HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**442 of 2024**
Date of filing:	**19.03.2024**
First date of hearing:	**22.07.2024**
Date of decision:	**07.09.2026**

1. Sonu Kumar, S/o Sh. Arjun Singh

R/o- 51/1, Floor No. 3, New Darshan Bhag,

Manimajra, Chandigarh- 160101

2. Anil Kapoor, S/o Sh. Ram Rattan Kapoor

R/o- 89/C, Raipur Khurd, Chandigarh -160003 ....COMPLAINANT(s)

VERSUS

SHREE VARDHMAN GREEN SPACE INFRAHEIGHTS PVT. LTD,

Regd. Office 306, 3rd floor,

Indraprakash Building, 21-Barakhamba Road,

New Delhi-110001 ...RESPONDENT

Present:-Adv. Kamaljeet Dahiya, Ld.counsel for the complainants through VC.

Adv. Vishwajeet Kumar, Ld. counsel for the respondent through VC.

ORDER (NADIM AKHTAR-MEMBER)

1. Present complaint has been filed by the complainants on 19.03.2024 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred as RERA, 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 the project, the details of sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been given in the following table:

S.No.	Particulars	Details
1.	Name of the project	"Shree Vardhman Green Space" Panchkula
2.	Name of the promoter	Shree Vardhman Green Space Infraheights Pvt. Ltd.
3.	Unit no.	Flat no. 07, 13th floor, Tower B
4.	Flat area (Super built area) and Carpet area	780 sq.ft, 511 sq ft.
5.	Date of builder buyer agreement	Not executed

6.	Due date of offer of possession	Not available
7.	Possession clause in BBA	Not available
8.	Total Sale Consideration	₹20,94,000/-
9.	Amount paid by complainants	₹16,06,700/-
10.	Offer of possession	Not Given till date

B. FACTS OF THE PRESENT CASE AS STATED BY THE COMPLAINANTS IN THE COMPLAINT:

3. That complainants booked a 2 BHK Flat in the project, namely "Shree Vardhman Green Space" being developed by the respondent, situated at revenue state of Village Billah, Sector-14, Panchkula Extension-II, Haryana.

4. That the complainants paid an amount of ₹1,04,700/- on 31.10.2017 vide cheque no. 321952, as demanded by the respondent towards registration amount. Copy of the receipt of the said amount dated 11.11.2017 is annexed as Annexure C-4(colly) at page no. 34 of the complaint book.

5. That respondent sent intimation regarding draw of lots in the said project vide letter dated 18.12.2017. A copy of the said letter is annexed as Annexure C-1. Thereafter, flat no. 07, Tower B at 13th floor measuring Super Build up Area 780 sq.ft., Carpet Area 511 sq.ft., Balcony Area 100

sq.ft. was allotted vide allotment letter dated 21.12.2017. A Copy of Allotment Letter dated 18.12.2017 is annexed as Annexure C-2.

6. That it was a Construction Linked Payment Plan. However the respondent raised demands of payment irrespective of the payment plan. Furthermore, said payments have been demanded by the respondent without getting any Builder Buyer's Agreement executed between the parties in sheer violation of Section 13(1) of RE(R&D) Act. According to the said section, a promoter is not entitled to accept a sum more than 10% of the cost of the apartment as an advance payment from a person without first entering into the Agreement for sale. For the reference, the said provision is reproduced as under:

   13(1) "A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force".

7. That the total Sale Price of the unit in question is ₹20,94,000/- as per the Advertisement/Brochure. Against the total sale price,complainants have already paid an amount of ₹16,06,700/- till March 2019, last payment being made on 22.03.2019. The copies of various payment receipts of sum total of ₹16,06,700/- are annexed as Annexure C-4(Colly).

8. That complainants made timely payments against the unit in question as per each and every demand raised by the respondent. Despite the complainants

having paid a substantial amount of ₹16,06,700/- till 2019, the respondent failed to perform his part of duties as the project has not been completed within stipulated time period that was told by the respondent to be two years from date of booking and even the respondent denied to give any information/tentative date of completion of the unit.

9. That from March 2019 onwards until the present date, there has been a complete lack of communication from the respondent towards the complainants regarding the completion of the project or handover of possession of the unit in question. Complainant no. 2 made several visits to the Project Office of the Respondent during this period, seeking clarification, but received no satisfactory responses. Consequently, Complainant no. 2 decided to visit the Registered Office of the Respondent in New Delhi. The respondent rather than providing any tentative date for offer of the possession, made an offer to waive off ₹2,00,000/- from the outstanding amount against the unit, out of the total Sale Price of ₹20,94,000/-. The Respondent then demanded the remaining payment of ₹2,64,747/- as full and final payment for the unit, assuring the complainants that possession would be offered soon. Moreover, the respondent threatened to impose heavy delay payment interest at a rate of 24% on the outstanding amount of ₹2,64,747/-. Faced with this pressure and threat, the Complainants reluctantly agreed to pay the said amount as full and final payment. However, when Complainant no. 2 presented the

aforementioned cheque dated 15.02.2024 at the Site Office of the respondent, the respondent refused to issue any payment receipt for the said amount. Consequently, the complainants withheld the cheque as the respondent had failed to provide any acknowledgment of the receipt of the said amount. A copy of the cheque numbered '610226' dated 15.02.2024 of Punjab National Bank, is annexed as Annexure C-5.

10. That despite various requests made by the complainants, the respondent failed to execute any Builder Buyer's Agreement. It is a settled law that the Developer cannot expect the Allottee/Complainant to wait endlessly for possession and the respondent needs to complete the project within a reasonable time frame which has not been stipulated in the present case. It is noteworthy to mention here that Hon'ble Supreme Court in *Fortune Infrastructure and Ors. Versus Trevor D'Lima* has held that a time period of 3 years is reasonable time to complete a project.

11. In the instant matter, the stipulated time period for delivery of unit in question cannot be ascertained in the absence of any agreement/ Buyer's agreement hence the reasonable time period for completion of the project and handover of the possession since booking i.e. 31.10.2017 is in the year 2020 and as such the due date of possession in instant case comes to 30.10.2020.

12. That the Hon'ble Authority has taken suo moto action against the respondent due to their failure to complete the project within the specified

timelines, as declared under Section 4(2)(1)(c) of the Real Estate (Regulation and Development) Act at the time of seeking registration. Additionally, the respondent did not apply for an extension of the registered project. Consequently, it is evident beyond any doubt that the project in question remains incomplete, even after more than five years have passed since the complainants' booking. Given these circumstances, the complainants are unequivocally entitled to interest for the period of delay caused by the respondent in completing the project. That there had been a delay of more than 6 years in completion of the project since booking, which is also in violation of section 11(4)(a) of the RE(R&D) Act 2016.

13. That the complainants do not want to withdraw from the project. As per the obligations on the respondent/promoter under Section 18 of the Act, 2016 read with Rules 15 and 16, 2017, the Promoter has an obligation to pay interest on the delayed possession on the amount deposited by the complainants at the rate prescribed.

14. That the complainants inquired about the status of construction and other development work to be carried out by the respondent, but they never shared any such information which is in gross violation of Sec. 19(2) of RERA, Act, 2016.

14. That despite receiving substantial amounts from the complainants, respondent failed to complete the project within stipulated time even when

no force majeure was involved, and the respondent failed to give valid/actual physical possession of the unit allotted to the complainants. Hence the Respondent should be held liable for not completing the project in time and failure to handover the unit/flat to the complainants.

15. That the Respondent after indulging in unfair trade practice had intentionally grabbed the hard-earned money out of total consideration of the floor and not even taking any interest to complete the said project within the time period. Thus, the respondent has also committed the offence of "Criminal Breach of Trust". By the wrongful acts, conduct and behavior as well as the deficient services of the respondent, the complainants have suffered losses/damages.

C. <u>RELIEFS SOUGHT-</u>

16. That the complainants seek following relief and directions to the respondents:-

    i. To give necessary directions to the respondent to hand over the possession of the allotted unit along with delay interest till date along with the prescribed rate of interest as per the provisions of Sec.18 and Sec.19(4) of the RERA Act.

    ii. To impose penalty upon the respondent as per the provisions of Section 60 of RERA Act for wilful default committed by them.

iii. To direct the respondent to provide a detailed account statement against the amount collected from the complainants in lieu of interest, penalty for delayed payments.

iv. To impose penalty upon the respondent as per the provisions of Section 61 of RERA Act for contravention of Sec. 12,13,14 and 16 of RERA Act.

v. To direct the respondent to refund the amount collected from the complainants in lieu of interest, penalty for delayed payments under Rule 21(3)(c) of HRERA Rules, 2017.

vi. To direct the respondent to refund an amount of Rs. 1,18,600/- with applicable interest which were paid by the complainants to the original allottee in cash for getting discount in Basic sale price of flat.

vii. To issue directions to make liable every officer concerned i.e. Director, Manager, Secretary, or any other officer of the respondent company at whose instance, connivance, acquiescence, neglect any of the offences has been committed as mentioned in Sec. 69 of RERA Act, 2016 to be read with HRERA Rules, 2017.

viii. To recommend criminal action against the respondent for the criminal offence of cheating, fraudulent criminal breach of trust under Section 420,406 and 409 of the IPC.

ix. To issue directions to pay the cost of litigation.

x. Any other relief which this Hon'ble Authority deem fit and appropriate in view of the facts and circumstances of this complaint.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT-

17. Respondent has made the following submissions vide reply dated 24.12.2025.

18. That the respondent proposed to develop an affordable residential housing scheme/colony namely "Shree Vardhman Green Space" situated at Panchkula, Haryana. The said project was an affordable housing project under Affordable Housing Policy, 2013 of the Government of Haryana.

19. That the complainant no. 1 submitted an application form to the respondent for allotment of a residential flat in the said project. The application form bearing no. 3216 dated 31.10.2017 signed and submitted by the complainant no. 1 had all the necessary particulars of the residential scheme, such as description of land, license and building plains granted/approved by DTCP, Haryana and also, salient terms and conditions on which the allotment was to be made. The application form also contained the payment plan in accordance to which the complainants were to make payment of the due installments. Copy of application form is annexed as Annexure B.

20. Complainant no. 1 was informed by the respondent vide letter dated 18.12.2017 about the schedule of the draw of lots and was accordingly invited to attend the same. Complainant no. 1 was one of the successful

applicants in the said draw and as such the respondent vide its letter dated 21.12.2017 intimated the complainant no. 1 about the allotment of Flat No. 07 on 13th Floor in Tower-B having carpet area of 511 square feet and balcony area of 100 square feet. Copy of the allotment letter dated 21.12.2017 is annexed as Annexure C.

21. That on 03.01.2018, the complainant no. 1 made an application on affidavit for the addition of name of complainant no. 2 as the 2nd applicant for the said flat, which after due consideration was approved by the respondent. Copy of the application for addition of name of complainant no. 2 is annexed as Annexure D.

22. Subsequently, on 05.12.2018, a Flat Buyers' Agreement (FBA) was sent to the complainants for getting executed in regard to the said flat upon mutual agreement to the terms and conditions set forth therein. The complainants assured the respondent about the signing of the FBA. However, for the reasons best known to the complainants, the said signed FBA was never sent back to respondent despite multiple requests and communications. Consequently, in the absence of a duly executed FBA, the provisions of Section 18 of the Act cannot be invoked in the present case. In the absence of FBA, the alleged cause of action cannot be created by assuming a hypothetical reasonable period for delivery of possession. Copy of office noting of the FBA is annexed as Annexure E.

23. That the complainants, from the very beginning of the allotment, were in continuous default of payment of the due installments under the agreed payment plan. Their continuous and repeated defaults compelled the respondent to issue multiple call notices and reminder letters. On various occasions, the complainants breached the agreed payment plan and failed to make timely payment of the outstanding dues. In furtherance of their defaulting conduct, the complainants issued a cheque bearing No. 970558 dated 25.07.2018 for an amount of Rs. 15,000/-, a cheque bearing No. 610153 dated 26.02.2019 for an amount of ₹1,50,000/-, and a cheque bearing No. 610156 dated 15.03.2019 for an amount of ₹1,75,000/-, all of which were dishonoured upon presentation, thereby further evidencing the complainants' persistent default. Copies of intimation of dishonoured cheque dated 01.08.2018, 02.03.2019 and 18.03.2019 along with the respective bank advice, cancelled payment receipt and cheques are annexed as Annexure F (Colly.).

24. That the construction and development of the project was stalled on account of various unavoidable circumstances which were beyond control of the respondent company. Various force majeure circumstances such as Covid 19 came into play during the course of the development of the project which had a catastrophic effect on the project's cash flow, resources, supply chains, planning etc., because of which the project was stuck. The completion of the project was also subject to timely payments by the

allottees of the project. However, a large number of allottees including the complainants in the present case defaulted and/or delayed in making payment of the due installments which also severely impacted the cash flow which was already under strain because of aforesaid circumstances.

25. That the unprecedented situation created by the Covid-19 pandemic resulted in halting all project related activities, including construction, processing of approval files etc. The Ministry of Home Affairs, Government of India vide notification dated 24.03.2020 bearing no. 40-3/2020-DM-I(A), recognised that India was threatened with the spread of Covid-19 epidemic and ordered a complete lockdown in the entire country for an initial period of 21 (twenty) days which started from 25.03.2020. By virtue of various subsequent notifications, the MHA, GOI further extended the lockdown from time to time. Even before the country could recover from the first wave of the pandemic, the second wave of the same struck very badly in March/April 2021, disrupting all the activities again. Various state governments, including the Government of Haryana had also enforced several strict measures to prevent the spread of Covid-19 pandemic including imposing curfew, lockdown, halting all commercial, construction activity. The pandemic created an acute shortage of labour and material. The nation witnessed a massive and unprecedented exodus of migrant labourers from metropolitan cities to their native village. Due to

the said shortage, the construction activity could not resume at full throttle even after lifting of restrictions on construction sites.

26. However, now the company is seeking to make progress with the construction of the project, and has already formulated a scheme for revival of the project. It is highly anticipated that the project would be completed and that possession of the units shall be handed over to all eligible allottees, within a period of next 8 to 10 months. A major part of the construction work has already been completed. The main structure, external work, and much of the internal work have been finished. The remaining work relates mostly to finishing internal work. Therefore, only a limited amount of work remains to be done for completion of the project.

27. In view of the aforesaid facts and circumstances, it is submitted that any alleged delay, if at all, cannot be attributed to the respondent. The respondent has at all times acted bona fide and remains committed to completing the project expeditiously and handing over possession of the said flat.

E. <u>ARGUMENTS OF THE LEARNED COUNSELS FOR THE COMPLAINANTS AND RESPONDENT</u>

28. During the course of hearing on 13.07.2026, counsels argued as under:

   1. Today, Ld.counsel for the complainant submitted that clarification with respect to reliefs have been filed by the complainant on 10.12.2025 with a copy already sent to the respondent. He further reiterated the

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pleadings mentioned in the complaint and stated that ₹16,06,700/- has been paid by the complainant against the total sale consideration of ₹20,94,000/-. The respondent has accepted 80% of the amount paid by the complainant without executing the BBA and no offer of possession has been made by the respondent till date.

2. *Per contra, Ld.counsel for the respondent stated that complainant has made multiple defaults in making the payments as various cheques were dishonoured, the evidence of which have been annexed in the written statement itself. However, later, the payments were made by the complainant and the respondent does not deny receiving the said payments later by the complainant. He further stated that the project is not yet completed, however, respondent is making every effort to complete the project as soon as possible.*

F. ISSUES FOR ADJUDICATION

29. Whether the complainants are entitled to get possession of booked flat along with delay interest in terms of Section 18 of RERA, Act of 2016?

G. FINDING AND OBSERVATIONS OF THE AUTHORITY

30. The Authority has carefully examined the rival contentions and perused the documents placed on record. It is an admitted fact that Flat no. 07, 13th Floor, Tower-B was allotted to the complainants in the project of the respondent namely "Shree Vardhman Green Space" through an allotment letter dated 21.12.2017. The complainants have made payment of

₹16,06,700/- to the respondents out of total sale consideration of ₹20,94,000/-.

31. **<u>Findings on the objection raised by the respondent-</u>**

1) **With regard to execution of the Flat Buyer's Agreement (FBA)-**

- The respondent has taken the stand that the FBA was sent to the complainants on 05.12.2018 for execution and that despite requests and communications, the complainants failed to return the same after signing. In support of its contention, the respondent has placed on record a document marked as Annexure E, stated to be the office noting relating to the FBA. Perusal of the said document merely indicates that the FBA was sent from the office of the respondent. However, the said document, by itself, does not establish that the FBA was actually received by the complainants, much less that the same was executed by them. There is no executed copy of the FBA on record bearing the signatures of the complainants, nor has the respondent placed on record any cogent material evidencing the actual receipt of the FBA by the complainants or any subsequent communication whereby the complainants were called upon to execute and return the same.
- It is also significant that despite the alleged non-execution of the FBA by the complainants, the respondent continued to treat the allotment as subsisting and accepted substantial payments from them. The respondent has itself admitted that payments were made by the complainants towards

the allotted unit. In fact, an amount of ₹16,06,700/- was paid by the complainants up to 22.03.2019 against the total sale price of ₹20,94,000/-, which constitutes a substantial portion of the total consideration. Thus, the conduct of the parties, particularly the continued acceptance of payments by the respondent, demonstrates that the allotment continued to subsist.

- The contention of the respondent regarding the alleged defaults on account of dishonour of certain cheques also does not materially alter the position. The respondent has relied upon the dishonour of cheques bearing Nos. 970558 dated 25.07.2018, 610153 dated 26.02.2019 and 610156 dated 15.03.2019. However, during the course of hearing on **13.07.2026**, the respondent fairly admitted that although the aforesaid cheques were dishonoured, the complainants subsequently made the requisite payments and the said amounts were ultimately paid by them. Thus, the alleged defaults stood subsequently regularised and the respondent admittedly accepted the subsequent payments. There is also nothing on record to establish that the allotment was cancelled or terminated on account of such alleged defaults. Consequently, the plea of the respondent regarding the dishonoured cheques cannot, in the facts of the present case, be made a ground to absolve the respondent of its obligation to complete the project and hand over possession.

- Further, the Authority finds merit in the contention of the complainants that the respondent accepted payments substantially beyond the permissible limit without there being an executed Agreement for Sale between the parties. Section 13(1) of the Real Estate (Regulation and Development) Act, 2016 specifically provides that a promoter is not entitled to accept a sum of more than 10% of the cost of the apartment as an advance payment from a person without first entering into the Agreement for sale. The said provision is reproduced as under:

  13(1) "A promoter shall not accept a sum more than ten per cent of the cost of the apartment, plot, or building as the case may be, as an advance payment or an application fee, from a person without first entering into a written agreement for sale with such person and register the said agreement for sale, under any law for the time being in force".

- In the present case, the total sale price of the allotted unit/flat was ₹20,94,000/-, whereas the respondent admittedly received ₹16,06,700/- from the complainants by March, 2019. The amount received was substantially in excess of the statutory threshold of ten per cent. In the absence of an executed Agreement for Sale, the respondent cannot derive any advantage from its own failure to ensure execution of the agreement before accepting such substantial payments.

- Accordingly, for the purpose of determining the period within which the possession ought reasonably to have been offered, the Authority is constrained to proceed in the absence of any executed FBA containing a stipulated date of possession.

- Authority observes that since there is no builder buyer agreement executed in the present complaint and the allotment letter which was issued to the complainants on 21.12.2017 does not stipulate any time frame for handing over possession. Authority observes that in absence of clause with respect to handing over of possession in the Allotment letter, it cannot rightly ascertain as to when the possession of said flat was due to be given to the complainants. It has been observed that period of 3 years is reasonable time for development of a project and handing over of possession as held by **Hon'ble Apex Court in 2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.**
- In the present matter, the initial payment/application for the unit was made on 31.10.2017 and the allotment was made on **21.12.2017**. Since there is no duly executed FBA on record containing a specific date for delivery of possession, the Authority considers a period of three years from the date of booking/application to be a reasonable period for completion of the project and handing over possession. Therefore, deemed date of possession works out to be **20.12.2020** (3 years from the date of allotment, i.e, 21.12.2017).

2) ***With regard to force majeure conditions such as COVID-19-***

- The respondent has sought to explain the delay on account of various force majeure circumstances, particularly the COVID-19 pandemic, lockdown restrictions, shortage of labour and material and disruption of supply chains. The respondent has relied upon the nationwide lockdown commencing from 25.03.2020 and the subsequent restrictions imposed from time to time.
- In this regard, Authority observes that Covid-19 Pandemic, nation-wide lockdown imposed by the Central Government caused reverse migration of labourers, break in supply chain of construction material etc. and thus, all the construction activities across the country came to a halt. Further, the Ministry of Housing and Urban Affairs issued an advisory for extension of registration of all real estate projects due to the force majeure event of Covid-19 pandemic for a period of six months w.e.f. March, 2020. In furtherance of the said advisory, all the RERA Authorities including the Haryana Real Estate Regulatory Authority granted general extension to all the real estate projects. The said extension was further extended in the year 2021 for a period of three months due to the second wave of Covid-19 pandemic. Authority observes that as per reasoning mentioned above deemed date to handover possession was 20.12.2020. As per HRERA notification dated 26.05.2020 and 02.08.2021, an extension of 9 months is granted for the projects having completion/due

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 20.12.2020, i.e, after 25.03.2020. Therefore an extension of 9 months is to be given over and above the due date of handing over possession in view of above said notifications, on account of force majeure conditions due to outbreak of Covid-19 pandemic. In such a case, the due date of handing over of possession comes out to **20.09.2021**. Till that date the respondent did not hand over the possession of the unit to the complainants.

32. Authority observes that despite making a substantial amount of payments towards booking of flat, a valid offer of possession has not been made by the respondent till date. Complainants had invested their hard earned money in the project with hopes of timely delivery of possession. Since complainants are not interested to withdraw from the project and wants to continue with the project, respondent is directed to pay the complainants upfront interest on the amount paid by them from deemed date of possession, i.e., 20.09.2021 (after giving extension for COVID) till the date of the order and also future interest for every month of delay occurring thereafter till the handing over of possession of the flat. Further respondent is prohibited from alienating the land of the project in question for any purposes except for completion of the project.

33. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is 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".*

34. The legislature in its wisdom in the subordinate legislation under the provisions 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.

35. 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. 07.09.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.

36. 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;

37. Hence, Authority directs respondent to pay delay interest to the complainants for delay caused in delivery of possession at the rate prescribed in Rule 15 of Haryana Real Estate (Regulation and Development) Rules, 2017, i.e., at the rate of SBI highest marginal cost of lending rate (MCLR)+ 2 % which as on date works out to 10.80% (8.80% + 2.00%) from the deemed date of possession, i.e., 20.09.2021 to date of valid offer of possession, which is yet to be issued by respondent to complainants. For purpose of calculation, delay interest is calculated upto date of this order and for further delay, if any, caused by respondent, monthly interest is awarded.

38. Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of this order and said amount works out to **₹8,62,389/-** as per detail given in the table below:

Sr. no.	Principal Amount (in ₹)	Deemed date of possession	Interest Accrued till 07.09.2026 (in ₹)
1.	16,06,700/-	20.09.2021	8,62,389
Monthly interest = ₹14,262/-			

39. Further, the Authority vide its order dated 15.09.2025 directed the complainants to clarify as to how and under which provisions of the RERA Act, 2016, relief no. ii, iv, v, vi, vii, viii can be sought/ granted by the Authority. The complainants have filed an application 10.12.2025 clarifying the said reliefs.

40. Regarding relief no. (ii) and (iv), complainants have sought imposition of penalty upon the respondent under Sections 60, 61 and 64 of the Act. The Authority, however, finds that the imposition of penalty under Sections 60, 61 and 64 of the Act is not a matter of right of the complainants. The aforesaid provisions confer a discretionary statutory power upon the Authority to impose penalty upon the promoter where the requisite statutory conditions are found to exist. Such power is to be exercised by the Authority upon an independent assessment of the facts and circumstances of the case and cannot be claimed by the complainants as an enforceable relief merely by making an allegation of contravention. In the present case, the substantive grievance of the complainants regarding delay in completion of the project and handing over of possession has already

been considered and the complainants have been held entitled to delay possession interest in accordance with the provisions of the Act and the Rules. No separate direction for imposition of penalty under Sections 60, 61 or 64 is, therefore, warranted in the present complaint.

41. Regarding relief no. (viii), the complainants have further sought initiation/recommendation of criminal action against the respondent under the provisions of the Indian Penal Code, alleging cheating, fraud and criminal breach of trust. The Authority observes that the jurisdiction exercised by it under the Real Estate (Regulation and Development) Act, 2016 is confined to the powers and functions vested in it under the said Act and the Rules framed thereunder. The question as to whether the acts complained of constitute offences under the penal law and whether criminal proceedings are required to be initiated is not within the adjudicatory jurisdiction of this Authority in the present proceedings and is, therefore, not maintainable in the present proceedings.

42. Relief no. (v) and (vi) were neither argued nor pressed upon, hence, no direction is passed against said reliefs.

43. Further, the complainants are seeking litigation cost. 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 PvL 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 complainants are advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

H. DIRECTIONS OF THE AUTHORITY

44. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the RERA Act,2016 to ensure the compliance of obligations cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016

i. Respondent is directed to offer possession of the unit within next 90 days after obtaining Occupation Certificate from the concerned Authority.

ii. Respondent is directed to pay upfront delay interest as calculated in para 38 of the order to the complainants towards delay already caused in handing over the possession within 90 days from the date of uploading of the order. Further, on the entire amount of ₹16,06,700/-, monthly interest of ₹14,262/- shall be payable by the respondent to the complainants up to the date of actual handing over of the possession after obtaining occupation certificate.

iii. Further respondent is directed to execute the Conveyance Deed within 90 days after handing over of the valid legal possession to the complainants.

iv. Complainants will remain liable to pay balance consideration amount, if any, to the respondent at the time of actual possession offered to them.

v. The rate of interest chargeable from the complainants by the respondent, in case of default shall be charged at the prescribed rate i.e., 10.80% which is the same rate of interest which the respondent shall be liable to pay to the complainants.

43. The complaint is accordingly **disposed of** in view of above terms. File be consigned to the record room after uploading of the order on the website of the Authority.

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NADIM AKHTAR
[MEMBER]