



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

Complaint no.: 100 of 2025
Date of complaint: 20.01.2025
Order reserved on: 23.07.2026
Order pronounced on: 20.08.2026

Ms. Rupan Ahluwalia
W/o Kamal Ahluwalia
R/o: - D-393, Block-D, Defence Colony, New Delhi-
110024

Complainant

Versus

1. M/s M3M India Private Limited
2. M/s Martial Buildcom Private Limited
Both Regd. Office at: - Devika Tower, 12th floor, 6, Nehru
Place, New Delhi-110019

Respondents

CORAM:

Shri Phool Singh Saini

Member

APPEARANCE:

Shri Rahul (Advocate) along with Shri Kamal Ahluwalia
(Husband of the complainant)

Shri Shriya Takkar and Meenal Khanna (Advocates)

Complainant
Respondents

ORDER

1. The present complaint has been filed by the complainant/allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	M3M Urbana, Sector-67, Gurugram
2.	Project area	11.1375 acres
3.	DTCP license no.	100 of 2010 dated 26.11.2010 101 of 2010 dated 26.11.2010 11 of 2011 dated 28.01.2011
4.	RERA Registered/ not registered	35 of 2019 dated 18.06.2019 Valid upto 31.12.2021
5.	Unit no.	SB/R/1L/06/08 (page 27 of complaint)
6.	Unit area	758.37 sq. ft. (super area) (page 27 of complaint)
7.	Allotment letter	03.02.2012 (Page no. 45 of the reply)
8.	Date of builder buyer agreement	03.09.2014 (page 24 of complaint)
9.	Possession clause	15.1 Possession of the unit "The company, based upon its present plans and estimates, and subject to all exceptions, proposes to handover possession of the commercial unit within a period of Thirty-Six (36) months from the date of approval of building plans of the Project or the date of execution of this agreement, whichever is later (Commitment Period) ". Should the possession of the commercial unit not be given within the commitment period, the Allottee agrees to an extension of One Hundred and Eighty (180) Days after expiry of the committed period..... (page 47 of complaint)
10.	Approval of building plans	21.09.2012 (page 27 of reply)
11.	Due date of possession	03.03.2018

		(Due date of possession calculated from the date of execution of buyer's agreement being later plus 6 months grace period being un conditional)
12.	Total sale consideration	Rs.76,39,780/- (As per payment plan at page no. 69 of complaint)
13.	Amount paid by the complainant	Rs.84,92,950/- (Page 12 of complaint)
14.	Occupation certificate	23.02.2017 (Page no. 74 of reply)
15.	Notice of offer of possession	23.03.2017 [Page no. 76 of reply]
16.	Handover of physical Possession of the unit	27.08.2019 (Page no. 85 of reply)

B. Facts of the complaint

3. The complainant vide complaint have made the following submissions:

- I. The license no. 11 of 2011 for the project "M3M Urbana" was issued on 28.01.2011 by Director, Town and Country Planning Department, Haryana. The building plan was approved on 30.08.2016 and revised on 30.11.2017. The project was registered with this Hon'ble Authority on 18.06.2019 vide registration no. 35 of 2019.
- II. That the Real Estate Project "M3M Urbana" at Sector 67, Gurugram, Haryana came to the knowledge of the complainant, through the authorized representative of the respondent. That the complainants submitted an application form dated 03.02.2012 for allotment of a unit in the project in question. Subsequently, vide allotment letter dated 03.02.2012 complainants were allotted unit no 8, on first floor in Block 6 of the said project, admeasuring super area of 758.37 for a total consideration of Rs.76,39,780/- inclusive of EDC, IDC, PLC, Car Parking. The buyer's agreement was executed between the complainants and respondent only on 03.09.2014.





- III. That as per clause 15 of the builder buyer agreement the respondent promised to deliver the possession of the apartment within 36 months of execution of builder buyer agreement i.e. 03.09.2017 clause 15 of the agreement is stipulated below:

15. POSSESSION OF THE COMMERCIAL UNIT

The Company, based upon its present plans and estimates, and subject to all exceptions, proposes to handover possession of the Commercial Unit within a period of Thirty-Six (36) months from the date of approval of Building Plans of the Commercial Complex or the date of execution of this Agreement, whichever is later ("Commitment Period"). Should the possession of the Commercial Unit not be given within the Commitment Period, the Allottee agrees to an extension of One Hundred and Eighty (180) days ("Grace Period") after expiry of the Commitment Period.

- IV. The above-stated clause of the builder-buyer agreement is unfair and arbitrary as it is inclined in favour of the respondent and is one sided. Further despite executing the buyer's agreement with the allottees, the building plan was approved almost 3 years after execution of agreement which is deficiency in services on the part of respondent. In pursuance to the buyer's agreement, the complainants made the payments at the subsequent dates complying with all the demands raised by the respondents from time to time. The said payments were acknowledged by the respondents vide receipts issued on the given dates.
- V. That the complainants hoping that they would get the possession of the apartment in time waited for a long period of time. The complainants made efforts to contact the respondents about the status of the project as promised at the time of booking and allotment, however, the respondents did not respond to the queries and kept delaying the date of offer of possession. That after long delay of more than 2 years, the respondents vide letter dated 21.04.2017 informed the Complainants that possession may be delivered once complete payment of



outstanding dues is realized. The possession was handed over to the complainants on 27.08.2019.

- VI. That the said project is delayed by a period of more than 2 years from the promised due date of possession, and hence, the Respondent Companies have violated Section 11 of the Act, 2016. According to Sections 18(1), and 19(3) of the Act read with Rule 15 of the Rules, 2017, the respondents are liable to pay the allottees interest for delaying the possession in violation of the terms of the Agreement.
 - VII. That the respondents have failed to adhere to promises and assurance which were made to the complainants regarding completion of the project and therefore respondents are liable to pay an interest of MCLR+2% (per annum) till date of actual possession. Also, the area of the unit has also been decreased.
 - VIII. That in view of the above, the mental agony and torture caused to the complainants is beyond limit as the entire illegals acts of the respondents are deliberate and with the sole intension to harass the complainant and to gain illegal monetary benefits.
 - IX. That the complainant thus seeks the intervention of this Authority to grant the reliefs to the complainant in lights of the facts and circumstances of the present matter and considering the relevant case law as mentioned above.
- C. **Relief sought by the complainant:**
4. The complainant has sought following relief(s).
 - I. Direct the respondent to pay delayed possession charges from due date of possession till handing over of possession at the prescribed rate of interest.
 5. Further, on 26.02.2026, the complainant has moved an application for amendment of relief and sought the following the relief which are mentioned below: -

- a. Direct the respondent to pay delayed possession charges from the due date of possession i.e., 03.02.2015 till handing over of possession i.e., 27.08.2019.
 - b. Direct the respondent to refund the delayed interest charges from the complainant @ 24% amounting to Rs.5,51,302/- along with applicable interest till realization.
 - c. Direct the respondent to execute and registered the conveyance deed of the unit in question.
 - d. Direct the respondent to compensate the complainant for unilaterally decreasing the area of the unit from 826.48 sq. ft. to 758.37 sq. ft.
 - e. Direct the respondent to compensate the complainant for the charges incurred for repairs after handover of inhabitable unit.
 - f. Direct the respondent to pay litigation cost of Rs.1,00,000/- incurred by the complainant.
6. 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 respondents

7. The respondents contested the complaint vide its reply on following grounds: -
- i. That the complainants after being completely satisfied with the unit in question had taken over the physical possession of the unit in question way back on 27.08.2019. Thus, the present complaint is infructuous. The complainants have approached this Authority by way of the present complaint with the sole motive to unjustly enrich themselves. The respondent company has complied with all its contractual obligations under the provisions of the Act, 2016 and thus, nothing survives in the present matter. No cause of action has arisen in favour of the complainants and against the Answering respondent. Further, the complainants are in possession of the unit and thus, nothing survives in the present matter. That there is no violation of any of the provisions of





the Act, 2016 and thus, the present complaint merits dismissal at the very threshold.

- ii. That the complainants in the present case have not approached this Authority with clean hands. It is relevant to mention here that the complainant no. 1 in instant case had requested for name deletion of complainant no. 1 vide indemnity dated 24.12.2018 and accordingly, the respondent no. 1 company vide letter dated 29.03.2019 had duly transferred the unit solely in the name of the complainant no. 2. The said fact has been conveniently suppressed by the complainants in the present complaint.
- iii. Thus, the present complaint is liable to be dismissed solely on the ground of misjoinder of necessary party. It is submitted that Complainants despite being well aware of the fact that all the documents had been endorsed in the name of complainant no. 2 only on the request of the complainant no. 1, has made complainant no. 1, a party to the present lis. Thus, the complaint is clearly defective in nature and is liable to be dismissed on the ground of misjoinder of necessary party.
- iv. That the present complaint was filed by the complainants on 07.01.2025 i.e. after a period of 7 years, 9 months and 16 days from the date of offer of possession dated 23.03.2017. The possession of the unit was offered to the complainants by the respondent no.1 vide offer of possession dated 23.03.2017 and were further requested to clear their outstanding dues and take possession of the unit.
- v. That the complainants took over the physical possession of the same with open eyes and without any pre-condition on 27.08.2019 after inspection of the unit and satisfying themselves with all specifications, dimensions and location of the unit. Thereafter, the complainants



thereafter issued acknowledgment/acceptance of full and final settlement of accounts wherein the complainants had admitted that all amounts due against the unit stands paid and nothing is payable/due, by/against the company, including the amount, if any, towards delay compensation. The complainants vide their present complaint are allegedly seeking delay possession charges along with interest. The present complaint is at a belated stage and the complainants are raising unwarranted issues and are wasting precious time of this Authority.

- vi. That it is settled law that when a special Act or local law do not prescribe the period of limitation, the limitation period prescribed under the Limitation Act, 1963 shall be applicable. Accordingly, the period of limitation as prescribed under Article 113 of the Limitation Act is applicable to the present complaint. Admittedly, the present complaint is hopelessly barred by limitation and is liable to be dismissed on this ground alone. As per Section 88 of the Act, 2016 provides that the provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. That since the complainant had been left with no remedy under civil law, the complainant has filed the present complaint to abuse the process of law and indulge in forum hunting. Further, it is well settled that the correspondences, representations and legal notice do not extend the time of limitation. Thus, the present complaint is barred by limitation.
- vii. That after making independent enquiries and only after being fully satisfied about the project, the complainants approached the respondent no. 1 company for booking of a commercial unit in 'M3M Urbana' containing commercial units for retain, office use and service apartments with suitable infrastructure facilities being developed in a planned and phased manner over a period of time in Sector 67



Gurugram vide application form and paid Rs.6,85,979/- on 24.01.2012 as part booking amount towards the same.

- viii. That thereafter in due consideration of the part booking amount paid by the complainants and their commitments to make timely payments, the respondent no.1, provisionally allotted the unit bearing No. "SB/R/1L/06/08" admeasuring 826.48 sq. ft. super area for total sale consideration of Rs.68,59,784/- plus other charges and applicable taxes in favour of the complainants vide provisional allotment letter dated 03.02.2012. The complainants on their own free will and volition opted for a construction linked payment plan. It is submitted that the respondent no.1 vide the aforesaid allotment letter raised a demand to the tune of Rs.6,85,978/- which was payable on or before 04.03.2012. Since the complainants failed to make the requisite payments against the demand raised, the respondent no.1 issued reminder vide letter dated 05.03.2012 requesting the Complainants to come forward and make the payment of the pending dues. Thus, it can be inferred that the complainants are defaulters since the inception.
- ix. That the respondent no.1, as per the payment plan opted by the complainants raised a demand due within 60 days from booking for an amount of Rs.14,24,948/- which included previous outstanding dues to the tune of Rs.6,85,977/- which was payable on or before 03.04.2012. Since the complainants defaulted in making payments of the aforesaid demand, the respondent no.1 issued reminder letters dated 03.04.2012 and 16.04.2012 requesting the complainants to come forward and make the payment of the pending dues within a period of 10 days, but to no avail. As per the payment plan opted by the complainants, the respondent no.1 raised the demand due within 120 days of booking for an amount of Rs.14,14,350/- which was inclusive of the previous



outstanding dues of Rs.6,85,978/-. The said demand was payable on or before 02.06.2012.

- x. Despite the issuance of the aforesaid reminder letter, the complainants continued to breach the terms of the application form/allotment as a consequence of which the respondent no.1 company issued a pre-cancellation letter dated 05.06.2012 requesting the Complainants to remit the overdue payments within a period of 15 days from the date of the letter, failing which the Respondent No.1 Company will be constrained to cancel the booking/allotment. The complainants paid no heed to the reminders /pre-cancellation notices issued by the respondent no.1 therefore the respondent no.1 again issued another reminder vide letter dated 13.06.2012 requesting the complainants to come forward and make the payment of the pending dues within a period of 10 days.
- xi. That the respondent no.1 again vide letter dated 05.02.2014 raised a demand due on casting of 1st basement roof slab for an amount of Rs. 7,14,376/- which was payable on or before 25.02.2014. As per the payment plan opted by the Complainants, the Respondent No.1 Company vide letter dated 07.03.2014 raised the demand due on casting of ground floor roof slab for an amount of Rs.10,40,770/- which was inclusive of the previous outstanding dues of Rs.7,14,376/- wherein an amount of Rs.7,14,376/- was payable immediately and Rs. 3,26,394/- was payable on or before 26.03.2014.
- xii. After constant follow ups with the complainants, the buyer's agreement was executed between the parties on 03.09.2014. The buyer's agreement duly covers all the liabilities and rights of both the parties. As per clause 15 of the said agreement, the respondent proposed to handover possession of the Commercial Unit within a period of Thirty-



Six 36) months from the date of approval of Building Plans of the Commercial Complex or the date of execution of this Agreement, whichever is later ("Commitment Period"). Should the possession of the Commercial Unit not be given within the Commitment Period, the Allottee agrees to an extension of One Hundred and Eighty (180) days ("Grace Period") after expiry of the Commitment Period That date of approval of building plans was 21.09.2012 and the Buyers Agreement was executed on 03.09.2014. The due date of possession has to be reckoned from the date of execution of the Buyers Agreement being the later date. Thus, the due date of possession comes out to be 03.03.2018 (36 months from 03.09.2014 + 6 months). It is submitted that the complainants have been defaulters and have defaulted in making timely payments on various occasions, constrained by which the respondent no.1 issued a last and final opportunity vide letter dated 21.11.2014 wherein the respondent no.1 had granted final opportunity to the complainants to remit the overdue payments.

- xiii. Thereafter, the complainants continued defaulting in making payment of outstanding dues hence the respondent no.1 issued demand-cum-pre cancellation notice dated 01.12.2014 demanding amount of Rs.41,27,935/- which was inclusive of previous outstanding dues due on completion of commencement of exterior facade payable on or before 19.12.2024. In lieu of the said demand cum pre-cancellation, the complainants belatedly paid an amount of Rs. 30,19,032/- on 24.12.2014 which has been duly acknowledged by the respondent no.1 company. That the complainants had earlier expressed their interest in booking of a unit in one of the projects of the respondent company and had paid an amount of Rs.3,91,559/-. On the request of the complainants and post discussion with them, the amount paid towards

aforesaid booking was transferred towards the unit in question. Since the complainants defaulted in making the complete payment of the outstanding dues, the respondent no.1 issued a reminder vide letter-I requesting the complainants to come forward and make the payment of the overdue amount within a period of next 15 days from the date of this reminder.

- xiv. That the respondent no.1 company as per the payment plan opted by the complainants raised a demand due on installation of services for an amount of Rs.8,64,284/- which was payable on or before 28.10.2015. The complainants belatedly paid an amount of Rs.8,64,284/- on 30.10.2015 against the demand, which was duly acknowledged by the respondent no.1. The construction of the tower in which the unit of the complainants was located was completed well within time and the occupation certificate was applied for on 23.12.2016. The occupation certificate was granted by the competent Authorities on 23.02.2017 after due verification and inspection. Without any further delay the respondent no.1 sent the offer of possession to the complainants vide letter of offer of possession dated 23.03.2017. It is submitted that vide the said offer of possession, the respondent no.1 had requested the complainants to clear the dues raised on or before 21.04.2017 and take possession of the unit in question.
- xv. That the complainants failed to come forward to clear their outstanding dues and take possession of the unit. That being left with no other option, the respondent no.1 was forced to send a pre-cancellation notice dated 04.10.2017 requesting the complainants to come forward and clear their pending dues along with applicable interest within a period of 15 days from the date of this letter, failing which the respondent no.1 Company shall be constrained to cancel the booking/allotment. The



complainants paid no heed to the aforesaid pre-cancellation letter as a consequence of which the respondent no.1 company was constrained to issue a last and final opportunity letter dated 07.12.2017 giving a final opportunity to the Complainants to remit their pending dues within a period of 15 days. The complainants in lieu of the said letters belatedly paid part amount of Rs.4,55,375/- on 08.08.2018, which has been duly acknowledged by the respondent no.1.

xvi. The complainants thereafter approached the respondent company and requested that the name of complainant no.1 be deleted. The respondent company being a customer-oriented company agreed to delete the name of complainant no.1 post completion of necessary formalities. Accordingly, the complainant no.1 submitted the necessary documentation i.e. duly executed affidavit and indemnity cum declaration dated 24.12.2018 for deletion of name from the records. The respondent no. 1 vide letter dated 29.03.2019, confirmed that the name of complainant No.1 i.e., Mrs. Kamal Ahluwalia stands deleted. It was clearly informed by the aforesaid letter that complainant no.2 shall be solely and entirely responsible, liable and obligated to discharge all obligations as per the Buyers Agreement.

xvii. Despite the issuance of various reminders and constant follow ups, the complainants failed to come forward to take the possession of the unit. Therefore, the respondent no.1 issued a letter dated 12.01.2019 intimating the complainants that since the complainants defaulted in taking over the possession, the complainants are bound to pay holding charges as per the terms of the buyer's agreement. The complainant no.2 belatedly paid an amount of Rs.5,51,302/- on 29.03.2019, which was duly acknowledged by the respondent no.1.



- xviii. That post clearance of all the dues after inspecting the common facilities and services provided in the project and ensuring that the same are in accordance with the plans and specifications that have been agreed under the buyer's agreement, the respondents have handed over the possession of the unit in question to the complainant no.2 on 27.08.2019 as per the agreed terms. The complainant no.2 had also executed the declaration relevant portion of the same is reproduced herein.

..... I/ we, the Allottee has/ have taken over the peaceful vacant physical possession of the aforesaid Unit to my/our complete satisfaction, and after due independent inspection, assessment and verification at my/ our end and having done so, I/ we, have no claim against the Company/Confirming Party of any nature whatsoever including but not limited to the Super Area, dimensions, measurement, location, specifications, quality of construction and the material(s) used etc. of and in relation to the said Unit and/or the Complex and that there is no dispute/claim pending against the Company/Confirming Party for the said Unit.....

- xix. That the complainant no.2 after being satisfied with the unit, its location, dimensions, location, quality executed the indemnity cum declaration on his own free will and consent. The complainant no.2 by executing the said document confirmed that the same are in accordance with the terms of the buyer's agreement. The complainant no.2 further also agreed that he has no claims or demands of any nature whatsoever against the respondent no.1. The complainant no.2 also executed the acknowledgment/acceptance of full and final settlement of accounts wherein the complainant no.2 had admitted that all amounts due against the unit stands paid and nothing is payable/due, by/against the company, including the amount, if any, towards delay compensation.
- xx. That the respondent no.1 vide cover letter dated 13.12.2019 had requested the complainant to come forward for the execution and the registration of the conveyance Deed, but to no avail. Further, the respondent no.1 vide emails dated 04.08.2023 and 17.08.2023 had

shared the draft of the conveyance deed for due execution at their end, but to no avail. It is submitted that the conveyance deed as per the agreed terms of the buyer's agreement can only be executed once all outstanding dues are cleared by the complainants.

xxi. That the respondent company has fulfilled its contractual obligations under the buyer's agreement. The complainants are in default of their contractual obligations and are raising these frivolous issues in order to escape the liability cast upon them by the virtue of the terms of the buyer's agreement. Thus, the complainants are not entitled to any relief whatsoever.

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

E. Jurisdiction of the authority

9. The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

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

E. II Subject-matter jurisdiction

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

12. 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.

F. Findings on the relief sought by the complainant.

F. I Direct the respondent to pay delayed possession charges from the due date of possession i.e., 03.02.2015 till handing over of possession i.e., 27.08.2019.

F. II Direct the respondent to refund the delayed interest charges from the complainant @ 24% amounting to Rs.5,51,302/- along with applicable interest till realization.

F.III Direct the respondent to execute and registered the conveyance deed of the unit in question.

13. The above-mentioned relief sought by the complainant is being taken together as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

14. In the present complaint, vide allotment letter dated 03.02.2012, the complainant has been allotted a unit bearing no. SB/R/1L/06/08, first floor, Block/Tower-6, having 758.37 sq. ft. (super area) in project "M3M Urbana" situated at Sector-67, Gurugram, being developed by the respondent. Thereafter, an agreement for sale was executed inter-se parties on 03.09.2014. The allottee had paid an amount of Rs.84,92,950/- out of total sale consideration of Rs.76,39,780/-. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to Section 18(1) of the Act, 2016, as well as handover of the amenities, as promised in agreement for sale. Section 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."

15. As per clause 15.1 of the agreement for sale dated 03.09.2014, talks about the possession of the unit to the complainant, the relevant portion is reproduced as under: -

15. POSSESSION OF THE COMMERCIAL UNIT

15.1 The Company, based upon its present plans and estimates, and subject to all exceptions, **proposes to handover possession of the Commercial Unit within a period of Thirty-Six (36) months from the date of approval of Building Plans of the Commercial Complex or the date of execution of this Agreement, whichever is later ("Commitment Period")**. Should the possession of the Commercial Unit not be given within the Commitment Period, the Allottee agrees to an extension of One Hundred and Eighty (180) days ("Grace Period") after expiry of the Commitment Period.

16. **Due date of handing over possession:** By virtue of clause 15.1 of the agreement for sale executed between the parties on 03.09.2014, the possession of the subject unit was to be delivered within 36 months from the date of approval of building plans or the date of execution of this agreement, whichever is later. The respondent has approved the building plans in respect of the said project on 21.09.2012 and the buyer's agreement was executed between the parties on 03.09.2014, respectively. Therefore, the due date of handing over possession is 03.09.2017 to be calculated 36 months from the date of execution of this agreement i.e., 03.09.2014, being later. As far as grace period of 6 months, being un conditional, the same is allowed. Therefore, the due date of possession comes out to be 03.03.2018 (including grace period of 6 months).
17. In the present case, the complainant was offered possession by the respondent on 23.03.2017 after obtaining of occupation certificate on 23.02.2017 from the competent authority. Further, the physical possession certificate was signed by the complainant on 27.08.2019. (Copies of the same have been placed on record). The respondent has obtained occupation certificate and offered the possession of the



subject unit to the complainant(s)/ allottee(s) prior to the due date of handing over of possession.

18. Further, the Authority observes that as per possession certificate dated 27.08.2019 placed on page no. 43 and 44 of the reply filed by the respondent, the complainant has relinquished all her claims on handing over of possession of the unit. The relevant portion of the possession certificate dated 27.08.2019 is reproduced hereunder for ready reference: -

..... I/ we, the Allottee has/ have taken over the peaceful vacant physical possession of the aforesaid Unit to my/our complete satisfaction, and after due independent inspection, assessment and verification at my/ our end and having done so, I/ we, have no claim against the Company/Confirming Party of any nature whatsoever including but not limited to the Super Area, dimensions, measurement, location, specifications, quality of construction and the material(s) used etc. of and in relation to the said Unit and/or the Complex and that there is no dispute/claim pending against the Company/Confirming Party for the said Unit.....

19. 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 has already obtained occupation certificate in respect of the said project prior to the due date of handing over possession. Thus, no case for delay possession charges is made out under Section 11(4)(a) of the Act read with proviso to Section 18(1) of the Act. Accordingly, no direction to this effect.
20. However, 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(s). Whereas as per Section 19(11) of the Act of 2016, the allottee(s) are also obligated to participate towards registration of the conveyance deed of the unit in question. The complainant had taken the physical possession of the unit on 27.08.2019. As per clause 16 of the buyer's agreement, the respondent company shall prepare and execute along with allottee(s) a sale deed to convey the title of the said unit in favor of the allottee(s) but after payment of stamp duty, registration charges, incidental

expenses for registration, legal expenses for registration and the relevant clause of the agreement is reproduced for ready reference: -

"16 CONVEYANCE OF THE COMMERCIAL UNIT

16.1 The Conveyance Deed shall be executed and registered to convey the title of the Commercial Unit in favour of the Allottee subject to receipt of the Total Consideration including, but not limited to, interest on delayed payments and other charges as reserved herein along with compliance of all other terms and conditions of this Agreement by the Allottee.

16.2

16.3 The cost of stamp duty, registration charges, and other incidental charges and expenses as may be levied by any authority for registration of the Conveyance Deed shall be borne by the Allottee. The Allottee/transferee shall be solely responsible and liable for compliance of the provisions of the Indian Stamp Act, 1899, and/or other applicable Law, including any actions taken or deficiencies/penalties imposed by the competent authority.

16.4 The Allottee undertakes to execute and register the Conveyance Deed for the Commercial Unit prior to assuming its possession. In case of any delay, beyond the time stipulated in the Notice of Possession, by the Allottee to deposit the stamp duty, registration charges and other incidental and legal expenses ("Conveyance Expenses") and execution of the Conveyance Deed, the Allottee shall be required to pay Holding Charges for the period reckoned from the due date of payment of such Conveyance Expenses up to the actual date of such payment and execution of the Conveyance Deed."

21. It is to be further noted that Section 11(4)(f) provides for the obligation of respondent/promoter to execute a registered conveyance deed of the apartment along with the undivided proportionate share in common areas to the association of the allottees or competent authority as the case may be as provided under Section 17 of the Act of 2016 and shall get the conveyance deed done after obtaining of OC.

22. As far as the relief of transfer of title is concerned the same can be clearly said to be the statutory right of the allottee as Section 17 (1) of the Act provide for transfer of title and the same is reproduced below:

"Section 17: Transfer of title.

17(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of

the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

23. In view of the above, the respondent is under obligation to execute the registered conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016, upon payment of requisite stamp duty/registration charges at applicable rates fixed by State Government, within a period of 90 days from the date of this order as the occupancy certificate has been already obtained.

F. IV Direct the respondent to compensate the complainant for unilaterally decreasing the area of the unit from 826.48 sq. ft. to 758.37 sq. ft.

F. V Direct the respondent to compensate the complainant for the charges incurred for repairs after handover of inhabitable unit.

F. VI Direct the respondent to oat litigation cost of Rs.1,00,000/- incurred by the complainant.

24. The above-mentioned relief of the complainant pertains to compensation. The Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as ***M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & 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 adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the 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.

G. Directions of the Authority:



25. Hence, the Authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. No case of delay possession charges is made out under Section 18 of the Act, 2016.
 - ii. The respondents are directed to execute the registered conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016, upon payment of requisite stamp duty/registration charges at applicable rates fixed by State Government, within a period of 90 days from the date of this order, as the occupancy certificate has been already obtained.
26. Complaint as well as applications, if any, stands disposed off accordingly.
27. File be consigned to registry.

Dated: 20.08.2026



(Phool Singh Saini)
Member
Haryana Real Estate
Regulatory Authority,
Gurugram