

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

Complaint no.: 6287 of 2025
Date of filing of complaint: 15.12.2025
Date of Order: 11.08.2026

SHAZ Housing Private Limited

Regd. Address: Rotaha, Post Parsipur, District Bhadohi,
Uttar Pradesh—221402

Complainant

Versus

M/s Ishv Realtors Private Limited

Regd. office: Shop No 9-10, GF Plot-1311, A/8, Shankar
Market, Fasil Road, Ajmeri Gate, Delhi -110006

Respondent

CORAM:

Shri Arun Kumar

Chairman

APPEARANCE:

Sh. Ishaan Dang (Advocate)

Sh. Ankur Yadav (Advocate)

Counsel for Complainant

Counsel for Respondent

ORDER

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

A. Unit and Project related details:

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

S. No.	Particulars	Details
1.	Name and location of the project	"Platina Street 109", Sector 109, Dwarka Expressway, Gurugram (Earlier known as "Skyline 109")
2.	Nature of the project	Commercial colony
3.	Project area	3.72 acres
4.	DTCP license no.	24 of 2011 dated 24.03.2011 valid up to 23.03.2025
5.	Name of licensee	Jitender S/o Meer Singh and 3 others
6.	Rera Registered	37 of 2023 dated 02.02.2023
7.	Date of booking	20.06.2012
8.	Unit no.	UG-66, Upper Ground Floor (Shop) (As per page no. 43 of the complaint)
9.	Unit area admeasuring	516 sq. ft. (Super area) (As per page no. 43 of the complaint)
10.	Date of buyer's agreement	26.04.2013 (As per page no. 42 of the complaint)
11.	Possession clause	15. <i>That the possession of the said premises is proposed to be delivered by the developer to the allottee(s) within four years from the date of this agreement.</i> (As per page no. 52 of the complaint)
12.	Due date of possession	26.04.2017 (Note: Due date to be calculated 4 years from the date of execution of agreement i.e., 26.04.2013)

13.	Total sale consideration	Rs.42,36,360/- incl. EDC & IDC (As per page no. 44 of the complaint)
14.	Amount paid by the complainant	Rs.17,38,366/- payment receipts attached by the complainant
15.	Occupation Certificate	Not obtained as per DTCP
16.	Offer of possession	Not offered
17.	Letter by promoter regarding confirmation of details of Unit through Adv.	12.07.2017 At page 80 of complaint
18.	Final Demand Notice cum Pre-Cancellation	15.09.2025 for Outstanding dues of Rs.4,73,348/- and Interest of Rs.9,58,005/- (As per page no. 81 of the complaint)
19.	Reply to letter dated 15.09.2025	27.09.2025 (As per page no. 82 of the complaint)

B. Facts of the complaint: -

3. The complainant has made the following submissions: -

- a. That the complainant is a company duly incorporated and registered under the provisions of the Companies Act, 1956, having its registered office at Rotaha, Post Parsipur, District Bhadohi—221402, Uttar Pradesh. Mr. Akhtar Ali Ansari is fully conversant with the facts of the present case and has been duly authorized by virtue of resolution dated 04.12.2025 passed by the Board of Directors of the complainant company.
- b. That in the month of June, 2012, the representatives /marketing staff of the respondent, Ishv Realtors Private Limited (previously known as Ish Realtors Private Limited), approached the officials of the complainant claiming to be a reputed and trustworthy real estate

developer and a part of the Yashika Group of Companies who had developed affordable and mid segment housing projects in Gurugram, Haryana. The respondent conveyed to the officials of the complainant that the respondent was developing a multi storied air-conditioned commercial complex having power back up known as "Sky Line 109" in Sector 109, Gurugram.

- c. That the respondent had handed over an attractive brochure to the officials of the complainant setting out the impressive features and prime location of the commercial complex. The representatives of the respondent had conveyed to the officials of the complainant that the proposed commercial complex was advantageously located on the Dwarka Expressway and in proximity to the IGI Airport, New Delhi as well as the Metro station in Dwarka and other landmarks, which would attract high customer footfall. The marketing /sales representatives of the respondent had assured timely delivery of the project within three years from the date of booking and persuaded the officials of the complainant to book a commercial unit/shop in the project.
- d. That the complainant booked the commercial unit/shop in the Project known as "Skyline 109 Gurgaon" with the intention of expanding its business in Delhi / NCR. The representatives of the respondent assured the complainant that the respondent possessed all the necessary approvals, permissions, licences etc to develop the Project and assured the complainant of timely delivery of possession complete with all the promised amenities and features as set out in the Brochure.

- e. That relying upon the promises and assurances made by the respondent orally as well as through brochures and other promotional material and enticed by the attractive picture portrayed by the respondent, the complainant was induced to book a commercial unit/shop no. UG-66 admeasuring 516 square feet (super area), located on the upper ground floor of the said project. The aforesaid unit has hereinafter been referred to as "said unit".
- f. That the complainant had paid the booking amount to the respondent. However, the respondent for reasons best known to itself never issued any allotment letter in favour of the complainant but kept raising demands. The officials of the complainant kept requesting the respondent to issue an allotment letter in its favour and to execute the Buyer's Agreement, but the respondent kept demanding further amounts from the complainant and assured the complainant that the Buyer's Agreement would be executed between the parties within a short span of time.
- g. That at as per the demands raised by the respondent, the complainant has made the following payments to the respondent till date: -
- a) Payment of Rs.4,81,987/- vide cheque bearing no.021162 dated 05.06.2012 had been made by the complainant to the respondent.
 - b) Payment of Rs.4,67,527/- vide cheque bearing no.021170 dated 16.07.2012 had been made by the complainant to the respondent.
 - c) Payment of Rs.2,88,852/- vide cheque bearing no.021103 dated 30.04.2013 had been made to the respondent by the complainant.
- That till the date of execution of buyer's agreement, the complainant had made a total payment of Rs.12,38,366/- to the respondent.
- h. That a payment of Rs.12,38,366/- was demanded and received by the respondent without even issuing any allotment letter or

execution of any buyer's agreement with the complainant. However, the respondent had merely conveyed to the complainant that the builder buyer's agreement would be executed by the respondent. Eventually, after considerable follow up and reminders, the respondent presented the complainant with a pre-printed buyer's agreement containing stringent, arbitrary, biased and one-sided clauses wholly favouring the builder.

- i. That the complainant was shocked to find that timelines for possession were arbitrarily and unilaterally changed by the respondent from the previously agreed timelines of three years from the date of booking to four years from the date of execution of the buyer's agreement (Clause 15 of the buyer's agreement), which was wilfully and needlessly delayed by the respondent. The respondent has duly acknowledged the receipt of payment of Rs.12,38,366/- from the complainant in Clause 5 of the buyer's agreement.
- j. That the buyer's agreement provided for high rates of interest to be charged from the allottee in case of delay in payments as per the payment schedule but did not provide for any compensation or interest payable to the allottee in case of delay in delivering possession to the allottee. Various other clauses of the buyer's agreement provided unilateral and unfettered powers to the respondent without any adequate and corresponding provisions for safeguarding the rights and interests of the complainant.
- k. That the complainant was also shocked to find out from the buyer's agreement that the demarcation and zoning plans of the Project had been approved by the Director, Town and Country Planning, Haryana only on 01.04.2013 and that the respondent had falsely

represented to the complainant at the time of booking that the respondent was in receipt of all approvals from the competent authorities to develop and construct the Project.

- l. That the complainant protested against the inclusion of the arbitrary and illegal clauses which were tilted in favour of the respondent and demanded that the Buyer's Agreement be amended so as to result in an equitable balance of power between both parties in a fair and reasonable manner and to reflect the understanding arrived at between the parties at the time of booking. The respondent flatly refused to entertain the request and threatened to cancel the allotment and forfeit the amount paid by the complainant. Faced with the threat of cancellation and forfeiture, the complainant was compelled to execute the inherently illegal and biased Buyer's Agreement dated 26.04.2013.
- m. That the Buyer's Agreement set out the total price of the unit to be Rs.42,36,360/- including EDC and IDC, calculated at the rate of Rs.7,760/- per square feet. That a construction linked payment plan had been chosen by the complainant which has been appended at the end of the Buyer's Agreement. As per Clause 15 of the Buyer's Agreement, the due date of handing over of possession was on or before 26.04.2017. However, the project is far from completion.
- n. That the respondent in May, 2015 had also raised a demand with respect to EDC/IDC as well as BSP for Rs.5,00,000/-. The complainant had duly made payment of the aforesaid demand of Rs.5,00,000/- to the respondent. Thus, till date, the complainant has made payment of an amount of Rs.17,38,366/- to the respondent.

- o. That on the due date of possession, i.e. 26.04.2017, the complainant contacted the respondent and enquired about delivery of possession and requested a site visit. After some evasion and prevarication, the respondent confessed that the project was nowhere near completion and that the respondent would not be in a possession to deliver possession as per its promises and commitments. Upon being intimated of the same, the faith and conviction of the complainant in the respondent and its officials was shaken.
- p. That despite the expiry of the stipulated time period mentioned in the buyer's agreement for handing over of possession of the said unit, there was complete and absolute silence on the part of the respondent. The complainant had merely received letter dated 12.06.2017 from the respondent, i.e. after the expiry of the stipulated time period mentioned in the buyer's agreement for handing over of possession of the said unit. The aforesaid letter merely stated that there had been a change in the equity share holding of the respondent. The complainant kept requesting the respondent to permit the complainant to visit the site and to verify the status of construction at the site, but the demands of the complainant fell on deaf ears. The complainant has always been ready and willing and is still ready and willing to make balance payment as per the buyer's agreement.
- q. That even otherwise, there can be no change in the identity of the respondent under law merely by changing Directors. The respondent has a separate identity in law and is bound by the provisions of the Real Estate (Regulation and Development) Act, 2016. The respondent has collected almost 30% of the sale

consideration amount way back in 2013 and has been enjoying/utilizing the same for its subjective benefits and fancies. At the same time, the respondent has not undertaken any construction of the project/unit in question. The respondent has taken undue advantage of its own wrongs. Thus, there is no equity in favour of the respondent.

- r. That the respondent had intentionally stopped issuing demand notices to the complainant after 2013. On account of intentional misleading on part of the respondent and concealment of the true status of the project, the complainant did not make any payment after 2014 to the respondent.
- s. That shockingly, the complainant received a so-called final demand notice dated 15.09.2025 from the respondent after a period of 12 years of silence from the respondent. The respondent had illegally stated in the aforesaid letter that the complainant had failed to clear the "excavation demand" which had purportedly become due on 20.06.2014. On top of that, the respondent had levied interest for a period of "4104 days", i.e. 11 years 2 months and 25 days on the complainant claiming that the complainant had not made payment of the alleged outstanding amount.
- t. That the aforesaid similar printed letter had been issued to several other allottees of the said project as well by the respondent. As far as the complainant is concerned, it had issued reply dated 27.09.2025 to the aforesaid illegal letter dated 15.09.2025 issued by the respondent.
- u. That the complainant had also instituted enquiries about the registration of the Project under RERA and was shocked to find that

the respondent is not the landowner of licence holder of the Project but that M/s Anjum Associates Pvt Ltd and other landowners are the landowners and Licence holders of the Project. That the complainant was further shocked to come to know that the Project licence had expired as the same was only valid until 23.03.2024 and that the Project has been registered till 30.09.2027, which is the completion date as declared by the Promoters.

- v. That the present complaint is limited to seeking possession and interest on delayed possession. The officials of the complainant have suffered immense mental agony, financial hardship and harassment on account of the respondent and the complainant reserves its right to seek compensation by instituting appropriate proceedings before the Hon'ble Adjudicating Officer.

C. Relief sought by the complainant:

4. The complainant has sought following relief:
- Direct the respondent to deliver possession of Commercial Unit/Shop No.UG-66, admeasuring 516 sq ft (super area), located on the upper ground floor of Commercial Complex known as Platina Street 109 (Previously Skyline 109 Gurgaon), Sector 109, Gurugram.
 - Direct the respondent to pay interest at the prescribed rate on the amount paid to the respondent amounting to Rs.17,38,366/- from the due date of possession, i.e. 26.04.2017 till handing over of possession of the unit.
 - Direct the respondent to adjust balance amount payable by the complainant in terms of the buyer's agreement dated 26.04.2013 against the interest due and payable by the respondent for inordinate and unjustified delay in delivering possession.

- d. Direct the respondent not to charge any amount from the complainant not payable under the Buyer's Agreement such as HVAT, GST, electrification charges and connection charges etc.
 - e. Direct the respondent to provide Architect's confirmation of Carpet area and super area of the unit.
 - f. Direct the respondent to get the conveyance deed/sale deed executed and registered in favour of the complainant in respect of the commercial unit in question.
 - g. Costs of litigation amounting to Rs.2,00,000/- may kindly be granted to the complainant.
 - h. That strictest possible action may kindly be initiated against respondent and suitable penalty imposed for deliberate contravention of Section 11 of the Act by not filing the quarterly project report before this Authority and failing to make it available for public viewing on its official website.
- D. Reply filed by the respondent:**
5. The respondent has contested the complaint on the following grounds:
- a. That the present Complaint is not maintainable in its present form as the Complainant has concealed material facts from this Authority.
 - b. That the present complaint is also not maintainable as the relief claimed in the complaint is hopelessly barred by time. Also, the claim being time barred cannot be adjudicated by this Court and the complaint is liable to be dismissed.
 - c. That at the very inception it is also relevant to mention herein that the Builder Buyer Agreement filed by the Complainant is an unexecuted document which nowhere bears the stamp or seal of the Respondent Company which creates a doubt over the genuineness of the

document and further, a photocopy of the same has been filed as with the Complaint which cannot be relied upon.

- d. That it is also germane and pertinent to point out that the Builder Buyer Agreement being filed by the Complainant is an unexecuted document which does not bear or contain any signature or stamp of either the Respondent Company or the Complainant on page 29 which clearly displays that the Builder Buyer Agreement is unexecuted and unsigned. On the basis of the alleged unexecuted Builder Buyer Agreement, the Complainant cannot claim any relief before this Authority.
- e. That the false and fabricated Builder Buyer Agreement attached and relied upon by the Complainant is neither notarized nor executed by the Company as no stamp or seal of the company is present on the Builder Buyer Agreement.
- f. That the Complainant has not filed any allotment letter along with the Complaint which casts a doubt that the Complainant is even an allottee in the project. The unexecuted Builder Buyer Agreement and absence of any allotment letter clearly indicate that the Complainant is trying to mislead this Authority and in view of the unexecuted Builder Buyer Agreement and absence of any allotment letter, the present complaint ought to be dismissed.
- g. That further, the alleged receipts of payment filed by the Complainant do not bear details of any unit in the receipt which create a doubt over the authenticity of the documents.
- h. That the Complainant has not filed any payment plan as the same has not been annexed with the Complaint alongside the unexecuted

Builder Buyer Agreement, therefore, the Complaint is liable to be dismissed.

- i. That in absence of any allotment letter, executed Builder Buyer Agreement or any other executed document by or on behalf of the Respondent Company with the Complainant, the present complaint is not maintainable and is liable to be dismissed at the very inception.
- j. That the Complainant through its illegal designs and by relying upon the false and fabricated Builder Buyer Agreement also cheated M/s. Mala Projects Pvt. Ltd. and has through an agreement, sold the property in question to M/s. Mala Projects Pvt. Ltd. dated 15.05.2023 and have received amounts from M/s. Mala Projects Pvt. Ltd. for unit no. UG-66. The Complainant on asking of documents pertaining to the property in question by M/s. Mala Projects Pvt. Ltd. failed to provide the same owing to which certain disputes arose between M/s. Mala Projects Pvt. Ltd. and the Complainant. The Complainant has concealed the said fact from this Authority to unjustly enrich itself. M/s. Mala Projects Pvt. Ltd. is in the process of initiating appropriate civil and criminal proceedings against the Complainant.
- k. That even otherwise, the project Skyline 109 conceived by the earlier management and shareholders did not ever see the light of the day and the Respondent Company has launched a new project though on the same license by the name and style of Platina Street 109. Further, the raft of the project has been partially laid and partial work of the lowest basement is under progress, therefore, possession of any unit cannot be handed over at this stage or in the near future.
- l. That the project Platina Street 109 has secured RERA Registration on 02.02.2023 and the same is valid till 30.09.2027, therefore, no cause

of action has accrued in favour of the Complainant with whom no Builder Buyer Agreement has been executed.

m. That the Respondent Company namely, M/s Ishv Realtors Pvt. Ltd. (formerly M/s Ish Realtors Pvt. Ltd.) entered into a registered collaboration agreement dated 24.06.2011 bearing registration no. 8083 with the landowners of area on which the project skyline-109 was to be developed. The license no. 24 of 2011, for developing the Commercial project on the land was obtained by the landowners on 24.03.2011 i.e. prior to entering into the Collaboration agreement with M/s Ishv Realtors Pvt. Ltd.

n. That all averments made by the complainant are denied in toto.

6. Copies of all the relevant documents have been filed and placed on 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

7. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint.

E.1 Territorial jurisdiction

8. 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

9. 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)(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 allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottee and the real estate agents under this Act and the rules and regulations made thereunder."

10. So, in view of the provisions of the Act of 2016 quoted above, the authority has complete jurisdiction to decide the complaint 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 regarding relief sought by the complainants.

- F.I. Direct the respondent to deliver possession of Commercial Unit/Shop No.UG-66, admeasuring 516 sq ft (super area), located on the upper ground floor of Commercial Complex known as Platina Street 109 (Previously Skyline 109 Gurgaon), Sector 109, Gurugram.**
- F.II. Direct the respondent to pay interest at the prescribed rate on the amount paid to the respondent amounting to Rs.17,38,366/- from the due date of possession, i.e. 26.04.2017 till handing over of possession of the unit.**
- F.III. Direct the respondent to adjust balance amount payable by the complainant in terms of the buyer's agreement dated 26.04.2013 against the interest due and payable by the respondent for inordinate and unjustified delay in delivering possession.**
11. The above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other reliefs. Thus, the same being interconnected.

12. In the present matter the complainant purchased a commercial unit bearing no. UG-66, Upper Ground floor, admeasuring 516 sq. ft. (super area) in the project Platina Street 109, Sector 109, Gurugram. The complainant paid an amount of Rs.17,38,366/- against the total sale consideration of Rs.42,36,360/-. An agreement was executed between the complainant and the respondent on 26.04.2013 and according to clause 15 of the agreement the respondent was obligated to complete the construction of the project and hand over the possession of the subject unit within 4 years i.e. 26.04.2017. The occupation certificate for the project has not yet been obtained from the competent Authority.
13. The counsel for the complainant states that the respondent has changed the name of the project from skyline 109 to that of Platina Street 109. Further, the name of the respondent company has also been changed from that of Ish Realtors to ISHV Realtors Private Limited.
14. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the provisions of section 18(1) of the Act which reads as under:
- "Section 18: - Return of amount and compensation***
(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —
.....
Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed"
15. Clause 15 of the agreement for sale is reproduced below: -
- 15.Possession of the unit***
That the possession of the said premises is proposed to be delivered by the developer to the allottee(s) within four years from the date of this agreement....."

(Emphasis supplied)

16. **Due date of possession:** As per clause 15 of the BBA, the possession of the allotted unit was supposed to be offered within a stipulated timeframe i.e. with four years. Accordingly, the due date of possession comes out to be 26.04.2017. The occupation certificate for the project has not yet been obtained from the competent authority.

17. **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."

18. 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;"

19. 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%.
20. **Rate of interest to be paid by complainant/allottee for delay in making payments:** 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.
21. Therefore, interest on the delay payments, if any 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.
22. Further, the possession of the unit shall be handed over to the complainant after obtaining occupation certificate/CC/Part CC from the competent authority as per obligation under Section 11(4)(b) read with section 17 of the Act, 2016 and thereafter, the complainant is obligated to take the possession within 2 months as per Section 19(10) of the Act, 2016. The rationale behind the same is that the allottee purchased the subject unit way back in 2013 and paid the demanded amount in hope to get possession of the allotted unit.

23. On consideration of the documents available on record and submissions made by the parties regarding contravention as per 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 15 of the agreement, the possession of the subject unit was to be delivered within stipulated time i.e., by 26.04.2017. However, till date no occupation certificate has been received by respondents and neither possession has been handed over to the allottee till date. The Authority is of the considered view that there is delay on the part of the respondent to offer physical possession of the allotted unit to the complainant as per the terms and conditions of the agreement executed between the parties. 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.
24. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainant is entitled to delay possession charges at prescribed rate of the interest @ 10.80% p.a. w.e.f. 26.04.2017 till date of valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier at prescribed rate i.e., 10.80% p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.
- F. IV Direct the respondent not to charge any amount from the complainant which is not payable under the Buyer's Agreement such as HVAT, GST, electrification charges and connection charges etc.**

F. V Direct the respondent to provide Architect's confirmation of Carpet area and super area of the unit.

25. The above-mentioned reliefs sought by the complainant, are being taken together as the findings in one relief will definitely affect the result of the other reliefs. Thus, the same being interconnected.
26. Upon perusal of the record and the applicable contractual documents, this Authority observes that while certain statutory and development-related charges may be leviable strictly in accordance with the terms of the agreement and subject to actual proof of payment to the competent authorities, the respondent cannot raise blanket or composite demands without placing on record any justification, calculation sheet, or documentary evidence substantiating the same. Further, it is settled that interest on delayed payment cannot be charged in a mechanical manner, particularly when the delay, if any, is attributable to the respondent itself on account of non-handover of possession and non-fulfilment of its contractual obligations.
27. The promoter is entitled to charge VAT from the allottees where the same was leviable, at the applicable rate, if they have not opted for composition scheme. However, if composition scheme has been availed, no VAT is leviable. Further, the promoter shall charge actual VAT from the allottees/prospective buyers paid by the promoter to the concerned department/authority on pro-rata basis i.e. depending upon the area of the flat allotted to the complainant vis- à-vis the total area of the particular project. However, the complainant would also be entitled to proof of such payments to the concerned department along with a computation proportionate to the allotted unit, before making payment under the aforesaid heads.

28. The promoter shall not charge any VAT from the allottees/prospective buyers during the period 01.04.2014 to 30.06.2017 since the same was to be borne by the promoter-developer only. In the present case the agreement was executed 26.04.2013. For the projects where the due date of possession was/is before 26.04.2017 i.e., date of coming into force of GST, the builder is not entitled for charging GST but builder has to pass the benefit of input tax credit to the buyer. That in the event the respondent-promoter has not passed the benefit of ITC to the buyers of the unit which is in contravention to the provisions of section 171(1) of the HGST Act, 2017 and has thus committed an offence as per the provisions of section 171 (3A) of the above Act. The allottee shall be at liberty to approach the State Screening Committee Haryana for initiating proceedings under section 171 of the HGST Act against the respondent-promoter. The concerned SGST Commissioner is advised to take necessary action to ensure that the benefit of ITC is passed on to the allottee in future. The respondent-promoter is directed to adjust the said amount, if charged from the allottee with the dues payable by the allottee or refund the amount if no dues are payable by the allottee.
29. With respect to the relief of service tax, advice of service tax expert should be taken about the quantum of service tax payable in given circumstances of the allottee up to the due date of offering of possession of the unit. Accordingly, whatever service tax is payable up to the due date of offer of possession shall be demanded by the promoter and will be paid by the allottees.
30. It is the duty of the colonizer to arrange the electric connection from the outside source for electrification of their colony from Haryana Vidhyut Parsaran Nigam/Dakshin Haryana Bijlee Vitran Nigam Limited, Haryana.

The installation of internal electricity distribution infrastructure as per the peak load requirement of the colony shall be the responsibility of the colonizer, for which the colonizer will be required to get the "electric(distribution) services plan/estimates" approved from the agency responsible for installation of "external electrical services" i.e., Haryana Vidhyut Parsaran Nigam/Dakshin Haryana Bijlee Vitran Nigam Limited, Haryana and complete the same before obtaining completion certificate for the colony.

31. Occupation certificate is always provided by the competent authority to the promoter only after the completion of the building when the same is ready for possession and occupation. Unless and until the building has the electricity which also includes the power back up system and water connections, how can the same be said to be fit for occupation. Electricity is an eye and water is the soul of a dwelling unit. Therefore, if these two facilities are not provided to the allottee in the unit, the allottee himself cannot survive. Hence, charging under these heads is not justifiable for these reasons as well.
 32. The Authority is of the opinion that the allottees have a right to know as to how much the carpet area of the unit is and how much loading has been done on it along with components of super area as per the builder buyer's agreement. Accordingly, the respondent promoter is directed to make available the details of the super area in terms of Section 11(3), 11(4)(b) & (f) read with Section 17 of the Act, 2016.
 33. The respondent shall not charge anything from the complainant which is not the part of the agreement.
- F.VI. Direct the respondent to get the conveyance deed/sale deed executed and registered in favour of the complainant in respect of the commercial unit in question.**

34. The Authority observes that the conveyance has been subjected to all kinds of terms and conditions of agreement and the complainants not being in default under any provisions of agreement and compliance with all provisions, formalities and documentation as prescribed by the promoters. A reference to the provisions of sec. 17 (1) and proviso is also must and which provides as under: -

"Section 17: - Transfer of title

17(1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws: Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

35. The respondent is under an obligation as per section 17 of Act to get the conveyance deed executed in favour of the complainant. The respondent is directed to execute the conveyance deed within one months after obtaining Occupation certificate from the competent Authority.

F.VII Costs of litigation amounting to Rs.2,00,000/- may kindly be granted to the complainant.

36. That complainant is seeking 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 Pvt. Ltd. V/s State of Up & Ors. (supra)***, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section

19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the Adjudicating Officer having due regard to the factors mentioned in section 72. The Adjudicating Officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses.

F. VIII That strictest possible action may kindly be initiated against respondent and suitable penalty imposed for deliberate contravention of Section 11 of the Act by not filing the quarterly project report before this Authority and failing to make it available for public viewing on its official website.

37. That the said relief was not pressed by the complainant counsel during the arguments in the course of hearing. Also, the complainant failed to provide or describe any information related to the above-mentioned relief sought. The Authority is of the view that the complainant does not intend to peruse the relief sought. Hence, the Authority has not given any findings with regard to the above-mentioned reliefs.

G. Directions of the Authority

38. 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):

- a. The respondent is directed to pay the interest at the prescribed rate i.e. 10.80% per annum for every month of delay on the amount paid by the complainant from the due date of possession i.e., 26.04.2017 till the date of 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 proviso to section 18(1) of the Act read with rule 15 of the rules.

- b. The arrears of such interest accrued from the due date of possession till the date of order by the Authority shall be paid by the promoter within 90 days from the date of this order and interest of every month of delay shall be paid by the promoter to the allottees before 10th of the subsequent month as per rule 16(2) of the rules.
 - c. The respondent is directed to hand over the actual physical possession of the unit to the complainants within 2 months after obtaining occupation certificate.
 - d. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges/interest for the period the possession is delayed.
 - e. The respondent is directed to executed conveyance deed of the allotted unit after obtaining occupation certificate 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. 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.
 - f. The respondent shall not charge anything from the complainant which is not the part of the agreement.
39. Complaint stands disposed of.
40. File be consigned to registry.

Dated: 11.08.2026


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