority.

- XI. That the Act and conduct of the respondent in deliberately inducing the complainants to part ways with their life savings and cheating the complainants based upon false documents and false assurances amounts to an act of fraud and cheating for which the present complaint is being filed. That the modus operandi of the respondent has caused tremendous financial pressure upon the complainants herein for which the complainants are entitled to be reimbursed forthwith as well as for the mental agony caused to the complainants by the acts, omissions and mala fide conduct on the part of the respondent.
- XII. That it is submitted that the conduct of the respondent company has resulted in wrongful loss to the complainants and wrongful gain to the respondent herein, for which the respondent is liable to be prosecuted under Bhartiya Nyaya Sanhita, 2023. That the Act of receiving the hard-earned money from the complainants and not making delivery of the said property after passing of more than 2 years from the due date of possession, wilfully and knowingly amounts to an act of fraud and deliberate delay for which respondent is solely liable to pay damages also.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):
- I. Direct the respondent to hand over the actual, physical, peaceful and vacant possession of the allotted plot bearing no. L-100, International City Plots, Sectors-106, 108 & 109, Gurugram measuring 482.44 sq. mtr. (577sq.yds), complete in all respects along with all amenities as agreed



to be provided by the respondent in terms of plot buyer's agreement dated 17.08.2019 along with all ancillary facilities attached to it.

- II. Direct the respondent to pay delayed possession charges upon the total amount of Rs.1,32,71,000/- @ 18% w.e.f. 18.08.2023 i.e., the due date for handing over possession of the said Plot till handing over the actual, physical and peaceful possession of the allotted plot and complete in all respects along with all amenities.
- III. Direct the respondent to execute the conveyance deed in favour of the complainants and hand over the actual, physical and vacant possession of the allotted plot and complete in all respects along with all amenities as per the terms of the plot buyer's agreement dated 17.08.2019.

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 has filed the reply to the show cause notice dated 13.10.2025. Vide order dated 19.03.2026, the counsel for the respondent stated that reply filed by the respondent to the show cause notice dated 13.10.2025, has been treated as a reply to the main complaint and the same is below mentioned: -
- i. That the instant reply is being filed for and on behalf of M/s Chintels India Pvt. Ltd. to the above-captioned complaint preferred by the complainants seeking handing over of possession of the Plot No. L-100, International City Plots, Sector-106, Gurugram.
- ii. That at the very outset it is most humbly submitted that the contents of the instant complaint are wrong, baseless, misconceived, misleading and



hence, denied in its entirety, save as what has been explicitly admitted hereunder. Further, the respondent craves leave of this Authority to add/amend the contents of the instant reply so also produce further grounds) and/or documents) as and when the same become available to it. Further nothing contained herein be treated as an admission /acquiescence for non-traverse.

- iii. It is pertinent to mention here that Enforcement Directorate has provisionally attached certain part of land as per provisional attachment order dated 15.04.2021. Further Hon'ble Chandigarh High Court in case titled as Siri Kishan and Ors. have ordered for maintaining status quo with regard to possession upon certain part of project land. Keeping in view these the Government departments are reluctant to grant necessary clearances further necessary clearances as a result of this development no further work is taking place on the project since last few years.
- iv. That it is most humbly submitted, as on date, there is no clarity about the time period for which the said attachment order may remain in force and accordingly, the developmental works over the subject plot may remain halted. Therefore, in the interest of justice, and to ensure the complainant doesn't suffer any loss the respondent is willing to refund the entire sale consideration paid by the complainant till date and to that extent is attaching herewith cheque bearing no. 001294 for Rs.1,32,71,000/-.

Complaint is not maintainable in light of clause XI (read with clause iv (1) of the Plot Buyers' Agreement

- v. That clause XI (1) of the plot buyers' agreement hereinafter referred to as "PBA") provides the force majeure clause which reads thus:

"For the purposes of this Agreement the Force Majeure events means and includes any cause beyond the reasonable control of the Company and/or the Chintels Group which prevents or impedes the due performance of this



Agreement, and which, by due effort, the Company and/or the Chintels Group is unable to avoid or overcome through its effort. Force Majeure shall include, but not be limited to, events like earthquakes, typhoons, cyclones, floods, lightning landslides, fire, explosions, plague, epidemic, lockouts, wars, rebellion, riot, strikes, civil commotion, invasion, act of foreign enemies, hostilities, civil war, any act of God, Governmental restrictions, shortage of steel and cements, inability to procure or general shortage of energy, equipment, facilities, materials or supplies, failure of transportation, shortage of labour, strikes and lock-outs, change in law, or any other acts or delays of the Governmental Authority/local bodies or any other act or delay beyond the reasonable control of the Company and/or Chintels Group."

(Emphasis Supplied)

- vi. That a perusal of clause IV (1) of the PBA which provides the obligation for offering possession, would reveal that the same is subject to force majeure events and since, the judicial orders restraining development of the plots amount to a force majeure event, even contractually, the instant complaint is barred by clause XI (1) of the PBA.
- vii. That it is most humbly submitted, in light of the foregoing facts, it is submitted that the complaint is misconceived and untenable in law, as the respondent is restrained from handing over possession due to subsisting attachment and judicial orders. The respondent cannot be fastened with liability for acts prevented by operation of law, and the complaint is liable to be dismissed on this ground alone.
- The complainants cannot file the instant complaint as they are subsequent purchasers**
- viii. That as has been explained in the foregoing paras, the Enforcement Directorate provisionally attached parts of the licensed land by way of its order dated 15.04.2021, whereas the agreement to sell on the strength whereof the complainant has filed the instant Complaint is dated 08.04.2022. Therefore, the complainant being well aware of the judicial



orders passed which have created difficulties in development of the licensed land.

ix. That in light of the above-stated facts, it is most humbly submitted, the complainant cannot seek advantage of its own wrong as it is not a bona fide purchaser because despite explicitly being informed about the encumbrances to the development of the licensed land, the complainant proceeded to purchase the same.

7. Copies of all the relevant documents have been filed and placed on the record. The authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents as well as written submissions made by both the parties.

E. Jurisdiction of the Authority

8. The respondent has raised a preliminary objection the Authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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

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

E. II Subject matter jurisdiction



10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the 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."

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

E. Findings on the relief sought by the complainants.

- E. I** Direct the respondent to hand over the actual, physical, peaceful and vacant possession of the allotted plot bearing no. L-100, International City Plots, Sectors-106, 108 & 109, Gurugram measuring 482.44 sq. mtr. (577sq.yds), complete in all respects along with all amenities as agreed to be provided by the respondent in terms of plot buyer's agreement dated 17.08.2019 along with all ancillary facilities attached to it.
- E. II** Direct the respondent to pay delayed possession charges upon the total amount of Rs.1,32,71,000/- @ 18% w.e.f. 18.08.2023 i.e., the due date for handing over possession of the said Plot till handing over the actual, physical and peaceful possession of the allotted plot and complete in all respects along with all amenities.
- E.III** Direct the respondent to execute the conveyance deed in favour of the complainants and hand over the actual, physical and vacant possession of the allotted plot and complete in all respects along with



all amenities as per the terms of the plot buyer's agreement dated 17.08.2019.

12. On bare perusal of the documents available on record the Authority observes that the subject plot bearing no. L-001, in Block- L, in the project namely, "International City-Plots" situated in Sector- 106, Gurugram which was allotted vide allotment letter dated 27.05.2016 in favour of original allottee namely Mrs. Rajni Kumar, Brig Narender Kumar, and Mr. Jayant Kumar. Thereafter, a plot buyer's agreement was executed between the original allottee and the respondent herein regarding the subject plot on 17.08.2019. The complainants herein have purchased the said plot with the original allottee on 08.04.2022, and the same was also acknowledge and endorsed by the respondent herein on 18.04.2022. Therefore, the complainants herein stepped into the shoes of original allottee on 18.04.2022. As per clause VI of the plot buyer's agreement, the respondent company was under an obligation to complete development of the plot within on or before 48 months from the date of signing of this agreement, subject to further grace period of 6 months to complete the development of the allotted plot, force majeure events. The due date of possession is calculated from the date of execution of apartment buyer's agreement dated 17.08.2019. Therefore, the due date of possession comes out to be 17.02.2024 including 6 months grace period.
13. In the present complainants intend to continue with the project and are 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."

14. As per clause VI of the plot buyer's agreement dated 17.08.2019 provides the time period of handing over possession and the same is reproduced below:

"IV COMPLETION AND POSSESSION

Subject to timely payments by the Buyers), the Company shall make its all efforts to complete development of the Plot within on or before 48 (forty eight) months from the date of signing of this Agreement, subject to further grace period of 6 (six months to complete the Development of the allotted Plot, Force Majeure events, restraints or restrictions from any courts/statutory authorities etc., circumstances which is beyond the control of the Company. In case of delay in possession of the Plot beyond the agreed period including the grace period and subject to Force Majeure and other circumstances as stipulated, the Company/Chintels Group shall pay to the Buyer compensation at the rate of Rs. 5/- per sq. ft. on the saleable area of the Plot per month for the period of delay. Apart from the said compensation the Company/Chintels Group shall not be liable to pay any other compensations/damages for the period of delay in offering possession."

15. At the outset, it is relevant to comment on the present possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement, and the complainant not being in default under any provisions of this agreement and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions is not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by him in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment time period for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is just



to evade the liability towards timely delivery of subject unit and to deprive the allottees of their right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottees is left with no option but to sign on the dotted lines.

16. **Due date of handing over possession:** As per clause VI of the plot buyer's agreement, the respondent promoter has proposed to handover the possession of the subject unit within a period of 48 months from the date of signing this agreement, subject to further grace period of 6 months complete the development of the allotted plot subject to force majeure events. The Authority in view of notification no. 9/3-2020 dated 26.05.2020, on account of force majeure conditions due to outbreak of Covid-19 pandemic has allowed the grace period of 6 months to the promoter. Therefore, the due date of handing over possession comes out to be 17.02.2024.
17. **Admissibility of delay possession charges at prescribed rate of interest:** The complainants are seeking delay possession charges at the prescribed rate of interest on the amount already paid by them. However, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. 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.

18. 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.
19. 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%.
20. The definition of term 'interest' as defined under section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, in case of default.
21. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.
22. During proceeding dated 23.07.2026, the counsel for the respondent has placed an additional affidavit mentioning that vide cheque bearing no. 001294, an amounting of Rs.1,32,71,000/-, it had returned the entire amount received from the complainants in terms of clause 11(10) and XI(i) and IV(I) of the plot buyer's agreement as well as section 11(5) of the Act, 2016 and has also intimated the complainant that the respondent is willing to refund the entire amount as the company is unable to provide the allotted unit/plot to the complainants due to force majeure circumstances and court



orders, but the complainants have not encashed the said cheque despite repeated requests. Accordingly, the respondent by way of RTGS bearing UTR no. HDFCR52026060466607903, HDFCR52026060466627828 and HDFCR52026060466605848 transferred the said amount to the complainants. After that, the complainants returned the said amount to the respondent as the complainants were willing to continue with the project of the respondent company.

23. After considering the document available on record as well as submission made by the parties, the Authority is of the view that Section 18(1) is applicable only in the eventuality where the promoter fails to complete or unable to give possession of the unit in accordance with terms of agreement for sale or duly completed by the date specified therein. Section 18(1) gives two options to the allottee only if the promoter fails to complete or is unable to give possession of the unit in accordance with the terms of the agreement for sale or duly completed by the date specified therein:

- (i) Allottee wishes to withdraw from the project; or
- (ii) Allottee does not intend to withdraw from the project

24. The Authority also notes that the said aforesaid issue is already dealt by the Hon'ble Appellate Tribunal in case bearing no. 730 of 2023 titled as **M/s. Vatika Limited Vs Raj Kumar Maggon**, which was decided on 23.07.2025. The relevant portion of the said judgement is reproduced for ready reference: -

*11. After hearing both the parties and considering documents on record, this bench finds that under section 18(1) of the Act, where the promoter fails to complete the project or hand over possession as per the terms of the agreement, the allottee has an option to either withdraw and seek refund along with interest, or continue in the project and seek interest for the delay till possession is offered. **The option clearly lies with the allottee and not with the promoter.** The promoter cannot unilaterally impose refund upon the allottee against the latter's expressed desire to continue with the project.*



25. In this present complaint also allottee wishes to continue with the project. Thus, promoter is responsible for all obligations, responsibilities, and functions under the provisions of the Act of 2016, or the rules and regulations made thereunder or to the allottee as per agreement for sale under section 11(4)(a). This judgement of the Supreme Court of India recognized unqualified right of the allottee and liability of the promoter in case of failure to complete or unable to give possession of the unit in accordance with the terms of agreement for sale or duly completed by the date specified therein.
26. It is also observed by the Authority that the allottee invest in the project for obtaining the allotted unit/plot and on delay in completion of the project never wished to withdraw from the project. The spirit of the section 18 which protects the right of the allottee in case of failure of promoter to give possession by due date either by way of refund if opted by the allottee or by way of delay possession charges at prescribed rate of interest for every month of delay. As per proviso to sec 18(1): -
- 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 possession, at such as rate as may be prescribed.*
27. On consideration of the documents available on record and submissions made regarding contravention of 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 VI of the agreement, the possession of the subject apartment was to be delivered within 48 months from the date of execution of plot buyer's agreement and it is further provided in agreement that promoter shall be entitled a grace period of 6 months to complete the



development of the allotted plot subject to force majeure events. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession comes out to 17.02.2024. In the present complaint, the original allottee was allotted a unit vide allotment letter dated 27.05.2016 and thereafter the original allottee sold the subject unit to the first subsequent allottee being the complainants herein on 08.04.2022, and the same was acknowledged by the respondent vide endorsement sheet dated 18.04.2022. Therefore, the complainants stepped into the shoes of original allottee on 18.04.2022 i.e., before the due date. The Authority is of considered view that there is delay on the part of the respondents/promoter to offer of possession of the allotted unit to the complainant as per the terms and conditions of the buyer's agreement dated 17.08.2019. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to handover the possession within the stipulated period. Further, there is no document available on record to substantiate the claim of the respondent. Accordingly, the claim of the respondent is rejected being devoid of merits. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate/completion certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

28. 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 complainants are entitled to delay possession



charges at rate of the prescribed interest @ 10.80% p.a. w.e.f. 17.02.2024 till valid offer of possession plus two months after obtaining the occupation certificate or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

29. Further, 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 complainant. 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. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainant 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 obtaining occupation certificate from the competent authority.

F. Directions of the Authority

30. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoter as per the functions entrusted to the Authority under section 34(f) of the Act:-
- The cancellation made by the respondent if any, is hereby set aside. The respondent is directed to re instate the allotted plot of the complainants or if the same is not available then allot an alternate unit of the same size, similar location and same price as originally booked by the complainants within a period of 30 days from the date of this order.



- ii. The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e., 17.02.2024 till valid offer of possession plus 2 months after obtaining part completion certificate/completion certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- iii. The arrears of such interest accrued from 17.02.2024 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
- iv. The respondent/promoter is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainants. The complainant(s) are directed to pay outstanding dues, if any, after adjustment delay possession charges within a period of 60 days from the date of receipt of updated statement of account.
- v. The respondent/promoter shall handover possession of the physical possession of the allotted plot and execute conveyance deed in favour of the complainant(s) 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 obtaining occupation certificate from the competent authority.
- vi. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the

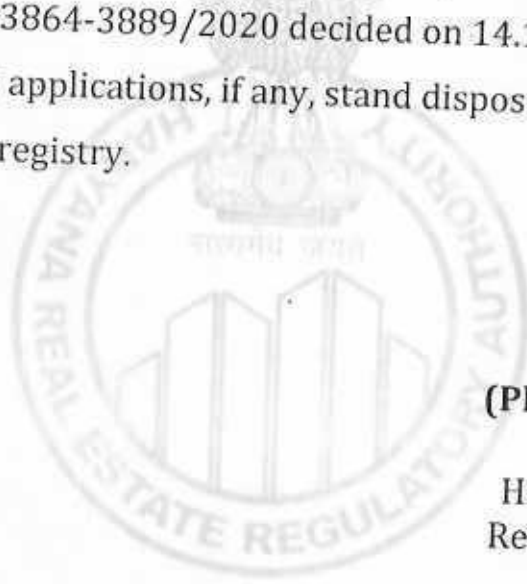


respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act, 2016.

vii. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the buyer's agreement. The respondent is not entitled to charge any amount against 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.

31. Complaint as well as applications, if any, stand disposed of accordingly.
32. File be consigned to registry.

Dated: 23.07.2026




(Phool Singh Saini)

Member

Haryana Real Estate
Regulatory Authority,
Gurugram

HARERA
GURUGRAM