HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint no.:	**65 of 2025**
Date of filing:	**27.01.2025**
First date of hearing:	**05.05.2025**
Date of decision:	**10.09.2026**

1. Anjana Goyal W/o Late Sh. Sanjeev Goyal
   R/o, C-16,Amba Vihar, Gangho, Sharanpur,
   Uttar Pradesh-247341;
2. Anchal Garg D/o Late Sh. Sanjeev Goyal
   R/o, House no.1144 A, Sector-9, District Karnal;
3. Chirag Goyal S/o Late Sh. Sanjeev Goyal
   R/o C-16,Amba Vihar, Gangho, Sharanpur,
   Uttar Pradesh-247341

.....COMPLAINANTS

Versus

M/s Aegis Value Homes Ltd
Registered Office at EF-10, Second floor,
Inderpuri, Delhi- 110012

......RESPONDENTS

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

Present: - None for the complainant.

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

ORDER (PARNEET S SACHDEV-CHAIRMAN)

1. Present complaint has been filed on 27.01.2025 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 the project, the details of sale consideration, the amount paid by the complainant, date of handing over of the possession, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	Smart Homes Karnal
2.	Name of the promoter	M/s Aegis Value Homes Ltd
3.	RERA registered/not registered	Registered
4.	Unit no.	A6-802
5.	Unit area	sq.ft

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6.	Date of Apartment Buyer Agreement	07.07.2017
7.	Due date of offer of possession	Within 4 years from the date of approval of building plans or grant of environment clearance whichever is later.
8.	Possession clause in BBA	2 (3.1)
9.	Total sale consideration	19,89,320/-
10.	Amount paid by complainant	Explained in para no.... of this order

B. FACTS AS PER THE COMPLAINT

3. Unit No. 802 in Tower A6, application no. 6248, was jointly registered in the name of Smt. Anjana Goyal (complainant) and her husband, Late Sh. Sanjeev Goyal with details Unit No. 802, floor 8th in Tower A6, Ref application no. 6248, unit type 2BHK.

4. Unit No. 803 in Tower A6, application no. 7880, was registered solely in the name of Smt. Anjana Goyal (complainant), with details Unit No. 803, floor 8th in Tower A6, Ref application no. 7880, unit type 2BHK.

5. The applicant contacted the bank for the housing loan for both the flats referred in para 1 and para 2, but the bank refused to grant the loan in any of the 2 units in my name, so I discussed the issue in the

Smart Homes office in sector 32, Karnal Haryana and showed my inability to keep and continue both the units and requested them to cancel the Unit No. 803 in Tower A6, Ref application no. 7880, and the respondent representative suggested to send a request or consent letter [Annexure I] to the Smart Homes Karnal for surrendering unit No. 803 in Tower A6, Ref application no. 7880, and the amount Rs. 25000/- shall be deducted as per the Haryana government policy of the "affordable housing policy" [Annexure II].

6. As suggested by the Smart Homes team the applicant/allottee requests to cancel the registration of flat Unit No. 803 in Tower A6, Ref application no. 7880 after deduction of Rs. 25000/- as per policy and the complainant further requested the respondent to transfer the balance amount of Rs. 5.75 lakh, out of the paid amount of 6 lakhs be transferred towards my second unit No. 802 in Tower A6, Ref application no. 6248 account as referred in para 1, and giving my clear consent to transfer my amount of 5.75 lakhs to the unit as referred in para 1.

7. As per my consent letter dated 10/01/2022, multiple follow-ups over the call, and follow-up letters dated 31/10/2024, 5/12/2024 I didn't receive any communications from the respondent regarding the complainant issue which is very unprofessional, and clearly against the Affordable housing policy of Haryana Govt, complainant

respectfully requested the respondent to provide a recalculated account of the Unit No. 802 in Tower A6 (Ref: application no. 6248) after adjusting the amount of Rs. 5,75,000/-(in which Rs. 1,38,632 is refunded already). which is after a deduction of Rs. 25,000/- from the amount of Rs. 6,00,000/- paid towards my Unit No. 803 in Tower A6 (Ref: application no. 7880) from the date of deposit.

8. The flat was to be delivered within 3 years from the date of allotment which is 07/07/2017 but the respondent provided the offer of possession by letter dated 05/11/2024 received on 16/11/2024 as the first communication which was delayed by 4 years and 4 months for which is as per the clause 10 of the Builder Buyer Agreement [Annexure III] provides the right to the complainant 10.2 (i) Stop making further payments to the Developer as demanded by the Developer. If the Allottee stops making payments, the Developer shall correct the situation by completing the construction/ development milestones and only thereafter the Allottee be required to make the next payment without any interest for the period of such delay.

10.2 (ii) The allottee shall have the option of terminating the agreement, in which case, the developer shall be liable to refund the entire amount paid by the allottee under any head whatsoever towards the purchase of the plot/unit/apartment, along with the interest at the rate prescribed in the rules within the ninety days of receiving the termination notice in the above circumstances, the calculation of the interest in the last letter dated 08/01/2025 of the respondent is completely illegal because the project was not completed in the time frame of 3 years i.e 17/07/2017 to 17/07/2020 and the complainant was entitled to detain the payment but the respondent did not adhere to the provision of the policy of the affordable housing policy of Haryana Govt. and the provision of Builder Buyer Agreement, the respondent issue the notice with there fancy and based on whims. It is also important that the respondent drafted and got it signed the Builder Buyer Agreement, which is against the provision of the Affordable Housing Policy of the Haryana Govt. under which the respondent got the license to construct flats under the scheme and the respondent does not have the right to go against the policy. Also, the complainant requested the respondent to recalculate the account and send the updated account statement after this adjustment statement accordingly.

9. After receiving the Rs. 1,38,632 (after a lot of deductions) in the bank account against Unit No. 803 in Tower A6 (Ref: application no. 7880), the complainant communicated with them to describe the extra deductions and balance amount, on which the respondent representatives said the extra deductions and interest will be managed

and will update the account accordingly for the Unit No. 802 in Tower A6.

10. Also, the Builder Buyer Agreement which was provided to us by the respondent is incomplete as clause 10.1 (i) mentioned that in clause 7.1 time period for completion/ready-to-move-in possession is specified but the 7.1 [Annexure IV] clause is missing in the agreement which is also against to the Affordable Housing Policy of Haryana Govt. regarding the transparency between the allottee and the builder.

11. Also as per the Builder Buyer Agreement clause 10 the interest rate payable by the allottee to the Developer shall be the State of Bank of India's highest marginal cost of lending rate i.e currently 9.10% (historical data attached as Annexure V) plus 2% i.e 11.10%, but the interest is charged at 15% per annum which is also a contradiction to the Builder Buyer Agreement.

C. RELIEF SOUGHT

12. 1. Recalculation of Dues: A direction to Smart Homes to recalculate the outstanding dues for Unit No. 802 after adjusting ₹4,36,368 (i.e. remaining amount after the ₹1,38,362 refund) (from the payments made towards Unit No. 803, along with interest accrued only after the adjustment date.

2. Compensation for Delay: An order for Smart Homes to waive interest charges for the delay period in possession as per Clause 10.2(i) of the Builder Buyer Agreement.

3. Correction of Interest Rate: A directive to Smart Homes to revise the interest rate charged on the outstanding dues in accordance with Clause 10 of the Builder Buyer Agreement i.e. SBI's highest marginal cost of lending rate which is currently 9.10% plus 2% i.e. 11.10%.

4. Compensation for Mental Agony and Financial Stress: Award compensation for the undue mental and financial stress caused by Smart Homes' negligence and failure to address the allottee's concerns in a timely manner.

5. Provision of a Complete Agreement: An order for Smart Homes to provide a complete and valid Builder Buyer Agreement, including Clause 7.1, and ensure adherence to all its terms.

D. APPLICATION FILED BY RESPONDENT FOR REJECTION OF COMPLAINT ON THE GROUND OF NON- JOINDER OF NECESSARY PARTIES ON 14.01.2026:

13. That this application is preferred by the Respondent-Promoter under the provisions of the Real Estate (Regulation and Development) Act, 2016 ("hereinafter referred to as "the Act") read with the Haryana Real Estate Regulatory Authority (Regulation and Conduct) Rules, 2018 ("hereinafter referred to as "the Rules"), praying before this Hon'ble

Authority to reject and dismiss the aforesaid Complaint in limine on the fatal and insurmountable ground of non-joinder of necessary parties, more particularly, the legal heirs and successors-in-interest of the deceased co-allottee, Late Shri Sanjeev Goyal, whose participation is indispensable to the complete and effective adjudication of the subject matter in controversy.

FACTUAL MATRIX:

Allotment and Joint Ownership: That Unit No. 802, Tower A6, situated at the Smart Homes Project, Sector 32, Karnal, Haryana (bearing Allotment Reference Application No. 6248), was allotted jointly and severally to the following allottees vide Allotment Letter dated 07th July, 2017:

- Smt. Anjana Goyal (hereinafter referred to as "First Allottee/Respondent".
- Shri Sanjeev Goyal (hereinafter referred" Second Allottee/Deceased").

That the said allotment was made pursuant to the Haryana Government's Affordable Housing Scheme as disclosed in the Complaint, and the said allotment constituted a joint tenancy with concomitant rights, liabilities, and mutual obligations inter se in the said unit.

That the Petitioner-Promoter entered into a Builder-Buyer Agreement dated **07th July, 2017**, with both the aforementioned allottees conjointly, thereby creating binding contractual privity and obligations inter se between the Petitioner and both co-allottees in solidum. *Death of Co-Allottee:* Express Admission in Complaint That the Respondent-Complainant has expressly and unambiguously admitted in the Affidavit accompanying the Complaint (dated 22nd January, 2025) and the notary-attested certificate thereto that Shri Sanjeev Goyal is deceased. Specifically, the Respondent-Complainant describes herself as "W/o Late Sanjeev Goyal" (meaning "Widow of Late Sanjeev Goyal") in her notarized Affidavit.5. That this admission is further corroborated by the Account Ledger (Annexure VI(b) of the Complaint) which designates the original allottee as "Mr. Sanjeev Goyal S/o Sh. Tribhuvan Goyal," thereby confirming the identity and death of the co-allottee. That notwithstanding this express and categorical admission of the death of the co-allottee, the Respondent-Complainant has deliberately and consciously failed to implead the legal heirs, successors, representatives, or nominees of the deceased co-allottee as necessary parties to the present Complaint. That all the aforesaid reliefs sought directly and substantially impinge upon the beneficial interest of Shri Sanjeev Goyal (deceased) in Unit

No. 802, which now vests in his legal heirs and successors-in-interest.

LEGAL FRAMEWORK: Doctrine of Necessary Parties:

Constitutional and Statutory Underpinnings: That the doctrine of "necessary parties" is a fundamental principle embedded in the procedural law framework of India, deriving its authority from Section 16 of the Code of Civil Procedure, 1908; Principles of Natural Justice; Regulation 8, 44, and 47 of the Haryana Real Estate Regulatory Authority (Regulation and Conduct) Rules, 2018;Section 31 of the Real Estate (Regulation and Development) Act, 2016.

That the Respondent-Complainant be directed to file a fresh and properly constituted Complaint with all necessary parties impleaded within such time as this Authority may deem fit.

E. <u>APPLICATIONS FILED BY COMPLAINANT ON 26.02.2026; 12.05.2026; 25.06.2026:</u>

14. Complainants have filed three applications seeking: two dated 26.05.2025 seeking to amend the relief and placed an amended memo of parties on record; and a third dated 12.05.2026 submitting receipts for the amounts paid.

15. Complainants have sought following reliefs:

    i. Direct the respondent to refund the entire amount deposited by the complainant towards Unit no. 802, Tower-A6, alomg with interest at the prescribed rate under Section 18(1) of RERA from the respective dates of deposit till realization as depicted in the table below:

15.05.2017	95,227/-
09.07.2017	2,00,000/-
22.08.2017	1,81,000/-
05.10.2019	2,80,000/-
21.12.2019	3,20,000/-
21.12.2019	1,75,000/-
22.08.2022	1,00,000/-
15.10.2022	1,000/-
17.10.2022	1,99,000/-
09.12.2022	1,00,000/-
28.03.2023	3,99,000/-
01.06.2023	1,50,000/-
Total	22,00,227/-

ii. Direct refund of illegally deducted amounts from unit no. 803 and proper adjustment thereof.

iii. Set aside the illegal forfeiture letters dated 16.03.2022 and 08.01.2025;

iv. Award compensation for mental agony and financial hardship;

v. Award litigation costs;

vi. Pass any other order deemed fit in the interest of justice.

16. By way of an application dated 26.02.2026, the complainants have placed on record an amended memo of parties, restricting the array of respondents to a sole respondent, namely "M/s Aegis Value Homes Ltd."

Additionally, the complainants filed an application dated 12.05.2026, submitting a statement of accounts reflecting a total payment of **₹16,01,227/-** toward Unit No. 802."

17. Complainants have also placed on record successor certificate vide application dated 25.06.2026 in the registry.

F. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT

18. During the course of oral arguments, learned counsel for the Complainants reiterated the submissions set forth in the underlying Complaint. Conversely, learned counsel for the respondent placed reliance upon the submissions already recorded in the previous order dated **14.05.2026**. In addition thereto, learned counsel for the respondent averred that valid offers of possession were duly extended to the complainants on **17.11.2023** and **05.11.2024**, subsequent to the issuance of the Occupation Certificate dated **20.09.2024**. It was contended that the complainants have failed to take over possession of the subject property to date. Counsel further submitted that owing to the Complainants' default, a final cancellation letter was served upon

them on **08.01.2025**, which remains un-rebutted and unchallenged as on date.

19. In rebuttal, learned counsel for the Complainants vehemently refutes the respondent's contentions, arguing that both purported offers of possession are non-est and illegal in the eyes of law, as they were conditional upon and accompanied by arbitrary and unlawful demands.

G. ISSUE FOR ADJUDICATION

20. Whether the complainant is entitled to the reliefs sought or not?

H. OBSERVATIONS AND DECISION OF AUTHORITY

21. **FINDINGS ON THE OBJECTION RAISED BY THE RESPONDENT VIA APPLICATION DATED 14.01.2026:**

The Respondent had raised a preliminary objection regarding the maintainability of the present complaint on the ground of non-joinder of necessary parties.

Adverting to the said objection, this Authority, vide order dated **15.01.2026**, directed the Complainants to place on record a Legal Heir Certificate to substantiate their claim over the subject unit. Subsequently, as recorded in the order dated **14.05.2026**, the Complainants apprised the Authority regarding the filing of three applications, including an application seeking permission to file an amended Memo of Parties. By virtue of the said amendment, Ms.

Anchal Goyal was sought to be impleaded as a party to the present proceedings, alongside the existing Complainants, Mrs. Anjana Goyal and Shri Chirag Goyal. It was asserted that these individuals constitute the sole surviving legal heirs of the deceased joint-allottee, Late Sh. Sanjeev Goyal.

Vide the said order dated **14.05.2026**, the Complainants were granted a final opportunity to submit either a Legal Heir Certificate or a Survivorship Certificate before the Registry. This documentation was explicitly required to verify that the amended Memo of Parties, preferred via the application dated **26.02.2026**, comprehensively and accurately reflects all surviving legal heirs of the deceased joint-allottee.

In compliance with the directions of this Authority, the Complainants duly filed a Survivorship Certificate before the Registry on **25.06.2026**. A perusal of the said certificate reveals that Mrs. Anjana Goyal, Shri Chirag Goyal, and Ms. Anchal Goyal are the sole surviving legal heirs of Late Sh. Sanjeev Goyal.

Consequently, based on the strength of the official Survivorship Certificate placed on record, the application dated **26.02.2026** seeking permission to file the amended Memo of Parties is hereby **allowed**. The amended Memo of Parties is taken on record.

22. The Authority has carefully considered the rival contentions advanced by the parties and has perused the material available on record. In light of the factual matrix as delineated hereinabove, it is observed that notice was initially issued to the respondent on 30.01.2025, directing their appearance before the Authority on 24.03.2025. The said notice was returned undelivered. However, on 05.05.2025, Mr. Neeraj Goel, Advocate, put an appearance on behalf of the respondent, accepted the notice, and sought time to file a written reply. This request was acceded to, and an opportunity to file the reply was granted.

Subsequently, the matter was listed for hearing on 18.09.2025, and 15.01.2026; however, the respondent repeatedly failed to file their reply. It was only on 13.05.2026 i.e. one day prior to the previous date of hearing that the respondent finally filed their reply in the registry. On the last date of hearing, i.e., 14.05.2026, this Authority made the following observations:

" 2. Adv. Ashwarya Bajaj, appearing on behalf of the complainant, informed the Authority that three applications have been filed: two dated February 26, 2026, seeking to amend the sought relief and place an amended memo of parties on record; and a third dated 12.05.2026 submitting receipts for the amounts paid. Counsel requested the Authority to formally take these documents on record and consider them when adjudicating the matter on its merits. Additionally, counsel raised an objection regarding the respondent's reply, noting it was filed only one day prior to the hearing despite a directed deadline of 05.03.2026. ***Consequently, the complainant's counsel urged the Authority to disregard the respondent's late filing.***

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16. Adv. Neeraj Goel, representing the respondent, submitted that the reply was filed in the registry on 13.05.2026, with an advance copy served to the complainant. He had no explanation to offer regarding the reasons for disregarding the Authority's directions to file the respondent's reply by 05-03-2026.

This is a complaint instituted in 2025 and ample opportunity of 413 days since institution until 15-03-2026 has already been provided to the respondent to file its reply. The blatant disregard of the directions of the Authority to file reply by the appointed date has effectively prevented the complainant the opportunity to file a rejoinder in this hearing. In the last order dated 15-02-2026, the dates and deadlines had been clearly mentioned. It had also been reiterated that any reply filed beyond the deadline will not be considered. ***Therefore, the Authority proceeds to adjudicate without this reply.*** *However, in order to provide substantial justice, the verbal arguments of the Ld. counsel for the respondent are considered.*

17. He presented a two-fold argument stating that the complaint is not maintainable in its current form. The unit was originally booked jointly by Mrs. Anjana Goyal and her late husband, Mr. Sanjeev Goyal. Due to the demise of the joint allottee, the respondent argued that the complainant must submit a legal heir certificate to establish a valid right over the property. It was further submitted that the unit in question has already been cancelled. No reason was provided for the cancellation."

23. The Real Estate (Regulation and Development) Act, 2016, is a beneficial legislation aimed at providing speedy and efficacious redressal to grievances of allottees and other stakeholders. In furtherance of this objective, the proceedings before the Authority have been made summary in nature. Such expeditious adjudication is achievable only if the parties involved, both the complainant and the respondents, submit their pleadings in a time-bound manner.

In light of the respondent's repeated non-compliance despite availing numerous opportunities and keeping in consideration the summary procedure, the Authority deems it appropriate to proceed without reply and decide the present complaint as per record available on the file.

24. It is an admitted position on record that the Builder Buyer Agreement was executed between the respondent and the complainants on 07.07.2017 for unit bearing No. A6-802, measuring 538.70 sq. ft. (carpet area) along with a balcony area of 100.10 sq. ft., in the respondent's project namely "Smart Homes Karnal". Against an agreed basic sale consideration of ₹19,89,320/-, the complainants initially claimed to have paid a total sum of ₹22,00,227/-. As noted earlier in this order, the complainants filed two separate applications clarifying the payments made to the respondent. While the first application sought a refund of the entire ₹22,00,227/-, the subsequent application, dated 12.05.2026, clarified that ₹17,01,227/- was paid towards the unit in question (Unit No. 802), and the remaining ₹6,00,000/- was paid towards another unit (Unit No. 803) situated in the same project of the respondent company. Given that the present complaint seeks relief exclusively in respect of Unit No. 802, this Authority deems it appropriate to restrict its adjudication to the amount of ₹17,01,227/- paid specifically towards the said unit.

25. In support of the aforementioned payments, the complainants have placed on record the relevant receipts, annexed at pages 6 to 16 of the application dated 12.05.2026. Additionally, the complainants have

provided a detailed tabular breakdown of these payments on pages 1 and 2 of the said application. It is pertinent to note that the respondent did not controvert or dispute the receipt of these payments during the course of the hearing.

26. Furthermore, as per clause 2, 3.1 of flat buyer agreement, "*.....the developer will endeavour to offer possession of the said apartment to the allottee within a period four years from the date of approval of building plans or grant of environment clearance whichever is later.*"

27. **This clause invites the Authority to consider a question of considerable interpretative significance.** Before examining its substantive effect upon the rights of the parties, it is apposite to recall the well-established principle of statutory construction commonly referred to as the ***Mischief Rule***. Derived from the formulation in *Heydon's Case (1584)*, this principle has long guided courts in common law jurisdictions in discerning the true import of legislative enactments. The rule requires the adjudicator to identify the defect or mischief which the statute was intended to suppress and to construe the provision in a manner that advances the remedy contemplated by the legislature. *It is, in essence, an aspect of purposive interpretation, directing the Court to look beyond the literal wording where such wording, if read mechanically, would frustrate the legislative objective or produce results that are unreasonable or unjust.*

28. Properly applied, the mischief rule ensures that statutory provisions are interpreted so as to give effect to the legislative intent and to prevent the re-emergence of the very mischief the law was enacted to eliminate. The clause—*"the developer will endeavour to offer possession ... within a period of four years from the date of approval of building plans or grant of environment clearance whichever is later"*—raises a recurring question under the Real Estate (Regulation and Development) Act, 2016:

Whether such language permits the promoter to indefinitely postpone its obligation, or whether courts and authorities may construe the given language strictly?

The answer requires an application of the **mischief rule** of statutory interpretation, as set out in *Heydon's Case* (1584), which directs the adjudicator to identify

(i) the state of the law before the enactment,

(ii) the mischief that the statute intended to remedy

(iii) the legislative solution, and

(iv) the interpretation that would suppress the mischief and advance the remedy.

29. Before RERA, Indian real-estate contracts routinely contained ambiguous possession clauses couched in phrases like "best endeavour," "subject to approvals," or "tentatively by," which enabled

promoters to defer delivery for years without consequence. The mischief the legislature sought to address was precisely this asymmetry: homebuyers were advancing substantial sums yet had little control or remedy against such delays. RERA's architecture—Sections 11 and 18 and the mandatory model agreement—places **time-bound delivery** at the heart of the regulatory framework. Section 11(4)(a) requires the promoter to "responsibly discharge" all obligations as per the terms of the agreement for sale; and Section 18 obligates the promoter to provide interest etc to the allottee for delay.

30. When the possession clause uses the words **"will endeavour"**, the *literal reading suggests a mere obligation of effort rather than a mandatory timeline*. However, applying the mischief rule, such an interpretation would defeat the very purpose of RERA, which is to eliminate the opacity and uncertainty that characterised the pre-RERA regime. If the clause were construed to mean that the promoter has no strict obligation to deliver within four years but only to *try*, the mischief i.e indefinite postponement would re-enter through the back door. Courts have therefore consistently held that promoters cannot dilute statutory rights through contractual drafting. The Hon'ble Supreme Court in *Pioneer Urban Land & Infrastructure Ltd. v. Govindan Raghavan* (2019) 5 SCC 725 emphasised that one-sided clauses crafted by builders cannot bind the allottee when they defeat

consumer protection; similar reasoning appears in *IREO Grace Realtech Pvt. Ltd. v. Abhishek Khanna* (2021) 3 SCC 241, where the Hon'ble Court held that contractual terms must be read in light of the legislative objective of protecting homebuyers.

31. Under this reasoning, the phrase "whichever is later" provides a determinable anchor point, and the addition of "will endeavour" cannot legally convert a mandatory timeline into an aspirational one. RERA, being a benevolent statute, must be construed purposively; any ambiguity must be resolved in favour of the allottee. The Authority is therefore entitled to read the clause as imposing a **definite possession period of four years**, with the promoter's "endeavour" language having no effect in diluting statutory consequences. The mischief rule thus becomes entirely appropriate: by interpreting the clause in a manner that enforces certainty rather than permissive delay, the decision suppresses the mischief RERA sought to eliminate.

32. Applying the statutory position above and the ratios of the Hon'ble Apex Court the deemed date of possession is ***07.07.2021***. Respondent has failed to deliver possession of the flat before or till 07.07.2021 to the complainants. On account of inordinate delay of almost 4 years in delivery of possession, complainants had filed the present complaint on 27.01.2025 seeking withdrawal from the project.

From the above, it is evident that the respondent failed to deliver the possession of the unit to the complainants within time, thereby not fulfilling its obligation under the agreement. As a result of this delay and the respondent's failure to meet the promised timelines, the complainants, in 2025, decided to withdraw from the project altogether. This decision clearly expressed the complainant's intent to disengage from the agreement due to the respondent's inability to deliver possession as originally stipulated.

Secondly, with regard to the oral contention of the respondent that valid offers of possession were made to the complainants on 17.11.2023, and 05.11.2024, after obtaining occupation certificate on 20.09. 2024. It was argued that the complainants are at fault since they have not accepted the possession to date.

It is significant to note that the Occupation Certificate in respect of the project was obtained on 20.09.2024. The complainants have orally admitted that the respondent had issued two offers of possession dated 17.11.2023 and 05.11.2024. However, they contended that both the offers were not valid since both were accompanied with illegal demands and without occupation certificate. **Now, before deciding the demands on merits it is important to decide whether the offers of possession are valid or not?**

33. The first offer of possession issued by respondent was on 17.11.2023, which admittedly preceded the grant of the Occupation Certificate by the competent authority. It is well settled that an offer of possession made prior to obtaining a valid Occupation Certificate cannot be regarded as a lawful or valid offer in the eyes of law. **Accordingly, the Offer of Possession dated 17.11.2023, having been issued in the absence of the requisite Occupation Certificate, is held to be premature and bad in law.**

34. On the contrary, the second offer of possession dated 05.11.2024 was issued after receipt of occupation certificate dated on 20.09.2024. Complainants have contended that said offer of possession was not valid since it was accompanied with the illegal demands. Therefore, it was not accepted by the complainants.

35. The facts set out in the preceding paragraph demonstrate that respondents had failed to fulfil their obligation to handover possession by 07.07.2021 i.e. deemed date of possession. Further, respondent neither had placed on record any documents stating explanation with regard to not refunding money of complainants. Keeping the hard earned money of allottees without justification establishes that respondent want to take advantage of its own wrong first by not completing construction as per agreement, secondly, keeping illegally the hard earned money paid by complainants. Fact

remains that respondents has failed to handover possession of the unit within the prescribed timeframe. In these circumstances, the provisions of Section 18(1)(a) of the Act clearly come into play by virtue of which the complainants are seeking refund of paid amount along with interest on account of default in delivery of possession of booked unit within a reasonable period of time.

36. Further, Hon'ble Supreme Court in the matter of "Newtech Promoters and Developers Pvt. Ltd. versus State of Uttar Pradesh and others" in CIVIL APPEAL NO(S). 6745 - 6749 OF 2021 has observed that in case of delay in granting possession as per agreement for sale, allottee has an unqualified right to seek refund of amount paid to the promoter along with interest. Para 25 of this judgementis reproduced below:

> "25. *The unqualified right of the allottee to seek refund referred underSection 18(1)(a) andSection 19(4) of the Act is not dependent on any contingencies or stipulations thereof. It appears that the legislature has consciously provided this right of refund on demand as an unconditional absolute right to the allottee, if the promoter fails to give possession of the apartment, plot or building within the time stipulated under the terms of the agreement regardless of unforeseen events or stay orders of the Court/Tribunal, which is in either way not attributable to the allottee/home buyer, the promoter is under an obligation to refund the amount on demand with interest at the rate prescribed by the State Government including compensation in the manner provided under the Act with the proviso that if the allottee does not wish to withdraw from the project, he*

shall be entitled for interest for the period of delay till handing over possession at the rate prescribed."

37. Therefore, the Authority finds it to be a fit case for allowing refund in favour of complainants. The complainants will be entitled to refund of the paid amount from the dates of various payments till realization. As per Section 18 of Act, interest shall be awarded at such rate as may be prescribed. 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;

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 (NCLR) 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"..."

38. 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. 13.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e. 10.80%.

39. Hence, Authority directs respondent to pay refund to the complainants on account of failure in timely 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 date of various payments till actual realization of the amount.

40. Authority has got calculated the interest on the total paid amount from the date of respective payments till the date of this order i.e., 13.08.2026 at the rate of 10.80 %, as per the details given in table below:

Sr. No.	Principal Amount (in ₹)	Date of payment	Interest Accrued till 10.09.2026 (in ₹)
1	15.05.2017	95,227/-	95,970/-

2.	09.07.2017	2,00,000/-	1,98,306/-
3.	22.08.2017	1,81,000/-	1,77,110/-
4.	21.12.2019	1,75,000/-	1,27,174/-
5.	22.08.2022	1,00,000/-	43,821/-
6.	15.10.2022	1,000/-	422/-
7.	17.10.2022	1,99,000/-	83,907/-
8.	09.12.2022	1,00,000/-	40,300/-
9.	28.03.2023	4,00,000/-	1,49,484/-
10.	01.06.2023	1,50,000/-	53,172/-
Total=25,70,893/- (16,01,227/- + 9,69,666)		16,01,227/-	9,69,666/-

41. Further, with regard to the reliefs sought by the complainants mentioned in Para 12 (ii) of this order. In this regard it is observed that complaints have filed the present complaint qua unit no. 802 only. As per rules and regulations of this Authority, reliefs qua two units cannot be granted under filing of one complaint. Since facts and pleading qua unit no. 803 have not been pace before this Authority. Authority cannot adjudicate upon this issue.

42. Further, with regard to the reliefs sought by the complainants mentioned in Para 12 (iii) of this order. In this regard, it is observed that complainants have not placed on record any documents to

adjudicate the upon this issue. Hence, Authority deems appropriate not to pass any directions in this regard.

43. Lastly, the complainant is also seeking compensation of ₹ 5 lakhs on account of mental harassment and ₹ 2 lakhs on account of litigation expenses. 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 advised to approach the Adjudicating Officer for seeking the relief of litigation expenses.

I. DIRECTIONS OF THE AUTHORITY

44. Hence, 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. Respondent is directed to refund the entire amount of ₹**25,70,893/-** (till date of order i.e., 10.09.2026) to the complainants and pay further interest beginning from 11.09.2026 till actual realization of the amount at the rate of 10.80%.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

iii. The Authority also notes that other relief clauses were not pressed by the complainants. Further, for any compensation, the complainants shall be free to approach the Hon'ble Adjudicating Officer is empowered to decide on compensation as per the statute.

Hence, 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.

CHANDER SHEKHAR
[MEMBER]

DR. GEETA RATHEE SINGH
[MEMBER]

NADIM AKHTAR
[MEMBER]

PARNEET S SACHDEV
[CHAIRMAN]