BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Date of Decision: 11.08.2026

Name of the Builder		Ocean Seven Buildtech Pvt. Ltd.	
Project Name		Expressway Towers	
S.no.	Complaint No.	Complaint title	Attendance
1.	CR/2717/2025	Yashpal Saluja V/s Ocean Seven Buildtech Pvt. Ltd.	Rishabh Sharma (Complainant) Dheeraj Kumar (Respondent)
2.	CR/3300/2025	Raghvinder Singh V/s Ocean Seven Buildtech Pvt. Ltd.	Harshit Batra (Complainant) Dheeraj Kumar (Respondent)

CORAM:	
Arun Kumar	Chairman

ORDER

1. This order shall dispose of all the 2 complaints titled as above filed before this authority in form CRA under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottees as per the agreement for sale executed inter se between parties.
2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Expressway Towers" at Sector 109, Gurugram being developed by the respondent/promoter i.e., Ocean Seven Buildtech Private Limited. The terms and conditions of the builder buyer's agreements fulcrum of the issue

involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking award of possession and delayed possession charges.

3. The details of the complaints, reply status, unit no., date of agreement, possession clause, due date of possession, offer of possession, total sale consideration, amount paid up, and reliefs sought are given in the table below:

Project: "Expressway Towers" at Sector 109, Gurugram

Possession clause in Affordable Housing Policy-
1 (iv) All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy.

1. Date of sanction of building plans- Date of sanction of building plans is 26.09.2016 as per information obtained from the planning branch.
2. Date of grant of environmental clearance- Date of grant of environmental clearance is 30.11.2017 as per information obtained from the planning branch.
3. Due date of handing over of possession- 30.05.2022
(The due date has been calculated as 4 years from date of grant of environmental clearance i.e., 30.11.2017 as per policy of 2013 + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020).
4. Occupation certificate- Not obtained
5. DTCP License no. 6 of 2016 dated 16.06.2016- Shree Bhagwan is the licensee for the project as mentioned in land schedule of the project.
6. RERA registration – 301 of 2017 dated 13.10.2017 valid upto 12.10.2021.

Sr. No.	Complaint no./title/ date of filing complaint	Reply status	Unit No. and area admeasuring (Carpet area)	Date of execution of apartment buyer's agreement	Due date of possession & Offer of possession	Total sale consideration and amount paid by the Complainant (s)	Relief Sought
1.	CR/2717/2025 Yashpal Saluja V/s Ocean Seven Buildtech Pvt. Ltd. DOF- 17.06.2025	Reply received on 13.11.2025	1107, Tower 5, 11th Floor 645 sq. ft. (Carpet area) & 99 sq. ft. (balcony area) (Page 32 of complaint)	03.03.2023	30.05.2022 Offer of possession- Not offered	TSC: Rs.26,29,500/- (page 35 of complaint) AP: Rs.26,85,575/- (As per ledger account on page 69 of complaint)	DPC, Handover physical Possession, Execute conveyance deed , restrain from demanding labour cess , vat , work contract tax and power backup charger and holding charges

1	CR/3300/2025 Raghvinder Singh V/s Ocean Seven Buildtech Pvt. Ltd. DOF-21.07.2025	Reply received on 06.11.2026	501, Tower 7, 5th Floor 324 sq. ft. (Carpet area) & 69 sq. ft. (balcony area) (Page 27 of complaint)	16.12.2017	30.05.2022 Offer of possession-Not offered	TSC: Rs.13,30,500/- (page 27 of complaint) AP: Rs.10,37,792/- (As stated by the complait in the complaint)	DPC, Handover physical Possession, Execute conveyance deed , restrain from demanding labour cess , vat , holding charge, maintenance charge , work contract tax , car parking charges and power backup charger , refund the excess amount paid by the complainant, give bifurcation of the total sale price including clarification of cost of car parking and restrain from demanding car parking charges

1Note: In the table referred above certain abbreviations have been used. They are elaborated as follows:

Abbreviations Full form

DOF- Date of filing complaint
TSC- Total Sale Consideration
AP- Amount paid by the allottee(s)

4. The aforesaid complaints were filed by the complainant(s) against the promoter on account of violation of the builder buyer's agreement executed between the parties *inter se* in respect of said unit for seeking award of possession and delayed possession charges.

5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoter, the allottee(s) and

the real estate agents under the Act, the rules and the regulations made thereunder.

6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/2717/2025 titled as Yashpal Saluja V/s Ocean Seven Buildtech Pvt. Ltd.*** are being taken into consideration for determining the rights of the allottee(s) qua possession and delayed possession charges.

A. Project and unit related details

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

CR/2717/2025 titled as Yashpal Saluja V/s Ocean Seven Buildtech Pvt. Ltd.

S. N.	Particulars	Details
1.	Name of the project	"Expressway Towers", Sector 109, Gurugram
2.	Nature of the project	Affordable Housing
3.	Project Area	7.5 acres
4.	DTCP license no. and validity status	6 of 2016 dated 16.06.2016 valid upto 04.09.2024
5.	RERA Registered/ not registered	301 of 2017 dated 13.10.2017 valid upto 12.10.2021
6.	Unit no.	1107, 11h floor & Tower-5 (As per page no.32 of the complaint)
7.	Unit area admeasuring	645 sq. ft. (Carpet area) & 99 sq. ft. (balcony area) (As per page no. 32 of the complaint)
8.	Date of buyer's agreement	03.03.2023 (As per page no.30 of the complaint)
9.	Payment plan	Time linked payment plan (Page 67of the complaint)
10.	Possession clause	***5.2 Possession Time*** The company shall sincerely endeavor to complete the construction and offer the possession of the said unit within five

		years from the date of the receiving of license ('Commitment Period), but subject to force majeure clause of this agreement and timely payment of installments by the allottee(s)..... (As per page no. 23 of the complaint)
11.	Possession clause in Affordable Housing Policy	***1 (iv)*** *All such projects shall be required to be necessarily completed within* ***4 years from the date of approval of building plans or grant of environmental clearance, whichever is later.*** *This date shall be referred to as the "date of commencement of project" for the purpose of the policy.*
12.	Date of environment clearance	30.11.2017 (Taken from the similar project of a similar complaint)
13.	Date of approval of building plans	26.09.2016 (Taken from the similar project of a similar complaint)
14.	Due date of possession	30.05.2022 (Calculated as 4 years from date of grant of environmental clearance i.e 30.11.2017 as per policy of 2013 + 6 months as per HARERA notification no. 9/3 -2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020)
15.	Total sale consideration	Rs.26,29,500/- (As per page no. 35 of the complaint)
16.	Amount paid by the complainant	Rs.26,85,575/- (As per ledger at page 69 of the complaint)
17.	Occupation certificate	Not obtained
18.	Offer of possession	Not offered

B. Facts of the complaint

8. The complainant has made the following submissions: -

I. That the complainant had signed and submitted an application dated 04.01.2017 and draw of flats/units were conducted on 19.05.2017 in the presence of the Govt officials. The complainant was allotted unit no. 1107 in Tower 05, admeasuring 645 sq. feet carpet area and 99 sq. feet balcony area against total sale consideration of Rs.26,29,500/- vide allotment letter dated 20/05/2017. Subsequent thereto, an agreement to sell dated 03.03.2023 was entered into between the complainant and respondent.

II. That the respondent mischievously did not mention specific date of handing over the physical possession of the unit in the agreement to sell but it is mentioned in the clause no. 5.2 of the agreement to sell that the company shall sincerely endeavour to complete the construction and offer the possession of the said unit within five years from date of receiving of licence.

III. That the respondent obtained building plan approval on 26.09.2016 (as per the details available on website of DTCP) and received environmental clearance on 30.11.2017. The respondent cannot override clause 1(iv) of Affordable Housing Policy, 2013 relating to possession which stipulates as under:

> *"All such projects shall be required to be necessarily completed within four years from date of approval of building plan or grant of environmental clearance whichever is later. This date shall be referred to as the date of commencement of the project for the purpose of the policy."*

IV. That the above-mentioned clause shall override the possession time as mentioned by the respondent in agreement to sell since the agreement is not in accordance with the date of completion stipulated in clause 1(iv) of the Affordable Housing Policy, 2013. Hence the due date of possession is to

be reckoned from environmental clearance that is 30.11.2017 which comes to 30.05.2022 (possession date).

V. That the complainant had already paid sum of Rs. 26,85,575/- . The complainant has paid more than the total sale consideration of the unit but the respondent had neglected to complete the project till date.

VI. That the complainant is also entitled to Input Tax Credit of GST pursuance to the order dated 05.11.2019 in case no. 55/2019, case titled as "Shri Hardev Singh &Ors. V/s M/s Ocean Seven Buildtech Pvt. Ltd. passed by the Hon'ble The National Anti- Profiteering Authority but the respondent had neglected to provide the same.However despite repeated request and reminders for settlement of the above in the cost and other payables by the complainant but the respondent refused to give credit of the same hence committed the violation of the said judgment.

VII. That there is a delay of 35 months in completion of the project as on date from 30.05.2022 to 15.05.2025. The complainant visited several times in the office of the respondent and sent numerous mails calling upon to complete the project and handing over the possession but gave evasive reply and made illegitimate demands of money under the pretext the construction cost has gone above but were refused by the complainant. However, the complainant is ready to pay the legitimate balance demand as may be directed by this Hon'ble Authority at the time of possession.

VIII. That to the knowledge of the complainant, the RERA registration no. 301/2017 dated 13.10.2017 has also lapsed and penalty proceedings have been initiated against the respondent for violation of RERA Act.

IX. That it is evident from the alleged acts, deed and omission the respondent has neglected to complete the project and have grossly violated affordable housing norms notified by Haryana Govt.

x.That for the reason stated above, the complainant is/are left with no other efficacious remedy available except to file the present complaint before the Hon`ble Authority for seeking possession and delayed interest for wilful breach of agreement to sell and alleged violation of Section 11, 14 and 18 of the RERA Act, therefore are liable to be compensated by the respondent under RERA Act.

C. Relief sought by the complainant:

9. The complainant has sought following relief(s):

i. Direct the respondent to handover physical possession of the unit, to execute conveyance deed after offering valid offer of possession and to pay delay possession charges as per the Act.

ii. Direct the respondent to not to cancel the allotment pending adjudication the present complaint.

iii. Direct the respondent to restrain from demanding labour cess, vat, work contract tax, car parking charges, power backup charges, holding charges and maintenance charges or interest be levied upon the complainant.

iv. Direct the respondent to give anti profiteering credit/input tax to the complainant.

v. Direct the respondent to give bifurcation of total sale price including the clarification of cost of parking under the Affordable Housing Policy,2013.

vi. Direct the respondent from demanding car parking charges from the complainant.

vii. Direct the respondent to refund the excess amount paid by the complainant over and above the total price.

10. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the act to plead guilty or not to plead guilty.

D. Reply by the respondent:

11. The respondent has contested the complaint on the following grounds.

i. That the complaint filed by the complainant is not maintainable before this Hon'ble Forum as there is Arbitration Clause 16.2 and according to said clause in case of any dispute between the parties, the matter shall be referred for Arbitration as per Arbitration and Conciliation Act, 1996 and an Arbitrator shall be appointed by the company. The builder buyer agreement dated 03.03.2023 was signed and accepted by the complainant. Therefore, the complainant can't go back with the agreement entered between the parties.

ii. That the complainant is a willful defaulter and deliberately, intentionally and knowingly have not paid timely installments as per the agreement. The complainant is a defaulter under section 19(6) & 19(7) of the real Estate (Regulation & Development) Act, 2016. The complainant failed to clear his outstanding dues despite several reminders that were issued by the respondent.

iii. That the complainant has been engaged in unlawful conduct, including but not limited to making false and baseless allegations, spreading misinformation, and engaging in defamatory practices. These actions go beyond the realm of contractual disputes and suggest a deliberate attempt to harm the reputation and business interests of the respondent company.

iv. That the respondent contends that the complainant's motives are marred by malafide intentions. The present complaint, founded on false, fabricated, and erroneous grounds, is perceived as an attempt to blackmail the respondent. The complainant, in reality, is acting as an extortionist, seeking to extract money from the respondent through an

urgent and unjustified complaint. This action is not only illegal and unlawful but also goes against the principles of natural justice.

v. That in case cancellation notice by the respondent has been issued to the complainant and given time has been expired and thereafter the complainant by manipulation and in collusion with the bank or any staff of respondent company and got the funds transferred in the respondent company account and got the receipt from the company, it does not mean that cancellation has been revived in any manner whatsoever

vi. That the final EC is CTE/CTO which has been received by the respondent in February 2018. Hence the start date of project is Feb 2018 and rest details are as follows:

Covid and NGT Restrictictions		
Project completion Date	Feb-22	
Covid lock down waiver	18 months	
NGT stay (3 months approx. for every year)i.e. 6*3	18 months	
Total Time extended to be extended (18+18) months	36 months	
Accounts freezed & license suspended	Feb 2023 till date	
further time to be extended till the unfreezing of the accounts i.e. Feb- Mar 2024 (13 months)	Mar - 24	
Final project completion date (in case project is unfreezed) further time would be added till unfreezing the accounts	March-26	

vii. As per the table given above, the final date for the completion of construction is Feb 25 in case the accounts are unfreezed by the competent authority on the date of filing this reply. From Feb 2023, the license has been suspended and accounts have been freezed by the DTCP Chandigarh and HRERA Gurugram.

viii. That the complainant is bound to make the charges of GST and all other applicable charge as these charges are government charges and the respondent has no authority to waive off, exempt or to give any benefit to the complainant. The complainant is also bound to make the maintenance charges as agreed.

12. 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 submission made by the parties.

E. Jurisdiction of the authority

13. The authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E. I Territorial jurisdiction

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

E. II Subject matter jurisdiction

15. 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.

16. 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 objections raised by the respondent:

F.I Objections regarding force majeure.

17. The respondent has further submitted that suspension of the license and freezing of accounts, starting from Feb 2023 till date have created a zero-time scenario for the respondent. Furthermore, the final EC is CTE/CTO which has been received by the respondent in February 2018, hence the start date of project is Feb 2018. However, all the pleas advanced in this regard are devoid of merits. As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession was 30.05.2022. As far as the contention of the respondent w.r.t the licence is concerned the project of the respondent was suspended by DTCP, Haryana vide memo dated 23.02.2023, due to grave

violations made by it in making compliance of the terms and conditions of the licence and thereafter due to several continuing violations of the provisions of the Act, 2016 by the respondent, in view to protect the interest of the allottees, the bank account of the respondent related to the project was freezed by this Authority vide order dated 24.02.2023. Thus, the promoter/respondent cannot be given any leniency on based of aforesaid reasons and it is well settled principle that a person cannot take benefit of his own wrong.

F. II Objection regarding complainant is in breach of agreement for non-invocation of arbitration.

18. The respondent has submitted that the complaint is not maintainable for the reason that the agreement contains an arbitration clause which refers to the dispute resolution mechanism to be adopted by the parties in the event of any dispute. The authority is of the opinion that the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says 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. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in ***National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506***, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by

applying same analogy the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.

19. Further, in **Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017**, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in agreements between the complainants and builders could not circumscribe the jurisdiction of a consumer. Further, while considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court **in *case titled as M/s Emaar MGF Land Ltd. V. Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018*** has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India and accordingly, the authority is bound by the aforesaid view. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within his right to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and RERA Act, 2016 instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily.

F.III Objection regarding the unit is cancelled.

20. The respondent in its reply has stated the complainant has not paid outstanding instalments. That in case cancellation notice by the respondent has been issued to the complainant and given time has been expired and thereafter the complainant by manipulation and in collusion with the Bank or any staff of respondent company and got the funds transferred in the

respondent company account and got the receipt from the company, it does not mean that cancellation has been revived in any manner whatsoever. However, no documentary proof is attached w.rt cancellation of the unit. Therefore, this plea of the respondent is hereby rejected.

G. Findings on the reliefs sought by the complainant:

G. I Direct the respondent to handover physical possession of the unit, to execute conveyance deed after offering valid offer of possession and to pay delay possession charges as per the Act.

21. 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. Sec. 18(1) proviso reads as under.

> *"**Section 18: - Return of amount and compensation***
> *18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —*
> .....
> *Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."*

22. Clause 1(iv) of the Affordable Housing Policy, 2013 provides for completion of all such projects licensed under it and the same is reproduced as under for ready reference:

> ***1 (iv)***
> *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."*

23. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained environment clearance and building plan approval in respect of the said project on 30.11.2017 and 26.09.2016 respectively. Therefore, the due date of

possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 30.05.2022.

24. **Admissibility of delay possession charges at prescribed rate of interest:** Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of possession, at such rate as may be prescribed and it has been prescribed under rule 15 of the rules. Rule 15 has been reproduced as under:

> ***Rule 15. Prescribed rate of interest- [Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19]***
>
> *(1) For the purpose of proviso to section 12; section 18; and sub-sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of India highest marginal cost of lending rate +2%.:*
>
> *Provided that in case the State Bank of India marginal cost of lending rate (MCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public.*

25. The legislature in its wisdom in the subordinate legislation under the provision of rule 15 of the rules, has determined the prescribed rate of interest. The rate of interest so determined by the legislature, is reasonable and if the said rule is followed to award the interest, it will ensure uniform practice in all the cases.

26. 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., 11.08.2026 is **8.80%.** Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%.**

27. The definition of term 'interest' as defined under section 2(za) of the Act provides that 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. The relevant section is reproduced below:

> *"(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;"*

28. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same as is being granted to the complainant in case of delayed possession charges.

29. On consideration of the documents available on record and submissions made by both the parties, the authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the respondent/promoter shall be necessarily required to complete the construction of the project within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Therefore, in view of the findings given above, the due date of handing over of possession was 30.05.2022. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the

respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Further, the authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

30. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with proviso to section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

31. Further as per section 11(4)(f) and section 17(1) of the Act of 2016, the promoter is under an obligation to get the conveyance deed executed in favour of the complainant. Whereas as per section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, there is nothing on the record to show that the respondent has applied for occupation certificate or what is the status of the development of the above-mentioned project. In view of the above, the respondent is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

G.II Direct the respondent to not to cancel the allotment pending adjudication the present complaint.

32. In View of findings in G.I this relief became redundant.

G.III Direct the respondent to restrain from demanding labour cess, vat, work contract tax, car parking charges, power backup charges, holding charges and maintenance charges or interest be levied upon the complainant.

33. The complainant has sought the relief to restrain the respondent from demanding Labour Cess, VAT, WCT, car parking charges, power backup charges, and maintenance charges.

- **Labour Cess:-** The Labour cess is levied @ 1% on the cost of construction incurred by an employer as per the provisions of sections 3(1) and 3(3) of the Building and Other Construction Workers' Welfare Cess Act, 1996 read with Notification No. S.O 2899 dated 26.9.1996. It is levied and collected on the cost of construction incurred by employers including contractors under specific conditions. Moreover, this issue has already been dealt with by the authority in complaint bearing no.962 of 2019 titled ***Mr. Sumit Kumar Gupta and Anr. Vs Sepset Properties Private Limited*** wherein it was held that since labour cess is to be paid by the respondent, as such no labour cess should be separately charged by the respondent. The authority is of the view that the allottee is neither an employer nor a contractor and labour cess is not a tax but a fee. Thus, the demand of labour cess raised upon the complainants is completely arbitrary and the complainants cannot be made liable to pay any labour cess to the respondent and it is the respondent builder who is solely responsible for the disbursement of said amount.

- **VAT:** - The promoter is entitled to charge VAT from the allottees for the period up to 31.03.2014 @ 1.05% (one percent VAT + 5 percent surcharge on VAT) under the amnesty scheme. However, if the respondent opted for composition levy, then also, the incidence of such taxes shall be borne by the respondent only. But if composition scheme is not availed, VAT may be charged on proportionate basis subject to furnishing of proof of having its actual payment to the concerned taxation Authority.
- **WTC (work contract tax):-** The complainant is seeking above mentioned relief with respect to restrain the respondent from demanding Work Contract Tax. The authority is of the view that the allottee is neither an employer nor a contractor hence, the respondent cannot charge the work contract tax to the complainant/allottee.
- **Car parking charges:** -The complainant is stating that the respondent is charging excessively parking charges from the complainant. The respondent is directed to charge for the car parking charges as mentioned in the Affordable Housing Policy, 2013 only and not beyond that.
- **Power Backup Charges:** - The issue of power back-up charges has already been clarified by the office of DTCP, Haryana vide office order dated 31.01.2024 wherein it has categorically clarified the mandatory services to be provided by the colonizer/developer in affordable group housing colonies and services for which maintenance charges can be charged from the allottees as per consumption. According, the promoter can only charge

maintenance/use/utility charges from the complainant-allottees as per consumption as prescribed in category-II of the office order dated 31.01.2024.

- **Holding Charges** - The developer shall not be entitled to any holding charges though it would be entitled to interest for the period the payment is delayed. Also, holding charges shall also not be charged by the promoter at any point of time even after being part of agreement as per law settled by the Hon'ble Supreme Court in civil appeal no. 3864-3889/2020 dated 14.12.2020.
- **Maintenance Charges** - As per the clarification regarding maintenance charges to be levied on affordable group housing projects being given by DTCP, Haryana vide clarification no. PF-27A/2024/3676 dated 31.01.2024, it is very clearly mentioned that the utility charges (which includes electricity bill, water bill, property tax waste collection charges or any repair inside the individual flat etc.) can be charged from the allottees as per consumptions.

34. Accordingly, the respondent is directed to charge the maintenance/use /utility charges from the complainants-allottees as per consumptions basis as has been clarified by the Directorate of Town and Country Planning, Haryana vide clarification dated 31.01.2024.

G.IV Direct the respondent to give anti profiteering credit/input tax to the complainant.

35. The complainant has sought the relief with regard to direct the respondent to give anti-profiteering credit/input tax credit to the complainant and charge the GST as per rules and regulations, the attention of the authority was drawn to the fact that the legislature while framing the GST law specifically provided for anti-profiteering measures as a check and to

maintain the balance in the inflation of cost on the product/services due to change in migration to a new tax regime i.e. GST, by incorporating section 171 in Central Goods and Services Tax Act, 2017/ Haryana Goods and Services Tax Act, 2017, the same is reproduced herein below.

> *"Section 171. (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices."*

36. As per the above provision, the benefit of tax reduction or 'Input Tax Credit' is required to be passed onto the customers in view of section 171 of HGST/CGST Act, 2017. In the event, the respondent/promoter has not passed the benefit of ITC to the buyers of the unit in contravention to the provisions of section 171(1) of the HGST Act, 2017. The allottee is at liberty to approach the State Screening Committee Haryana for initiating proceedings under section 171 of the HGST Act against the respondent-promoter.

G.V. Direct the respondent to give bifurcation of total sale price including the clarification of cost of parking under the Affordable Housing Policy,2013.

G.VI. Direct the respondent from demanding car parking charges from the complainant.

37. Since, the said project is the affordable housing project and as per the latest amendment dated 04.01.2021 in the said policy 2013, which it is reproduce as under:

> *4. The clause no. 4(iii) Of the Affordable Housing Policy dated 19th August, 2013 related to parking norms shall be substituted with the following: -*
>
> ***4(iii)Parking Norms***
>
> *a. Mandatory non-chargeable0.5 ECS Parking Space*
>
> *i. Mandatory parking space at the rate of half Equivalent Car Space (ECS)for each dwelling unit shall be provided*

ii. Only one two-wheeler parking site shall be earmarked for each flat, which shall be allotted only to the flat-owners. The parking bay of two-wheelers shall be 0.8m x 2.5m unless otherwise specified in the zoning plan.

iii. The balance available parking space, if any, beyond the allocated two. wheeler parking sites, can be earmarked as free-visitor-car-parking space.

b. Optional and chargeable parking space at the rate 0.5 ECS per dwelling unit.

i, The colonizer may provide an additional and optional parking space, maximum to the extent of half Equivalent Car Space (ECS) per dwelling unit

ii. In case such optional parking space is provided by the coloniser; maximum of one car parking space per dwelling unit can be allotted by the coloniser, at a rate not exceeding 5% of the cost of flat to such allottee.

c. Miscellaneous

i. In cases where licenses under AHP 2013 already stand granted and building plans stand approved without availing the optional 0.5 ECS per dwelling unit parking space, the coloniser shall be required to submit the consent of at least two thirds of the allottees as per the provisions of Section 14 of Real Estate [Regulation and Development) Act, 2016, for the purpose of amendment in building plans for availing such additional and optional 0.5 ECS per dwelling unit parking space. Further, this benefit shall not be available for the projects wherein occupation certificate of all the residential towers has already been obtained.

ii.Additional parking norms and parameters, if any, can be specified in the zoning plan. "

38. In view of the above provisions, the respondent/promoter is bound to comply the terms and condition of the Affordable Group Housing Policy, 2013 accordingly, no direction w.r.t. the same can be deliberated by the Authority at this stage.

G.VII. Direct the respondent to refund the excess amount paid by the complainant over and above the total price.

39. In CR/2717/2025 the complainant has sought relief for directing the respondent to refund the excess amount paid by the complainant beyond the agreed sale consideration. As per clause 4.1 of the buyer's agreement the

sale consideration/sale price is Rs.26,29,500/- which shall be payable as per the payment plan annexed as annexure-B, GST, service Tax, VAT, and other levies, duty if applicable shall be payable by the allottee over and above the sale consideration. Further, it was also agreed the service tax/VAT and other applicable taxes and charges of any nature whatsoever, which may be levied by the Government Authorities with prospective and retrospective effect shall be payable by the allottee over and above sale consideration mentioned herein above. The relevant clause 4.1 of the BBA is reproduce herein below:

Article 4

Sale Consideration

4.1 Sale Price

That the allottee agrees to pay the company for the purchase of the said flat/ unit a sum of Rs. 26,29,500 admeasuring 744 sq. ft. (calculated @ Rs.4, OOO/- per sq. ft. of carpet area of the said unit, admeasuring 645 sq. ft. and balcony area calculated @ Rs.500/ per sq. ft. attached with the flat admeasuring 99 sq. ft. (hereinafter referred to as "Sale Price/Sale consideration") shall be payable as per the payment plan annexed as 'Annexure 'B' (hereinafter referred as "payment plan"), GST, Service tax, VAT any other levies duty if applicable shall be payable by the allottee over and above the sale consideration. EDC shall be payable as per the said policy.

40. In view of the above clause, the Authority observes that the sale consideration is exclusive of GST, Service Tax, VAT, and other levies, duty if applicable and the respondent is well within right to claim such amount as agreed between the parties and the same shall be payable by the allottee over and above the sale consideration. However, the respondent is directed to furnish the details of payment of such taxes paid to the concerned Authority. If the respondent /promoter failed to provide the details of taxes as well as applicable charges as per the law of land then the respondent shall

refund the excess amount. Accordingly in CR/ 2717/2025, the respondent is liable to refund the excess amount if any charged by the complainant.

H. Directions of the authority

41. Hence, the authority hereby passes this order and issue 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. The respondent/promoter is directed to pay interest to the complainant(s) against the paid-up amount at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession as mentioned in para 3 of the order till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.

ii. The arrears of such interest accrued from the due date till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.

iii. The respondent/promoter shall handover physical possession of the flat/unit and execute conveyance deed in favour of the complainant(s) in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

iv. The complainant(s) are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

v. The respondent/promoter shall not charge anything from the complainant(s) which is not the part of the apartment buyer's agreement or provided under the Affordable Housing Policy, 2013.

vi. The rate of interest chargeable from the allottee(s) by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee(s), in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

42. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

43. The complaints stand disposed off.

44. Files be consigned to registry.

(Arun Kumar)
Chairman
Haryana Real Estate
Regulatory Authority,
Gurugram

Dated: 11.08.2026