HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**1299 of 2025**
Date of filing.:	**02.09.2025**
Date of first hearing.:	**27.11.2025**
Date of decision.:	**03.09.2026**

1. **Smt. Indra Devi**
   R/o Flat No. 104/34 East, Silver Oaks Apartment,
   DLF Phase 1, Gurugram, Haryana-122001.
2. **Smt. Honey Chaudhary D/o Sh Sultan Singh**
   R/o 104/34 East, Silver Oaks Apartment,
   DLF Phase 1, Chakarpur(74), Gurugram, Haryana-122002.
3. **Smt. Meena Rani D/o Sh Ram Karan Gupta**
   R/o 1017, Sector 47, Sohna Road, Islampur(97),
   Gurugram South City Ii Farrukhnagar, Gurugram, Haryana-122018.
4. **Smt. Suman Mittal W/o Sh Sanjay Mittal**
   R/o MS TW-02-2304, M3M Sky Walk, Golf Course Road,
   Near M3M Corner Walk, Sector 74, Begampur Khatola(101),
   Khandsa, Gurugram, Haryana- 122004.

......COMPLAINANTS

VERSUS

Dwarkadhis Buildwell Private Limited through its Chairman
Regd. Office at: 807, 8th Floor, C-Block, NDM-2,
Netaji Subhash Place, Pitampura, New Delhi- 110034

....RESPONDENT

CORAM:	**Parneet Singh Sachdev**	**Chairman**
	Nadim Akhtar	**Member**
	Dr. Geeta Rathee Singh	**Member**
	Chander Shekhar	**Member**

Present : Mr. Abhay Jain, Counsel for complainants through VC.

Mr. Neeraj Goel, Counsel for the respondent through VC.

ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. Present complaint has been filed by complainant under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of project, details of sale consideration, amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project.	Dwarkadhis City, Sector 23, Dharuhera, Rewari, Haryana.
2.	Nature of the project.	Residential Plotted Colony.

3.	RERA Registered/not registered	Not Registered
4.	Details of unit.	Plot No.34, Block-B, measuring area of 599.68 sq. yards.
5.	Date of Agreement to Sell	30.10.2010
6.	Date of Allotment	30.10.2010 (letter of allotment annexed as Annexure-02)
7.	Due date of possession	Not specifically mentioned in Agreement to sell but if taken as 3 years from ATS then its 30.10.2013.
8.	Possession clause in Agreement to Sell	**Clause 15:** "*That, the Allottee(s), shall make all payments, get the Sale Deed executed and registered, and shall take possession of the Said Plot within 30 days of the Owner's written notice to him/her. If the Allottee (s) refuses, neglects or fails to take possession of the Said Plot within 30days period from the date of notice, for any reason whatsoever then along with interest thereof, the Allottee(s) shall be liable to pay Maintenance Charges as per the demand raised by the Maintenance Agency and shall also be responsible and liable to pay holding over charges in respect of the Said Plot, as applicable. for the period for which the*

		Allottee (s) fails to take the actual physical possession thereof. The failure to take over possession will not affect the liability of the Allottee (s) to pay maintenance charges and other charges due from him. If the Allottee(s) refuses to pay such maintenance charges as per demand raised as referred hereinabove then the company may refuses to handover the possession and his/her allotment shall be deemand have been cancelled".
9.	Basic sale consideration	₹29,98,400/- (as per Agreement to Sell) and EDC- ₹629664 (as per Annexure-03) making it ₹36,28,064/-
10.	Amount paid by complainant	₹36,28,064/-
11.	Amount paid by complainant as Enhanced EDC Charges	₹5,58,902/-
12.	Offer of possession	01.10.2015 (as per Annexure R-1/7)
13.	Completion Certificate	12.06.2019

B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of the case are that the complainants booked Plot No. 34, Block-B, admeasuring 599.68 square yards, in the project developed by the respondent and an Agreement to Sell dated 30.10.2010 was executed between the parties. It is the case of the complainants that they were

induced to purchase the said plot on the basis of the respondent's representations regarding timely delivery of possession and development of the project with all promised amenities.

4. Pursuant thereto, the complainants paid a total sum of ₹41,86,966/- towards the sale consideration in various instalments between September, 2010 and September, 2013.

5. It is further the case of the complainants that although the Agreement to Sell does not prescribe a specific date for delivery of possession, the respondent was required to hand over possession within a reasonable period, which, according to the complainants, expired on 30.10.2013, i.e., three years from the date of execution of the agreement.

6. However, despite the complainants having made substantial payments, the respondent failed to hand over possession of the plot even after a considerable lapse of time, thereby causing financial loss and hardship to the complainants.

7. The complainants have further alleged that the respondent made false representations regarding timely completion of the project and delivery of possession and thereby indulged in unfair trade practices. It is also alleged that the respondent collected more than 10% of the sale consideration prior

to execution of the Agreement to Sell, contrary to the provisions of the Real Estate (Regulation and Development) Act, 2016.

8. The complainants have further challenged the demands raised by the respondent towards Enhanced External Development Charges (EDC), Electric Sub-Station (ESS) charges, Interest Free Maintenance Security (IFMS), holding charges and interest, contending that the same are illegal, arbitrary and unsupported by any lawful basis.

9. It is also the case of the complainants that despite making repeated requests through letters, emails, telephone calls and personal visits seeking clarification regarding the status of the project and delivery of possession, the respondent failed to provide any satisfactory response. Aggrieved by the prolonged delay in handing over possession and the alleged illegal demands raised by the respondent, the complainants have approached this Authority by way of the present complaint seeking interest on account of delayed possession from 30.10.2013 till the date of actual handing over of possession, refund/waiver of the impugned charges and other consequential reliefs under the provisions of the Real Estate (Regulation and Development) Act, 2016.

C. RELIEF SOUGHT

10. That the complainant seeks following relief and directions to the respondent:-

    i. To handover the legal and rightful possession of the Plot to the Complainants, after receiving the Completion Certificate (CC) and other required approvals and permissions from the competent authorities.

    ii. To get the legitimate and lawful Conveyance Deed executed for the Plot bought by the Complainants.

    iii. To pay interest for every month of delay in handing over the possession of the Plot since 30th October, 2013 to the Complainants, on the amount taken from the Complainants towards sale consideration and other charges for the aforesaid Plot, with interest till the Respondent hands over the legal and rightful possession of the Plot to the Complainants.

    iv. To refund the amount of ₹5,58,902/- (Rupees Five Lakh Fifty Eight Thousand Nine Hundred Two Only) charged by the Respondent on account of Enhanced External Development Charges (EDC) vide letter having reference no.: DBPL/594/600/EN-EDC dated 15th May, 2013, with interest as prescribed from date of deposit (17th September, 2013) till the amount is refunded.

v. To cancel/revoke /withdraw the illegal and unlawful demand of Rs.5,78,655/- (Rupees Five Lakh Seventy Eight Thousand Six Hundred Fifty Five Only) towards the Interest Free Maintenance Security (IFMS) and Electric Sub Station Charges along with the Service tax on Electric Sub Station Charges, raised by the Respondent in the Letter having reference no.: DBPL/594/600 dated 16th July, 2015.

vi. To cancel/revoke /withdraw the illegal and unlawful demand of Rs.20,90,410/- (Rupees Twenty Lakh Ninety Thousand Four Hundred Ten Only) towards the Interest on demand raised vide letter having reference no.: DBPL/594/600 dated 16 th July, 2015 and the Holding Charges for the Plot raised by the Respondent in the Letter having reference no.: DBPL/594/600 dated 05th August, 2025.

vii. Direct the Respondent to pay legal expenses of Rs.1,00,000/- (Rupees One Lakh) incurred by the Complainants for filing and pursuing the instant case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT

Learned counsel for the respondents filed detailed reply on 02.03.2026 pleading therein:

11. The respondent has opposed the complaint on the ground that the complainants have themselves committed persistent defaults in payment of the contractual and statutory dues since 2015 and have deliberately concealed these material facts while approaching the Authority. It is contended that despite repeated demand notices and reminders, the complainants failed to clear the outstanding dues and are, therefore, not entitled to any equitable relief.

12. The respondent further submits that the complainants had paid the Enhanced External Development Charges (EDC) in 2013 without any protest and remained silent regarding subsequent demands for several years, and are consequently estopped from challenging the same at this stage.

13. The respondent submits that the project was substantially completed upon the grant of the Part Completion Certificate dated 14.07.2015 and was finally completed with the issuance of the Completion Certificate dated 12.06.2019. It is further contended that a valid offer of possession was made to the complainants on 01.10.2015, but they failed to take possession on account of their continued payment defaults. According to the

respondent, any delay in handing over possession is solely attributable to the complainants' own conduct.

14. The respondent has also raised preliminary objections regarding the maintainability of the complaint. It is contended that the Agreement to Sell was executed in 2010 and, therefore, the provisions of the Real Estate (Regulation and Development) Act, 2016 cannot be applied retrospectively.

15. It is further submitted that the Authority lacks jurisdiction to adjudicate the validity of statutory levies such as Enhanced EDC, which are imposed by the competent government authorities. The respondent also asserts that a defaulting party cannot seek relief without first fulfilling its own contractual obligations.

16. With regard to the impugned demands, the respondent submits that the Enhanced EDC was collected strictly in accordance with the directions of the competent authorities, while the IFMS and Electric Sub-Station (ESS) charges form part of the contractual obligations under the Agreement to Sell. It is further contended that the levy of interest and holding charges is justified on account of the complainants' failure to clear the outstanding dues and take possession despite the offer made in 2015.

17. On the aforesaid grounds, the respondent has prayed for dismissal of the complaint with costs. The respondent has further sought a direction to the complainants to clear the outstanding dues amounting to Rs. 20,90,410/- along with applicable interest, failing which it seeks permission to cancel

the allotment and forfeit the earnest money in accordance with the terms of the Agreement.

E. ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANT AND RESPONDENT

18. Ld. counsel appearing on behalf of both parties reiterated the submissions as made in their pleadings.

F. ISSUES FOR ADJUDICATION

19. Whether the complainants are entitled to possession of the subject plot along with interest for the delay in handing over possession in terms of Section 18 of Act of 2016?

20. Whether the demands raised by the respondent towards Enhanced EDC, IFMS, ESS charges, interest and holding charges are sustainable in terms of the Agreement to Sell and in terms of Section 18 of Act of 2016?

21. Whether the complainants are entitled to execution and registration of the conveyance deed?

G. OBSERVATIONS OF THE AUTHORITY

The Authority has considered the pleadings, documents placed on record, submissions advanced by the parties and the provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"). The objections raised by the respondent are dealt with as under.

22. The respondent has primarily objected to the maintainability of the present complaint on the ground that the Agreement to Sell between the parties was executed on 30.10.2010, much prior to the coming into force of the Act, and therefore, the provisions of the Act cannot be applied retrospectively. It has further been contended that the contractual rights and obligations of the parties are governed exclusively by the Agreement to Sell and cannot be altered by subsequent legislation.

23. The aforesaid objection is devoid of merit and deserves rejection. Reference may be made to the judgment of the Hon'ble Supreme Court in ***M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of U.P. & Ors.,*** wherein the Hon'ble Apex Court has categorically held that the provisions of the Act are retroactive in nature and are applicable to ongoing projects in respect whereof completion certificate had not been granted prior to the commencement of the Act. The Hon'ble Court, while interpreting the scheme of the Act, observed that Sections 13, 18 and 19 are beneficial provisions enacted for protection of the interests of allottees and that contractual stipulations cannot override the statutory mandate of the Act. The Hon'ble Court further held that the Act applies to transactions which were in the process of completion and that the parties cannot avoid their statutory obligations merely because the Agreement to Sell had been executed prior to the enforcement of the Act. Thus, the provisions of the Act are retroactive in operation and apply to all ongoing projects where

completion certificate had not been issued prior to commencement of the Act. Consequently, the objection raised by the respondent regarding retrospective applicability of the Act is rejected.

24. The respondent has also questioned the jurisdiction of this Authority to examine the legality of Enhanced External Development Charges (EDC) on the ground that the same are statutory levies imposed by the competent Government authorities. This objection shall be examined while adjudicating the specific relief relating to Enhanced EDC. While the Authority cannot determine the validity of Government notifications imposing statutory charges, it is well within its jurisdiction to examine whether such demands have been raised in accordance with the contractual terms governing the parties and the provisions of the Act.

25. The respondent has further pleaded that the complainants are chronic defaulters and have suppressed material facts regarding non-payment of outstanding dues. Since the entitlement of either party is intrinsically linked with the contractual obligations under the Agreement to Sell and the validity of the respective demands raised, the said objection shall also be considered while adjudicating the individual reliefs sought by the complainants.

Relief No. 1 & 3: ***"To hand over the legal and rightful possession of the plot to the complainants after obtaining the Completion Certificate and all other requisite approvals and permissions from the competent authorities and to pay***

interest for every month of delay in handing over possession of the plot from 30.10.2013 till the date of actual possession."

26. The complainants have pleaded that they have substantially complied with their contractual obligations by making payments towards the sale consideration from time to time. In support thereof, they have placed on record receipt as well as the statement of account evidencing payment made to the respondent. The respondent has also annexed receipt along with its reply acknowledging receipt of ₹36,28,064/- from the complainants. Thus, the payments made by the complainants to the aforesaid extent stand duly established on record.

27. The respondent, on the other hand, has pleaded that possession could not be handed over solely on account of the complainants' failure to clear the outstanding dues and has relied upon the offer of possession dated 01.10.2015.

28. The Authority has carefully examined the material available on record. It is an admitted position that the respondent obtained the Part Completion Certificate dated 14.07.2015, annexed as Annexure R-1/1 with the reply. Thereafter, the respondent issued the offer of possession dated 01.10.2015 calling upon the complainants to complete the necessary formalities and take possession of the allotted plot. In the considered opinion of this Authority, the said offer of possession cannot be said to be illusory or premature, having been issued after receipt of the Part Completion

Certificate. Accordingly, the offer of possession dated 01.10.2015 is held to be a valid offer of possession.

29. The next question which arises is the period for which delay interest is payable. The Agreement to Sell executed between the parties on 30.10.2010 does not prescribe any specific date or period for handing over possession of the allotted plot. In the absence of any contractual stipulation regarding the due date of possession, this Authority is required to determine a reasonable period within which possession ought to have been delivered. The Hon'ble Supreme Court in ***M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr. v. Trevor D'Lima & Ors.,*** while dealing with agreements not stipulating any specific date for delivery of possession, held that a period of three years from the date of execution of the agreement constitutes a reasonable period for delivery of possession. Applying the said principle to the facts of the present case, the deemed due date of possession works out to 30.10.2013.

30. The respondent admittedly failed to offer possession by the aforesaid deemed due date. The valid offer of possession came to be issued only on 01.10.2015, after obtaining the Part Completion Certificate. Consequently, there exists a delay in handing over possession from 30.10.2013 till 01.10.2015. The complainants have elected to continue with the project and seek possession of the allotted plot along with interest for delayed possession. Such entitlement is squarely covered under the proviso to

Section 18(1) of the Act. Section 18 (1) of the Act, Section 18 (1) proviso reads as under:-

> *"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".*

31. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

> *(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;*

32. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

> ***"Rule 15:*** *"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".

33. Consequently, as per website of the State Bank of India, i.e., https://sbi.co.in, the highest marginal cost of lending rate (in short MCLR) as on date i.e., 03.09.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.

34. Accordingly, this Authority holds that the complainants are entitled to delay interest under Section 18(1) of the Act from the deemed due date of possession i.e. 30.10.2013 till the date of valid offer of possession i.e. 01.10.2015, at the rate prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017.

35. Authority has got calculated the interest on total paid amount from due date of possession i.e., 31.10.2013 to date of valid offer of possession, i.e., 01.10.2015, which works out to **₹7,52,530/-** as per detail given in the table below:

Sr. No.	Principal Amount (in ₹)	Deemed date of possession or date of payment whichever is later	Interest Accrued till valid offer of possession i.e. 01.10.2015 (in ₹)
1.	36,28,064/-	31.10.2013 (deemed date of possession)	₹7,52,530/-
Total	**₹36,28,064/-**		**₹7,52,530/-**

Relief No. 2: "To get the legitimate and lawful Conveyance Deed executed for the plot purchased by the complainants."

The Authority has examined the second relief sought by the complainants pertaining to execution of the conveyance deed.

36. The complainants have placed on record receipts and statement of account evidencing payment of the sale consideration. The respondent has also annexed receipts along with its written statement acknowledging receipt of ₹36,28,064/- from the complainants. Thus, the factum of payment to the aforesaid extent stands admitted by the respondent itself. The respondent, however, has withheld execution of the conveyance deed on the ground that certain amounts towards Enhanced EDC, ESS charges, IFMS, holding charges and interest remain outstanding against the complainants.

37. Section 17(1) of the Real Estate (Regulation and Development) Act, 2016 casts a statutory obligation upon the promoter to execute a registered conveyance deed in favour of the allottee and hand over possession of the plot within the prescribed period. Likewise, Section 11(4)(f) obligates every promoter to execute the conveyance deed in favour of the allottee.

38. The Authority is of the considered view that the complainants have established their entitlement to obtain conveyance of the allotted plot. However, since certain contractual dues raised by the respondent require adjudication in the succeeding reliefs, the execution of the conveyance

deed shall necessarily be subject to compliance of this order and settlement of only such dues as are held legally recoverable herein.

39. Accordingly, the respondent is directed to execute the conveyance deed in favour of the complainants and complete all consequential formalities within 90 days after compliance of the directions contained in the present order.

Relief No. 4: "To refund the amount of ₹5,58,902/- charged on account of Enhanced External Development Charges (EDC) along with interest."

40. The complainants have challenged the demand of Enhanced External Development Charges on the ground that the same was illegally imposed by the respondent. The Authority has examined the Agreement to Sell. Clause 2.2 thereof specifically provides as under:

> *"Any variation in the total sale consideration due to change in EDC & IDC or any other charges so demanded by the State Government and/or authorities or any other Government department is admitted. The amount as apportioned by the Owner shall be final and binding on the Allottee(s)."*

41. The aforesaid contractual stipulation clearly authorizes the respondent to recover Enhanced External Development Charges whenever such charges are levied by the competent Government authority. The respondent merely acts as a collecting agency for depositing the statutory levy with the concerned authority and cannot independently determine or alter such charges.

42. It is also an admitted position that the complainants deposited the Enhanced EDC amount pursuant to the demand raised by the respondent. No contemporaneous protest or objection has been placed on record at the time of making such payment. Furthermore, the legality of levy of Enhanced External Development Charges in Haryana is already the subject matter of adjudication before the Hon'ble Punjab and Haryana High Court in CWP No. 5835 of 2013 titled Balwan Singh & Ors. vs. State of Haryana & Ors. The issue is, therefore, sub judice before the Hon'ble High Court.

43. In view of the express contractual stipulation contained in Clause 2.2 of the Agreement to Sell and the pendency of the issue before the Hon'ble High Court, this Authority is not inclined to grant the relief of refund of Enhanced EDC at this stage. Accordingly, Relief No. 4 is disposed of with liberty to the parties to abide by the final outcome of CWP No. 5835 of 2013, and the parties shall remain bound by the decision rendered therein.

Relief No. 5: "To cancel/revoke/withdraw the demand of ₹5,78,655/- towards Interest Free Maintenance Security (IFMS), Electric Sub Station (ESS) Charges and Service Tax on ESS."

44. The complainants have challenged the demand raised by the respondent vide demand letter dated 16.07.2015 (Annexure C-06). The Authority has examined the Agreement to Sell as well as the demand letter.

    i. **Electric Sub Station (ESS) Charges**: The complainants have challenged the demand of ₹4,02,385/- towards Electric Sub Station

(ESS) charges along with the applicable Service Tax thereon. The respondent has sought to justify the said demand by relying upon Clause 6 of the Agreement to Sell, which provides that the sale price is exclusive of the cost of Electric Sub Station/Meter Cost etc., and that the same shall be additionally payable by the allottee as and when demanded.

The Authority, however, finds that the aforesaid contractual stipulation cannot be considered in isolation. The Agreement to Sell also expressly provides under Clause 2.2 that any variation in the total sale consideration on account of EDC, IDC or other charges demanded by the State Government or competent authority shall be payable by the allottee. Further, Section 2(w) of the Real Estate (Regulation and Development) Act, 2016 defines "external development works" to include, inter alia, electricity supply transformer and sub-station and other works executed in the periphery of or outside a project for its benefit.

Thus, the cost relating to an Electric Sub Station, being specifically covered within the statutory definition of external development works, forms part of the external development infrastructure for which EDC is leviable. Once such component is covered within the EDC, the respondent cannot seek to recover the same component separately from the complainants under Clause 6 of the Agreement to Sell. Permitting such separate recovery would result in double recovery of the same component, once through EDC and again as ESS charges, thereby placing an unwarranted financial burden upon the allottee. Accordingly, the separate demand of ₹4,02,385/- towards ESS charges, as raised vide Annexure C-06, is held to be unsustainable and cannot be recovered from the complainants. Consequently, the corresponding Service Tax of ₹56,334/-, being consequential to the aforesaid ESS demand, is also not recoverable from the complainants. Relief No. 5 is accordingly allowed to this extent.

ii. **Interest Free Maintenance Security (IFMS):** The Authority has carefully examined the entire Agreement to Sell. No clause in the Agreement obligates the allottee to pay Interest Free Maintenance Security (IFMS). *Although the Agreement contemplates execution of a future maintenance agreement and payment of periodic maintenance charges after possession*, it nowhere stipulates payment of any one-time Interest Free Maintenance Security. In absence of any contractual stipulation authorising recovery of IFMS, the respondent cannot unilaterally impose such liability upon the complainants. Accordingly, the demand towards IFMS amounting to ₹1,19,936/-, as reflected in Annexure C-06, is held to be unsustainable and is hereby set aside. The said finding shall be without prejudice to any lawful claim, if otherwise maintainable, that may arise in future in respect of maintenance charges or other charges demanded by any duly constituted maintenance agency, including the Residents' Welfare Association (RWA), in accordance with the applicable terms and law. However, the complainant and the respondent shall, as per the original BBA enter into another agreement which may stipulate the IFMS and maintenance charges.

Consequently, Relief No. 5 stands partly allowed to the extent indicated above. The complainants shall remain liable to pay ESS Charges together with applicable Service Tax, whereas the demand towards IFMS is quashed.

Relief No. 6: "To cancel/revoke/withdraw the illegal and unlawful demand of ₹20,90,410/- raised by the respondent towards interest on outstanding amount and holding charges vide letter dated 05.08.2025."

45. The Authority has examined the aforesaid relief in light of the pleadings of the parties, the Agreement to Sell and the demand letter dated 05.08.2025 (Annexure C-07) placed on record. A perusal of the said demand letter reveals that the demand of ₹20,90,410/- comprises the outstanding amount of ₹5,78,655/-, interest of ₹10,41,579/- calculated thereon and holding charges of ₹4,70,176/-. The respondent has justified the aforesaid demand by contending that a valid offer of possession was issued on 01.10.2015 and that the complainants, having failed to take possession within the stipulated period, are liable to pay the aforesaid charges.

46. The Authority has already held while adjudicating Relief No. 1 that the respondent issued a valid offer of possession on 01.10.2015, after obtaining the Part Completion Certificate dated 14.07.2015. However, the outstanding amount of ₹5,78,655/-, forming the principal component of the demand raised vide Annexure C-07, has already been held to be not recoverable under Relief No. 5.

47. Consequently, the interest of ₹10,41,579/- calculated by the respondent on the aforesaid outstanding amount cannot be sustained. Further, since no legitimate outstanding amount remained payable by the complainants at the time of the valid offer of possession, the holding charges of ₹4,70,176/- claimed in the said demand letter are also not recoverable.

48. Accordingly, the contractual interest and holding charges forming part of the demand dated 05.08.2025 are held to be unsustainable. The respondent cannot recover the said amounts once the underlying outstanding demand itself has been held to be not payable.

49. In view of the aforesaid discussion, the entire demand of ₹20,90,410/- raised vide Annexure C-07 towards outstanding dues, interest and holding charges is held to be unsustainable. Relief No. 6 is accordingly allowed.

50. With regards to relief no. 7, the complainant is also seeking compensation litigation expenses of Rs.1,00,000/-. It is observed that Hon'ble Supreme Court of India in Civil Appeal Nos. 6745-6749 of 2027 titled as ***"M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of U.P. & Ors."***

(supra.), has held that an allottee is entitled to claim compensation & litigation charges under Sections 12, 14, 18 and Section 19 which is to be decided by the learned Adjudicating Officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the learned Adjudicating Officer having due regard to the factors mentioned in Section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is at liberty to approach the Adjudicating Officer for seeking the relief of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

51. The Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

    i. In terms of the above discussion, respondent is directed to pay delay interest of **₹7,52,530/-** to the complainants towards delay caused in handing over the possession. This amount shall be payable by the respondent to the complainants within 90 days of this order.

    ii. Respondent is directed to handover the lawful and physical possession of the plot along with execution of conveyance deed to the complainants within next 90 days.

iii. Complainants shall accept the offer of possession after clearing the balance consideration amount, if any, to the respondent at the time of actual/physical offer of possession.

iv. The respondents shall not charge anything from the complainant which is not part of the agreement to sell

52. **Disposed of**. File be consigned to record room after uploading of order on the website of the Authority.

CHANDER SHEKHAR
[MEMBER]

DR. GEETA RATHEE SINGH
[MEMBER]

NADIM AKHTAR
[MEMBER]

PARNEET SINGH SACHDEV
[CHAIRMAN]