

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

Date of order: 11.08.2026

NAME OF THE BUILDER: Godrej Properties Limited			
PROJECT NAME: "Godrej Habitat", Sector-3, Gurugram			APPEARANCE
1	CR/5406/2025	Gurkirat Singh and Jaspreet Kaur VS Godrej properties Limited and Mohit Malhotra and Nadir B Godrej	None (Complainant) Advocate Nikhil Kumar (Respondent)
2	CR/5408/2025	Nalin Rawat and Divya Sharma VS Godrej properties Limited and Mohit Malhotra and Nadir B Godrej	None (Complainant) Advocate Nikhil Kumar (Respondent)

CORAM:

Shri Arun Kumar

Chairman

ORDER

1. This order shall dispose of both the 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 projects, namely, "Godrej Habitat", Sector-3, Gurugram being developed by the same

respondent-promoter i.e., Godrej properties Limited. The terms and conditions of the builder buyer's agreements that had been executed between the parties inter se are also almost similar. The fulcrum of the issue involved in all these cases pertains to failure on the part of the respondent/promoter to deliver timely possession of the units in question, seeking award for delayed possession charges and other reliefs.

3. The details of the complaints, reply status, unit no., date of agreement, plans, due date of possession, offer of possession and relief sought are given in the table below:

	Possession Clause	Clause 7 POSSESSION OF THE UNIT. 7.1 Schedule for possession of the said unit; <i>The Developer shall offer possession of the units falling in the Project on or before February 25, 2023 with additional grace period of upto 12 (twelve) months as may be approved by the Real Estate Regulatory Authority ('RERA') or such extended period as may be granted by RERA ("Completion Time Period") as per agreed terms and conditions unless there is delay due to Force Majeure events, court Orders, Government policy/guidelines, decisions affecting the regular development of the real estate project, reasons beyond the control of the Developer and/or its agents, due to non-compliance on the part of the Allottee(s) . If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Developer shall be entitled to the extension of time for delivery of possession of the unit.</i> [Emphasis supplied] (As on page no. 47 of complaint)				
Sr. No	Complaint No./Title/ Date of filing	Unit no. & Area admeasuring	Date of execution of Agreement for Sale	Due of possession	Offer of possession	Relief Sought
1	CR/5406/2025 Gurkirat Singh and Jaspreet Kaur VS Godrej properties Limited and Mohit	Tower 2-0602, Floor-6 th , Tower-2 (As on page no. 39 of complaint) Admeasuring: 79.88 sq.mtr [Carpet Area]	12.06.2020 (As on page no. 34 of complaint)	25.02.2024	OC - Not obtained OP- Not offered SC: Rs.97,13,250/- AP -Rs. 67,50,708/-	1. Direct the respondent to pay the complainant delayed possession charges from due date of possession till the date of actual handing over of possession as per section 18 of the Act, 2016 at the interest rate as specified in the

	Malhotra and Nadir B Godrej	14.84 sq.mtr [Exclusive Area] 94.72 sq.mtr [Total Area] D.O.F: 17.10.2025 Reply Received: 24.02.2026	(As on page no. 40 of complaint)				Act, 2016 and the Rules, 2017. 2. Direct the respondent to handover the possession of the unit , in a habitable state, after obtaining the occupation certificate from the concerned authorities. 3. Direct the respondent to pay rent of the complainant till the disposal.
2.	CR/5408/2025 Nalin Rawat and Divya sharma VS Godrej properties Limited and Mohit Malhotra and Nadir B Godrej D.O.F: 17.10.2025 Reply Received: 24.02.2026	Tower 3-0802, Floor-8 th , Tower-3 (As on page no. 38 of complaint) Admeasuring: 116.62sq.mtr [Carpet Area] 22.43 sq.mtr [Exclusive Area] 139.05 sq.mtr [Total Area] (As on page no. 38 of complaint)	01.03.2021 (As on page no. 32 of complaint)	25.02.2024	OC – Not obtained OP- Not offered SC: Rs.1,33,01,502/- AP –Rs.79,80,900/-	1. Direct the respondent to pay the complainant delayed possession charges from due date of possession till the date of actual handing over of possession as per section 18 of the Act, 2016 at the interest rate as specified in the Act, 2016 and the Rules, 2017. 2. Direct the respondent to handover the possession of the unit , in a habitable state, after obtaining the occupation certificate from the concerned authorities. 3. Direct the respondent to pay rent of the complainant till the disposal.	

4. The aforesaid complaints were filed by the complainants against the promoter on account of violation of the agreement for sale executed between the parties inter se in respect of said units for not handing over the possession by the due date. In some of the complaints, issues other than delay possession charges in addition or independent issues have been raised and consequential reliefs have been sought.
5. The delay possession charges to be paid by the promoter is positive obligation under proviso to section 18(1) of the Act in case of failure of the promoter to hand over possession by the due date as per agreement for sale.

6. 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 promoters, the allottees and the real estate agents under the Act, the rules and the regulations made thereunder.
7. The facts of both the complaints filed by the complainants/ allottees are also similar. Out of the above-mentioned cases, the particular's of lead case **CR/5406/2025** at serial no. 1 titled as ***Gurkirat Singh and Jaspreet Kaur VS Godrej properties Limited and Mohit Malhotra and Nadir B Godrej*** are being taken into consideration for determining the rights of the allottees qua delay possession charges, and other reliefs sought by the complainants.

A. Unit and project related details.

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

CR/5406/2025 Case titled as Gurkirat Singh and Jaspreet Kaur VS Godrej properties Limited and Mohit Malhotra and Nadir B Godrej

S.No.	Particulars	Details
1.	Name of project	"Godrej Habitat".
2.	Nature of project	Group Housing
3.	Location of project	Sector-3, Gurugram.
4.	DTCP License	License no. 18 of 2018
5.	RERA registered	Registered Vide registration no. 30 of 2023 Dated-11.12.2023
6.	Allotment Letter	08.06.2020 (As on page no. 26 of complaint)
7.	Agreement For Sale	12.06.2020 (As on page no. 34 of complaint)
8.	Unit no.	Tower 2-0602, Floor-6 th , Tower-2

		(As on page no. 39 of complaint)
9.	Unit area	79.88 sq.mtr [Carpet Area] 14.84 sq.mtr [Exclusive Area] 94.72 sq.mtr [Total Area] (As on page no. 40 of complaint)
10.	Possession clause	Clause 7 POSSESSION OF THE UNIT. 7.1 Schedule for possession of the said unit; <i>The Developer shall offer possession of the units falling in the Project on or before February 25, 2023 with additional grace period of upto 12 (twelve) months as may be approved by the Real Estate Regulatory Authority ("RERA") or such extended period as may be granted by RERA ("Completion Time Period") as per agreed terms and conditions unless there is delay due to Force Majeure events, court Orders, Government policy/guidelines, decisions affecting the regular development of the real estate project, reasons beyond the control of the Developer and/or its agents, due to non-compliance on the part of the Allottee(s).</i> <i>If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Developer shall be entitled to the extension of time for delivery of possession of the unit.</i> [Emphasis supplied] (As on page no. 47 of complaint)
11.	Due date of possession	25.02.2024 [Grace period is allowed]
12.	Sale consideration	Rs.97,13,250/- (As on page no. 41 of complaint)
13.	Amount paid	Rs.67,50,708/- (page 12 of complaint)
14.	Occupation certificate	Not obtained

15.	Offer of possession	Not offered
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B. Facts of the complaint

9. The complainants have submitted as under:

- i. That in March 2020 the respondent company through its representative Mr.Mandeep Sharma and Rahul Sharma had approached the complainant and represented that the respondent's on-going residential project named "Godrej Habitat" will effectively serve the residential purpose of complaint family and has best of the amenities. Further the representative of the respondent company then persuaded the complainant, through repeated requests to visit their site office for detailed representation pertaining to their aforesaid project.
- ii. That as the complainant was looking for a good residential property for their family members therefore, on persuasion of the respondent company, the complainant on had visited the site office of the respondent company.
- iii. That, on 30.03.2020 when the complainant had visited the above-mentioned site office of the respondent company believing in the specific representations of the respondent's representatives that since the project has already started, the said project shall be delivered by the February 2023 to be true, agreed to filing in the application form with an advance money of Rs. 5 lakh a means of showing complainant's personal interest in the above said project, Total consideration of the flat is Rs.1,33,01,502/- Crores. After making the payment of Rs.5 Lakh the respondent sent a welcome letter dated 02.04.2020 with Cost sheet of the said flat.
- iv. That the respondent has claimed that they have obtained License from Director General, Town, and Country Planning (DTCP), Haryana for development of a residential Group Housing Colony on the said land and building plans have already been approved.

- v. That it was further assured that there will be no price escalation of any sort and there will be no hidden charges as well.
- vi. That the respondent has further claimed that the unit area and the location of the unit are based on approved building plans and in case of any change in plans due to technical reasons or minor deviation during construction they may vary marginally for which the buyer/complainant will be duly notified in time.
- vii. That on dated 30.04.2020 complainant was informed about the allotment of the flat no. 802, Tower - 3, 6th floor in the project "Godrej Habitat" respondent company vide Allotment Letter and on the same day complainant paid the advance money of Rs.13,30,150.12/-.
- viii. That the respondent company interns of the application of the complainant executed the agreement to sell (BBA) dated 01.03.2021 and agreed to the terms and conditions as set forth under this agreement. That the complainant entered into the agreement to sale for a unit no. 802, Tower - 3, 6th floor, having carpet area 116.62 square meter, exclusive area of 22.43 square meter, total area 139.05 square meter, in Tower 3 along with all easement, privileges, rights and benefits attached with unit alongwith right to use of common areas and facilities.
- ix. That as per agreement read with schedule of payment the complainant was to make payments as per the schedule provided by them and till date the complainant has already paid a total of Rs.80 Lakh approximately, against a total cost of Rs.1,33,01,502/- Crores which comprises 100% of the total payment as demanded by the respondents and there is no default or delay in remittances by the complainant.
- x. That to finance this purchase, the complainants have availed a home loan of Rs. 94.34 lakhs from the State Bank of India (SBI) and are regularly paying the equated monthly instalments, thereby incurring significant interest costs

in hope that flat will be handed over in February 2023 and complaints will get rid from the rented house.

- xi. That the complainant has paid all the demanded amounts towards the cost of the flat till date including costs towards other facilities. However, the possession still is not given so far by the respondent company despite an elapse of more than 30 months of the start of the construction, The respondents have miserably failed to perform their obligations as per the agreed terms.
- xii. That as per clause 7.1 of the BBA the respondent company committed under the agreement to sell that it is their sincere endeavour to give possession of the flat to the complainant on or before February 25, 2023. Thus, the commitment of the respondent company to hand over the possession of the unit to the complainant was on or before 25.02.2023.
- xiii. That in terms of personal visit to the project site by the complainant in the month of January, 2024 the respondent company failed to keep their promise completing the project in all respects and for obtaining of the occupation certificate in respect thereof. The respondent company keeps on giving lame excuses for the delay and for raising illegal demands which is unjustified and illegal.
- xiv. That thereby the respondent failed to deliver the timely possession as assured and all the representations and assurances of the respondent company have now turned all false and fraudulent and it is quite evident that the respondent have been wrongfully availing the hard-earned tonies of the complainant which are complainant's life time savings and the possession of flat still looks distant.
- xv. That the complainant had been repeatedly sending emails and visiting the site office but to no avail against the economic might and superior position of the respondent company as none from the respondent company informs

anything about the possession of the said flat and their hard-earned monies and the representatives just keep passing the buck.

- xvi. That the respondent has failed to deliver possession of the unit by the promised date of February 2023. Despite numerous follow-ups with the respondent's Site Head (Ms. Garima Maheshwari) and the relationship manager, no satisfactory reason for the delay has been provided. Furthermore, the respondent has remained noncommittal about the quantum of compensation for this delay.
- xvii. That due to the breach of obligations and wrongful conduct of the respondent the complainant has to suffer doubly on the one hand they have not been delivered the flat.
- xviii. That all the sincere and bonafide requests of the complainant have fallen on deaf ears and the respondent company is harassing and humiliating the complainant by not providing the possession of the flat as per the terms of the BBA and there is an inordinate delay in completing the project.
- xix. That on the basis of the above submission and facts, it can be concluded that the respondents have miserably failed in completing the construction of the building and in handing over the possession of the unit of the complainant in accordance with the agreed terms and have breach the agreed terms between the parties by resorting to unfair practices in a brazen manner. Since the applicant has invested her lifetime savings for purchasing this flat the complainant is not interested in withdrawing from the Project. As per obligations on the promoter under section 18(1) proviso, the promoters are obligated to pay the complainant interest at the prescribed rate for every month of delay till the actual handing over of the possession. Promoter has not fulfilled his obligation. The complainant reserves her right to seek compensation from the promoter for which the complainant shall make separate application to the adjudicating officer, if required.

C. Relief sought by the complainants:

10. The complainants have sought following relief(s):

- i. Direct the respondent to pay the complainant delayed possession charges from due date of possession till the date of actual handing over of possession as per section 18 of the Act, 2016 at the interest rate as specified in the Act, 2016 and the Rules, 2017.
- ii. Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the occupation certificate from the concerned authorities.
- iii. Direct the respondent to pay rent of the complainant till the disposal.

11. On the date of hearing, the authority explained to the respondents/promoters 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.

12. The respondent has contested the complaint on the following grounds:

- i. That the present reply is being filed on behalf of the respondent no. 1, i.e., Godrej Properties Limited which is a listed company registered under the provisions of the Companies Act, 1956, having its registered office at Godrej One, 5th Floor, Pirojsha Nagar, Vikroli East, Mumbai – 400079 and corporate office at 3rd Floor, UM House, Plot No 35, Sector-44, Gurugram, Haryana - 122002. The present reply is being filed through Mr. Ranjit Bhambhu, authorized representative of the Respondent No. 1, who has been authorized vide board resolution dated 14.07.2025 to represent the respondent no. 1 before the Authority and file, sign, verify such reply, applications documents etc. as may be required in the present case.
- ii. At the outset, it is stated that the present complaint is wholly misconceived, erroneous, unjustified and is filed to mislead and abuse the process of the Authority. The respondent no.1 denies each and every allegation, averment

and contents of the present complaint filed by the complainants herein, unless specifically admitted herein. Nothing may be deemed to have been admitted for reason of non-traverse or otherwise.

- iii. The respondent no. 1 has been involved in the business of real estate development and holds a prominent status in the real estate market. It is known for the quality of the construction of infrastructure and also for delivering its projects in a timely and transparent manner. The confidence of the customer is very important for the Respondent No. 1 and for the same, the respondent no. 1 leaves no stone unturned to achieve and deliver the best for its customer.
- iv. The respondent no. 1 is in the process of developing a multi-storied group housing colony by the name "Godrej Habitat" ("Project") comprising of 384 residential units, 68 EWS units and 5 commercial shops along with amenities, facilities, services, etc at Sector 03, Gurugram. The respondent no.1 has registered the Project with the Authority under the provisions of The Real Estate (Regulation and Development) Act 2016 ("Act"). The Project registration number of Godrej Habitat is RC/REP/HARERA/GGM/317/49/2019/11.
- v. That before replying on merits of the present complaint, the respondent no. 1 seeks to raise the following preliminary submissions and objections before the Authority.
- vi. That the present complaint is wholly misconceived, erroneous, unjustified and ridden with wilful concealment of facts to mislead and abuse the process of the Authority. The complainants in the present complaints have wrongly alleged delay in delivery of possession. The complainants have sought interest on delay in delivery of possession of the unit in question and the same has been done in complete ignorance of various "force majeure events" and "reasons beyond the control of the developer".

- vii. A holistic appreciation of facts would reveal that there is no delay attributable to the respondent no. 1 and the facts and circumstances of the present case are squarely covered by the clauses provided in the agreement for sale signed between the parties.
- viii. That the respondent no. 1 seeks to state the following brief facts before raising objections to the present complaint. That the complainants being the educated persons, after satisfying themselves with the project, vide application form dated 18.03.2020 ("application form") applied for the allotment of T2-0602 in the project ("unit") for a total consideration of Rs.97,13,250/-.
- ix. That subsequent thereto, the respondent vide allotment letter dated 08.06.2020("Allotment Letter") allotted the Unit to the complainant. Thereafter the parties executed the agreement to sub-lease dated 12.06.2020 ("ATL") in respect of the unit.
- x. That while the project was being developed in the year 2020, the entire world fell in the clutches of Covid 19 pandemic, and the country was in complete lockdown for several months. It is a matter of common knowledge that the pandemic hampered every small and big business, the respondent no.1 was also equally affected since its hands were also tied due to the nationwide lockdown and disruptions in the material supply chain and labour issues. It is reiterated that even the Government of India had declared Covid-19 as a "force majeure event".
- xi. That the Authority also reviewed the situation independently and released an order dated 26.05.2020, wherein it has been clarified that all the registered projects with the Authority shall be extended automatically by 6 months, invoking force majeure clause. In view of the aforesaid, the registration of the Project automatically got extended from 25.02.2023 to 25.08.2023.

- xii. Further, a brief of various difficulties that were faced by the respondent while developing the Project during the Covid -19 pandemic and thereafter, are mentioned herein below:
- xiii. That due to second wave of covid, the construction workers went back to their hometowns. Movement of labourers to construction sites was further worsened due to closing of borders and lockdown imposed by other state governments. Other labourer issues such as 14 days quarantine, social distancing, frequent sanitisation of workplace etc. In view of the second wave, the Hon'ble Panchkula Authority granted respite to the Developers for 3 months (01.04.2021 to 30.06.2021) on the account of force majeure event i.e., specific to "second wave of covid 19". It is also a matter of common knowledge that second wave of covid 19 was much graver than the first wave and thus, the damage and slowdown that was caused due to second wave in the project was way more than 3 months.
- xiv. That acute shortage of imported material, raw material in the market owing to interstate import restrictions. Contractors refusing to execute works at site in view of increased prices in raw material like copper, aluminium etc. Market recession and negative customer sentiment towards real estate.
- xv. That at this juncture, it is imperative to highlight that business of construction is labour intensive and shortage of labour and material due to covid and reasons beyond the control of the developer/respondent had led to slowdown of construction, thereby affecting the pace and schedule of construction of the Project and thereby its expected handover dates. In this regard, reliance is also placed on the persuasive value of the judgment of Hon'ble UP REAT (Appellate) in "Central Government Employees Welfare Housing Org. Vs

Rajender Mohan Saxena" Appeal No. 197/2023, in which the Hon'ble Appellate Tribunal has granted a benefit of zero period to the developer for both the waves of covid-19 (i.e., First and Second Wave). The Hon'ble Appellate Court granted approximately one and a half year (exactly 20 months and 28 days) to the project situated in NCR Region keeping in mind the devastating effect of both the waves of covid 19. The argument of second wave is captured in paragraph no. 7 of the said judgement.

- xvi. That the adverse effects of covid -19, which admittedly is a force majeure event and its effects in all spheres of life including the real estate sector are being faced even today. In fact, its crippling effects till June 2022 were duly recognised by the Hon'ble Supreme Court in a suo motu action in which the Hon'ble Supreme Court granted extension in limitation on court filings, let alone construction activities which are more labour-intensive activities. Therefore, it is clear that the timeline for delivery of possession stood extended due to force majeure events and the respondent no. 1 is not in breach of any of its obligations.
- xvii. That apart from the restrictions imposed by the authorities in view of covid-19, various other authorities (including courts, pollution control boards/Air Quality management authorities) also banned construction activities in NCR Region. Vide Order dated 11.10.2019 ban was from 11.10.2019 to 31.12.2019, Order dated 04.11.2019 ban was from 04.11.2019 to 16.11.2019, Order dated 16.11.2021 ban was from 16.11.2021 to 21.11.2021 and Order 24.11.2021 ban period was 24.11.2021 to 20.12.2021 passed by various concerned authorities/courts, banning/ restricting various construction activities such as work time restrictions, use of DG sets at construction sites. These orders could not be anticipated. That total ban period under these orders is 128 days.

- xviii. That in addition to the above, there were restrictions/ban on construction activities in view of the Stage – III of Graded Response Action Plan (“GRAP”) in NCR region. Total ban period in terms of these orders is 172 days. A table capturing details of all the GRAP Orders banning construction activity in NCR is provided below:

DATE OF ORDER	DATE OF REVOCATION	NUMBER OF DAYS
29.10.2022	14.11.2022	17
04.12.2022	07.12.2022	04
30.12.2022	04.01.2023	06
06.01.2023	15.01.2023	10
02.11.2023	28.11.2023	27
22.12.2023	01.01.2024	11
14.01.2024	18.01.2024	05
14.11.2024	05.12.2024	22
16.12.2024	27.12.2024	12
03.01.2025	05.01.2025	03
09.01.2025	12.01.2025	04
15.01.2025	17.01.2025	04
29.01.2025	03.02.2025	06
11.11.2025	26.11.2025	15
13.12.2025	02.01.2026	20
16.01.2026	22.01.2026	06
		Total- 172

- xix. That post the resumption of the construction activity, the respondent had tried its best to resume the pace of work at the project in order to deliver the complainant's unit in time bound manner. Thus, in view of the aforesaid difficulties as well as the disruptions caused by the second wave of covid 19, the respondent no.1 filed an application seeking an extension of the registration of the project on the ground of force majeure. In the said application, the respondent no.1 detailed the challenges and difficulties encountered during the development of the project. In view of the aforesaid, the Authority upon due consideration of the application and the relief sought therein, was pleased to extend

the registration of the project until 24.08.2024 and thereafter till 23.08.2026, vide extension order dated 11.12.2023 & 19.11.2024.

- xx. At this stage, it is pertinent to mention that the Authority extended the registration of the project only upon finding that the regular development of the project was affected due to force majeure events. That since the right of the allottees under Section 18(1) are strictly governed by terms of the AFS, following terms are to be considered by the Authority.
- xxi. That in the backdrop of the aforesaid factual scenario, the respondent no.1 seeks liberty to highlight the following relevant clauses of the AFS which are germane for effective adjudication of the present dispute:
- a. As per the definition clause of the AFS, Force Majeure shall mean (a) war, flood, fire, draught, cyclone, earthquake or any other calamity caused by the nature affecting regular development of the Project, civil commotion or act of God; (b) any notice, order, rule, notification of the Government and/or other public competent authority/court affecting the regular development of the Project.
 - b. As per clause 7.1 of the AFS, The developer shall offer the possession of the unit falling in the project on or before 25.02.2023 with additional grace period of up to 12 months as may be approved by the Real Estate Regulatory Authority ("RERA") or such extended period as may be granted by RERA ("completion time period") as per the agreed terms and conditions unless there is delay due to force majeure events, court orders, government policy/guidelines, decisions affecting the regular development of the real estate Project, reasons beyond the control of the developer and/or its agent, due to non-compliance on the part of the allottee(s) including on account of any default on the part of the

allottee(s). If, the completion of the Project is delayed due to the above conditions, then the allottee(s) agrees that the developer shall be entitled to the extension of time of delivery of possession of the unit.

- c. Clause 7.6 of the AFS deals with the cases in which compensation, if any, to be given to the complainants. The said clause categorically excludes liability of the respondent no.1 to pay any compensation in case of occurrence of a force majeure event affecting the timelines for offer of possession. It is also noteworthy to mention that there are similar clauses in the model agreement introduced as *Haryana Real Estate (Regulation and Development) Rules, 2017* by the Authority.

- xxii. Therefore, since the signing of the application form/afs, the complainants were aware of the terms and conditions mentioned therein. And despite of the knowledge of aforesaid force majeure events, which are already in public domain, and having agreed to the terms and conditions of the AFS, the complainants are now malafidely filed this complaint seeking possession along with interest on alleged delay in offer of possession. The aforesaid is being done in spite of occurrence of "force majeure event" (outbreak of covid 19, declared as force majeure event). The complainants are trying to mislead the Authority by concealing material facts and stating wrong, incorrect and incomplete facts.
- xxiii. That the terms and conditions agreed in the Application Form/AFS do not provide for any relief to the complainants without attributing any breach on the part of the respondent no.1. Thus, the complainants are bound by the aforesaid terms and the law of the land.

- xxiv. Thus, in view of the aforesaid factual scenario, the respondent no.1 cannot be held responsible for any delay in handing over the possession of the Unit, in fact, the respondent no.1 is taking all the desired steps at its end to secure the interest of its allottees.
- xxv. In light of the above, the present complaint is liable to be dismissed as baseless and misconceived.
- xxvi. The present complaint is liable to be dismissed for want of cause of action. In this regard, it is submitted that the terms and conditions of the AFS signed and agreed by the complainants clearly show that the complainants are not entitled to claim any interest, penalties, compensation for any delay in completion time period /offer of possession as the respondent no.1 is taking every effective step to deliver the unit. Further, clause 7.1 of the AFS states that "The developer shall offer the possession of the Unit falling in the Project on or before 25.02.2023 with additional grace period of up to 12 months as may be approved by the Real Estate Regulatory Authority ("RERA") or such extended period as may be granted by RERA". From a bare perusal of the possession clause, it is clear that "such extended period as may be granted by RERA" would include in itself the extensions of registration granted by the Authority on occurrence of force majeure events i.e., the extension orders dated 11.12.2023 and 19.11.2024. In other words, it is submitted that the Authority has already observed that the project was adversely affected by force majeure events like covid 19 while extending the registration. Thus, in view of the same, the present complaint is liable to be rejected for want of cause of action.
- xxvii. The definition of "force majeure" provided in the AFS includes in itself any notices, orders, or rules made/passed by the competent authority. That having agreed to the aforesaid definition; the complainants cannot

allege that there has been a breach on the part of the respondent no.1. In fact, when the Authority extended the completion date of the project, inter alia, invoking Section 6 read with Section 34(f) and 37 of the Act, passing of such an order is already covered within the definition of "force majeure" as agreed between the parties. Hence, no delay can be attributed up on the respondent no 1 in the present complaint, and the same is liable to be dismissed.

- xxviii. That the complainants are guilty of suppressing material facts and have approached the Authority with unclean hands.
- xxix. It is a settled principle of law, as consistently held by the Hon'ble Supreme Court in a catena of judgments that a litigant who approaches a court with unclean hands and suppresses material facts is not entitled to any relief. Therefore, on this ground alone the present complaint deserves to be dismissed at the threshold.
- xxx. That the respondent being a customer centric organisation has already acted in the best interest of its customer. Further, in view of the submissions made herein above, it is evident that the present complaint is ridden with false statements, non-disclosures and concealments, thus amounts to abuse of process of law. Hence, the present complaint is liable to be dismissed on this count alone.
- xxxi. In the view of the above-mentioned factual scenario, the interest on delay in delivery of possession of the unit sought by the complainants on basis of the false and frivolous grounds raised in complaint are baseless and are without any substantial proof placed on record by the complainants. Therefore, granting relief in favour of the complainants without being the respondent at default will defeat the letter, intent and spirit of the RERA Act and the legislation, which protects the interest of the allottees as well as the interest of the respondent.

13. All other averments made in the complaints were denied in toto.
14. 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 those undisputed documents and submissions made by the parties.

E. . Jurisdiction of the authority

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

E.I Territorial jurisdiction

16. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by the Town and Country Planning Department, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes with office 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 complaints.

E.II Subject matter jurisdiction

17. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(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.

18. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaints regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on the objections raised by the respondent.

F.I. Objection regarding Covid-19

19. The builder buyer agreement was executed in year June 2020 and March 2022 respectively, it is reasonable to assume that the respondent was aware of the prevailing circumstances and agreed to the designated timeframe for possession accordingly. Further a grace period of 12 months has already been allowed to the respondent on the account of force majeure circumstances. Consequently, no period of over and above 12 months can be granted in lieu of Covid-19. Therefore, the due date for handover of possession remains unaltered i.e., 25.02.2024.

G. Findings on the relief sought by the complainants:

G.I. Direct the respondent to pay the complainant delayed possession charges from due date of possession till the date of actual handing over of possession as per section 18 of the Act, 2016 at the interest rate as specified in the Act, 2016 and the Rules, 2017.

G.II. Direct the respondent to handover the possession of the unit, in a habitable state, after obtaining the occupation certificate from the concerned authorities.

20. The above-mentioned reliefs G.I to G.II sought by the complainants are being taken together, as the findings in one relief will definitely affect the result of the other relief and the same being interconnected.

21. In all the complaints, the allottees intend to continue with the project and are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. 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."

22. Clause 7.1 of the agreement for sale dated 12.06.2020 provides the time period of handing over possession and the same is reproduced below:

"7. Possession

7.1 Schedule for possession of the said Unit

The Developer shall offer possession of the units falling in the Project on or before February 25, 2023 with additional grace period of upto 12 (twelve) months as may be approved by the Real Estate Regulatory Authority ('RERA') or such extended period as may be granted by RERA ("Completion Time Period") as per agreed terms and conditions unless there is delay due to Force Majeure events, court Orders, Government policy/guidelines, decisions affecting the regular development of the real estate project, reasons beyond the control of the Developer and/or its agents, due to non-compliance on the part of the Allottee(s). If, the completion of the Project is delayed due to the above conditions, then the Allottee agrees that the Developer shall be entitled to the extension of time for delivery of possession of the unit."

23. **Due date of handing over possession:** As per the possession clause, the respondent/promoter has proposed to hand over the possession of the subject unit to the complainants on or before February 25, 2023 with additional grace period of upto 12 (twelve) months. The said grace period of 12 months is allowed to the respondent being unqualified. Therefore, the due date of possession comes out to be 25.02.2024.
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 (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 complainants 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 complainants in case of delay possession charges.
29. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, 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 7 of the agreement executed between the parties on 12.06.2020 the due date of possession comes out to be 25.02.2024 including grace period.
30. It is pertinent to mention over here that even after a passage of more than 6 years (i.e., from the date of agreement for sale i.e., 12.06.2020 till date) neither the construction is complete nor the offer of possession of the allotted unit has been made to the allottee by the respondent/promoters. The authority is of the view that the allottee cannot be expected to wait endlessly for taking possession of the unit which is allotted to him and for which he has paid a considerable amount of money towards the sale consideration. Further, the authority observes that there is no document placed on record from which it can be ascertained that whether the respondents have applied for occupation certificate/part 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.

31. 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 allottees shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 25.02.2024 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. The respondent shall handover the possession of the allotted unit to the complainants as per the specifications of buyer's agreement within thirty days after obtaining occupation certificate from the competent authority.
32. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges within a period of 30 days from date of this order. The complainants are directed to pay outstanding dues if any remain, after adjustment of delay possession charges within a period of next 30 days.

G.III. Direct the respondent to pay rent of the complainant till the disposal.

33. The complainant is seeking the above-mentioned relief w.r.t. compensation. The Hon'ble Supreme Court of India in *Civil Appeal nos. 6745-6749 of 2021* titled as *M/s Newtech Promoters and Developers Ltd. V/s State of UP & Ors.(supra)*, has held that an allottee is entitled to claim compensation and 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 and litigation expense shall be adjudged by the adjudicating officer having due regards to the factors mentioned in Section 72. The Adjudicating Officer has exclusive jurisdiction to deal with the complaints in respect of compensation and legal expenses.

H. Directions of the authority

34. 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. The respondent is directed to pay interest to each of the complainant(s) against the paid-up amount at the prescribed rate of interest i.e., 10.80% p.a. for every month of delay from the due date of possession 25.02.2024 till valid offer of possession plus two months after obtaining occupation certificate, or actual handing over of possession, whichever is earlier as per proviso to section 18(1) of the Act read with Rule 15 of the Rules.
- ii. The arrears of such interest accrued from due date of possession of each case till the date of this order by the authority shall be paid by the promoter to the allottees 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 allottee(s) before 10th of the subsequent month as per rule 16(2) of the rules.
- iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iv. The respondent is directed to issue a revised statement of account after adjustment of delayed possession charges within a period of 30 days from date of this order.
- v. The respondent-builder is directed not to charge anything which is not part of agreement for sale.
- vi. The rate of interest chargeable from the allottees by the promoter, in case of default shall be charged at the prescribed rate i.e., 10.80% by

the respondents/promoters which is the same rate of interest which the promoter shall be liable to pay the allottees, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

vii. The respondents are directed handover possession of the plot in question within three months after obtaining completion/part completion certificate from the competent authority. Further, the respondents are directed to get the conveyance deed of the allotted unit executed 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

viii. **Holding charges:** The respondent is also not entitled to claim holding charges from the complainant(s)/allottee(s) at any point of time even after being part of the builder buyer's agreement as per law settled by Hon'ble Supreme Court in Civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

35. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
36. The complaints as well as applications, if any, stand disposed of
37. Complaints stands disposed off. True certified copy of this order shall be placed in the case file of another matter.
38. Files be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory
Authority, Gurugram
Dated: 11.08.2026