BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.	:	**6723 of 2025**
Date of complaint	:	**13.01.2026**
Date of order	:	**14.08.2026**

Rachita Arora
Both R/o:- H No 123, Phase 2, Sector 54,
Village Badshahpur, Sector 68, Gurugram **Complainant**

Versus

Supertech Limited
Regd. Office at: 1114, 11th floor,
hamkunt chambers, 89, Nehru Place,
New Delhi **Respondent 1**

Sarv Realtors Pvt Ltd
Regd. Office at: 1114, 11th floor,
hamkunt chambers, 89, Nehru Place, New Delhi **Respondent 2**

CORAM:
Arun Kumar **Chairman**

APPEARANCE:

Sh. Vipin Kumar (Advocate)	Complainant
Sh. Bhrigu Dhami (Advocate)	Respondent no. 1
Sh. Dushyant Tewatia (Advocate)	Respondent no. 2

ORDER

1. The present complaint has been filed by the complainant/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. Project and unit related details

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

S. No.	Particulars	Details
1.	Name of the project	Supertech HUES Sector-68, Golf Course Extn. Road, Gurgurgram-122101
2.	Project area	55.5294 acres
3.	Nature of project	Group Housing Colony
4.	RERA registered/not registered	Registered vide registration no. 182 of 2017 dated 04.09.2017
	Validity Status	31.12.2021
5.	DTPC License no.	106 & 107 of 2013 dated 26.10.2013
	Name of licensee	Sarv Realtors Pvt. Ltd. & Ors.
6.	Booking date	10.07.2017
7.	Unit no.	R0380B00604/FLAT 0604, 6th floor
8.	Unit area	1180 SQ. FT.
9.	Date of buyer developer agreement executed between parties	07.03.2018
10.	Possession clause	***1. POSSESSION OF UNIT: -*** *The possession of the unit shall be given* ***to the allotee by the company by JUNE 2019. However, this period can be extended for***

		a further grace period of 6 months. The possession clause is subject to the timely payment of all instalments and other dues by the allotee and the allotee agrees to strictly abide by the same in this regard.
11.	Due date of possession	31.12.2019 (Note:- June 2019 plus 6 months grace period is allowed)
12.	Total sale consideration	Rs. 51,13,000/-
13.	Total amount paid by the complainant	Rs. 16,00,000/-
14.	Occupation certificate	Not obtained
15.	Offer of possession	Not offered

B. Facts of the complaint

3. The complainant has made the following submissions in the complaint:

i. That the present complaint is being filed by the Complainant under Section 18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act"), on account of various violations and contraventions of the provisions of the RERA Act, 2016, and the rules and regulations framed thereunder, committed by the respondents.

ii. That the complainant booked a residential unit in the project namely "Supertech Hues", situated at Sector-68, Gurugram, Haryana, being developed by the respondents. in pursuance of the said booking, the

complainant paid a total sum of Rs. 16,00,000/- towards booking amount and instalments between 30.06.2017 and 13.07.2017.

iii. That thereafter, respondent no. 1, namely M/s Supertech Limited, executed a buyer developer agreement dated 07.03.2018 with the complainant in respect of flat no. 0604, situated on the 6th Floor, Tower/Block B/B, for a total sale consideration of Rs. 51,13,000/-.

iv. That as stipulated under clause 1, under the heading "possession of the unit", of the aforesaid agreement, the respondents were contractually obligated to deliver possession of the allotted unit by June 2019, subject to an additional grace period of six months, i.e., up to December 2019.

v. That the payment plan agreed between the parties was a possession-linked payment plan, under which the substantial balance consideration of Rs. 39,13,000/- was payable only upon the respondents making a valid offer of possession. The complainant duly complied with her initial payment obligations and, in fact, paid an amount of Rs. 16,00,000/- against the stipulated initial payment of Rs. 12,00,000/- within the first 60 days. The said payment clearly demonstrates the bona fide conduct, financial readiness and willingness of the complainant to honour her contractual obligations.

vi. That the complainant has never committed any default in making payments as per the agreed payment schedule. The only amount remaining outstanding is the balance consideration, which, under the express terms of the agreement, became payable only upon the valid offer of possession by the respondents. However, the respondents

have failed to fulfil the very condition upon which the said payment was contractually dependent.

vii. That, in complete disregard of the agreed payment plan, respondent no. 1 illegally and arbitrarily raised a demand for the remaining payment vide its letter dated 05.01.2018, without completing the project and without making any valid offer of possession to the complainant. The complainant rightly declined to comply with the said demand, as the same was contrary to the mutually agreed contractual terms and amounted to a unilateral and material deviation from the agreed payment arrangement.

viii. That the respondents have miserably failed to offer possession of the allotted unit by the stipulated date of June 2019 or even upon expiry of the permissible grace period in December 2019. Thus, the respondents have committed a clear breach of their contractual obligations and have failed to deliver possession within the agreed timeline.

ix. That, in the proceedings initiated by HARERA in Suo-Motu Case No. HARERA/GGM/5802/2019, it was established that respondent no. 1 had illegally registered the project. Consequently, vide order dated 29.11.2019, HARERA directed that respondent no. 2, namely M/s Sarv Realtors Pvt. Ltd., being the legitimate licensee of the project, shall be treated as the promoter and shall step into the shoes of respondent no. 1 in all the buyer developer agreements executed with the respective allottees. Accordingly, respondent no. 2 also became bound by the obligations arising out of the agreement executed with the complainant.

x. That despite the aforesaid order passed by HARERA, the respondents have failed and neglected to discharge their statutory and contractual obligations towards the complainant. the respondents cannot escape their responsibilities under the agreement or the directions issued by the Regulatory Authority.

xi. That the complainant has, at all material times, remained ready and willing to perform her remaining contractual obligations. In furtherance thereof, the complainant, vide email dated 10.12.2022, specifically requested the respondents to issue a valid offer of possession along with the requisite occupation certificate, while categorically expressing her willingness and intention to take possession of the allotted unit. The said communication clearly establishes that the complainant has never abandoned her claim or defaulted in her contractual obligations. However, the respondents failed to provide any response to the said email.

xii. That, to the utter shock and dismay of the complainant, she discovered on 26.08.2023 that the very same flat allotted to her had been illegally handed over by the respondents to a third party. The aforesaid act of the respondents is a grave and fundamental breach of the buyer developer agreement and amounts to an unlawful alienation of the unit specifically allotted to the complainant. Such conduct has not only defeated the contractual rights of the complainant but has also deprived her of the opportunity to take possession of her allotted unit.

xiii. That by unlawfully handing over and alienating the allotted unit in favour of a third party, the respondents have themselves acted in repudiation of the agreement and have rendered its performance

impossible on the part of the complainant. Having themselves deprived the complainant of the subject matter of the agreement, the respondents cannot legally hold the complainant responsible for non-payment of the balance consideration. The inability to make the remaining payment is solely attributable to the respondents' own acts and omissions, as the contractual obligation to pay the balance amount was linked to a valid offer of possession, which was never made.

xiv. That, as per Clause 4.10(2) of the Haryana Building Code, 2017, read with the applicable provisions of the RERA Act and the rules framed thereunder, occupation of a building without the requisite occupation certificate is unlawful. However, the respondents have failed to obtain the requisite completion certificate/occupation certificate for the project/tower. Consequently, any occupation or handing over of possession without obtaining the requisite statutory approval, including the alleged handing over of the complainant's allotted flat to a third party, is contrary to the applicable law and cannot be treated as a valid or lawful delivery of possession.

xv. That, in view of the continuous and serious breaches committed by the respondents, the complainant was constrained to serve a legal notice dated 11.09.2023 upon the respondents, calling upon them to fulfil their contractual obligations and hand over possession of the allotted unit. However, despite receipt of the said legal notice, the respondents have failed and neglected to comply with the same or take any corrective action.

xvi. That the project has suffered an inordinate and unexplained delay, and the respondents have failed to properly inform the complainant about

the actual status and progress of the project. The respondents have neither delivered possession within the agreed timeline nor obtained the requisite statutory approvals nor honoured the complainant's contractual rights in respect of the allotted unit.

xvii. That despite the aforesaid acts, omissions, defaults and fundamental breaches committed by the respondents, the complainant continues to remain ready and willing to take possession of her allotted unit, subject to the respondents making a valid and lawful offer of possession, supported by the requisite completion certificate/occupation certificate and compliance with all applicable statutory requirements. The complainant further undertakes to pay the outstanding balance consideration immediately upon fulfilment of the aforesaid contractual and statutory conditions, strictly in accordance with the original possession-linked payment plan agreed between the parties.

C. Relief sought by the complainant: -

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

I. Direct the respondent to complete the project as per the agreement and hand over the possession of the unit, with occupation certificate and all basic amenities as promised.

II. Direct the respondent to pay delay interest on amount of Rs. 16,00,000/- from the promised date of possession dated June 2019 till the actual delivery of physical possession.

III. Direct the respondent execute to the conveyance deed in favour of complainant after getting the occupation certificate from competent Authority.

5. 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

6. The respondents have contested the complaint on the following grounds:

a) That the answering respondent is one of the leading real estate developers in the State of Haryana and the National Capital Region (NCR), having several real estate projects across the state. Over the years, the answering respondent has established a reputation for undertaking real estate developments of high quality. The answering respondent is being duly represented in the present proceedings through its authorised representative, Mr. Suchha Singh Khatri.

b) That the answering respondent was granted licences bearing Nos. 106 and 107 dated 26.12.2013 and Licences bearing Nos. 135 and 136 of 2014 dated 26.08.2014 for the development of the land in question. In furtherance thereof, the answering respondent entered into two joint development agreements (JDAs) with M/s Supertech Limited, dated 25.04.2014 and 26.08.2014, respectively.

c) That, in terms of the aforesaid Joint Development Agreements, M/s Supertech Limited was responsible for developing and marketing the project. Accordingly, the complainant, along with several other prospective allottees, approached M/s Supertech Limited and made enquiries regarding the project. Upon conducting due diligence and receiving the requisite information regarding the project, the complainant decided to book an apartment/unit in the said project.

d) That, after duly understanding the contractual terms and conditions, including the applicable payment plans, the complainant voluntarily

executed the buyer developer agreement dated 07.03.2018 with M/s Supertech Limited in respect of apartment no. 0604, situated on the 6th floor of tower-b, having a super area of 1180 sq. ft.

e) That, in the meantime, pursuant to the enactment and implementation of the Real Estate (Regulation and Development) Act, 2016, the project was registered before the Haryana Real Estate Regulatory Authority, Panchkula, vide Registration No. 182 of 2017 dated 04.09.2017, on the basis of an application filed in the name of M/s Supertech Limited.

f) That this Authority, vide its order dated 29.11.2019 passed in Suo motu complaint no. 5802 of 2019, issued certain directions concerning the transfer of assets and liabilities relating to the projects namely, "Hues" and "Azalia", in favour of the answering respondent, M/s Sarv Realtors Pvt. Ltd., and M/s DSC Estate Developer Pvt. Ltd., respectively. The Authority further directed that M/s Sarv Realtors Pvt. Ltd. and M/s DSC Estate Developer Pvt. Ltd. be brought on record as the promoters of the respective projects in place of M/s Supertech Limited.

g) That, thereafter, the aforesaid joint development agreements were mutually cancelled by the parties through a cancellation agreement dated 03.10.2019. Pursuant thereto, the answering respondent took responsibility for the development of the project and commenced marketing and allotment of new units in its own name.

h) That, in terms of the aforesaid cancellation agreement, the answering respondent and M/s Supertech Limited mutually agreed to cancel the Joint Development Agreements, as M/s Supertech Limited was unable to complete and develop the project within the timelines prescribed by this Authority and the Department of Town and Country Planning (DTCP).

i) That, in the meantime, the entire nation was gripped by the COVID-19 pandemic commencing from March 2020. The Government of India itself recognised the said pandemic as a Force Majeure event, thereby warranting an extension of the timeline for handing over possession of the apartment to the complainant.

j) That it is submitted that the construction of the project is in full swing and that any delay, if at all, has primarily been caused by the lockdowns imposed by the Government, which brought construction activities to a standstill. Even as on date, several restrictions and embargoes continue to affect construction activities at full operational capacity.

k) That the present complaint is liable to be dismissed at the threshold, particularly in view of the complainant's own admission that the buyer developer agreement was executed exclusively with M/s Supertech Limited. Furthermore, all payments towards the booking of the apartment were also made to M/s Supertech Limited. Thus, there exists no privity of contract between the complainant and the answering respondent, nor has any payment been made by the complainant to the answering respondent. Accordingly, the present complaint deserves to be dismissed on this ground alone.

l) That the present complaint is further liable to be adjourned sine die or dismissed, as respondent No. 1, M/s Supertech Limited, is undergoing Corporate Insolvency Resolution Process. Consequently, in view of the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016, the present complaint cannot proceed in its existing form.

m) That it is submitted that M/s Supertech Limited and the answering respondent have been held jointly and severally liable in terms of the

Suo Motu order passed by this Authority in respect of the project in question. Accordingly, the present proceedings cannot proceed further unless and until the respective liabilities towards the allottees are duly bifurcated between the answering respondent and M/s Supertech Limited. The answering respondent cannot be fastened with the entire liability in respect of allotments made and amounts/sale consideration received by M/s Supertech Limited.

n) That the present complaint is further liable to be dismissed at the threshold, as the complainant is admittedly a wilful defaulter. As evident from the contents of the complaint itself, against the total sale consideration of Rs. 51,13,000/-, the complainant has paid only an amount of Rs. 16,00,000/- and has failed to make any further payment thereafter. It is a settled principle that no person can be permitted to take advantage of his or her own wrong. Having failed to make the payments as per the agreed payment plan, the complainant is not entitled to claim the reliefs sought in the present complaint.

o) That the present complaint, in its existing form, is not maintainable and has been instituted on false, frivolous and baseless grounds. A bare perusal of the complaint does not disclose any cause of action in favour of the complainant. The present proceedings have been initiated with a mala fide intention to pressurise and blackmail the answering respondent by instituting a frivolous complaint.

p) That the delay in construction of the project has occurred due to reasons and circumstances which are not attributable to the answering respondent. It is pertinent to mention that the flat buyer agreements expressly provide that, in the event of delay in delivery of the allotted unit for reasons beyond the control of the developer/respondent, the

developer/respondent shall be entitled to a proportionate extension of time for completion of the project.

q) That, in view of the Force Majeure clause contained in the agreement, any delay arising on account of circumstances beyond the control of the answering respondent, including but not limited to disputes with the construction agencies engaged by the respondent, the COVID-19 pandemic, shortage of labour, shortage of raw materials and stoppage of construction work pursuant to court orders, cannot be attributed to any default or negligence on the part of the answering respondent. Accordingly, the answering respondent is entitled to the benefit of the Force Majeure clause in respect of the delay, if any, in completion of the project.

r) That, with respect to the agreement in question, the stipulated date for delivery of possession of the allotted unit was on or before July 2019, with an additional grace period of six months as provided under the buyer's agreement. Thus, in terms of the agreement, possession was required to be handed over within the extended period. However, the aforesaid timeline was subject to the Force Majeure provisions contained in clause 43 of the agreement. It is a matter of fact that completion and delivery of a real estate project is a dynamic process and is dependent upon various circumstances and contingencies. In the present case, the Answering Respondent made sincere efforts to complete the project and deliver possession within the stipulated timeline. However, due to the reasons and circumstances explained herein, the answering respondent could not complete the project within the originally contemplated period.

s) That it is submitted that the timelines stipulated under the flat buyer agreements were tentative in nature and were subject to extension on account of force majeure events and other circumstances beyond the control of the answering respondent. The answering respondent, in its endeavour to complete the construction within the stipulated timeline, had obtained various licences, approvals, sanctions, permits and extensions from time to time, as and when required. It is evident that the answering respondent had obtained the requisite licences and permissions before commencing construction of the project.

t) That it is pertinent to mention that, despite its best efforts to deliver timely possession of the residential unit booked by the complainant, the answering respondent could not do so due to certain limitations, reasons and circumstances beyond its control. Apart from the defaults committed by certain allottees, including the complainant, the delay in completion of the project was also attributable to various reasons and circumstances which were beyond the control of the answering respondent.

u) That it is submitted that the very object and purpose of a Force Majeure clause is to protect a performing party from the consequences of events and circumstances over which it has no control. It is a settled principle that Force Majeure provisions are intended to cover risks and events beyond the reasonable control of a party, which do not arise from any negligence or wrongful conduct on its part and which materially affect its ability to perform its contractual obligations. Such circumstances include events arising from external forces or intervening circumstances contemplated under the contractual provisions. Accordingly, in view of the aforesaid circumstances, it is

most respectfully submitted that the delay in construction, if any, was attributable to reasons beyond the control of the answering respondent, and the answering respondent is therefore entitled to a reasonable extension of time in accordance with the terms of the allotment letter.

v) That it is a matter of public knowledge that the demonetisation of the Indian economy had a significant adverse impact on the real estate sector, which has also been recognised by various Courts and quasi-judicial forums. The real estate sector is substantially dependent upon the availability and movement of cash, particularly for making payments to labourers and contractors. The implementation of demonetisation resulted in serious operational difficulties in the real estate sector, thereby affecting the construction activities undertaken by the answering respondent for a period of approximately 4–6 months. The real estate sector has continued to experience the adverse effects of demonetisation, which contributed to the delay in completion of the project. Accordingly, the aforesaid circumstances fall within the scope of Force Majeure and warrant an extension of the timeline for completion of the project.

w) That the complainant has not approached this Authority with clean hands and has suppressed true and material facts from the present proceedings. It is pertinent to mention that the complainant is merely a speculative investor and has no genuine intention of taking possession of the allotted apartment. In view of the aforesaid conduct, the present complaint is liable to be dismissed at the threshold.

x) That it is submitted that the project namely "Hues" is duly registered with the Haryana Real Estate Regulatory Authority vide Registration

certificate no. 182 of 2017 dated 04.09.2017. The said registration certificate was issued by the Authority for the period commencing from 04.09.2017 and valid up to 31.12.2021.

y) That it is pertinent to reiterate that possession of the allotted premises was proposed to be delivered by the respondent to the apartment allottee by July 2019, with an additional grace period of six months. However, the completion of the building was affected due to the non-availability of steel, cement and other building materials, shortage of water supply and electricity, slowdowns, strikes and insufficiency of the labour force, all of which were beyond the control of the Respondent. In the event of non-delivery of possession arising from any of the aforesaid circumstances, the respondent is entitled to a reasonable extension of time for delivery of possession in accordance with the terms of the agreement executed between the complainant and the respondent. The respondent and its officials are making continuous efforts to complete the project at the earliest, and there is no mala fide intention on the part of the respondent to deliberately delay the completion and delivery of the project to the allottees.

z) That it is further submitted that the RERA Act was enacted with the objective of facilitating the provision of housing facilities with modern development infrastructure and amenities to allottees and protecting their interests in the real estate sector. The primary intention of the respondent is to complete the project within the stipulated timeline submitted before this Authority. It is further submitted that, in terms of the provisions of the builder buyer agreement, the amount payable on account of delay in possession is to be duly paid or adjusted in

favour of the complainant at the time of final settlement, at the stage of the offer of possession.

aa) That it is pertinent to submit that where the parties have consciously entered into a contract and have expressly defined and limited their respective rights and liabilities thereunder, the parties are bound by the terms of such contract. Accordingly, no relief beyond the contractual terms and limitations agreed upon between the parties can be granted.

bb) That, apart from the aforesaid circumstances, the Hon'ble Supreme Court of India, vide its order dated 04.11.2019, imposed a blanket stay on all construction activities in the Delhi-NCR region. The project "Hues" of the answering respondent also fell within the ambit of the aforesaid order, resulting in virtually no construction activity at the project site for a considerable period. It is further pertinent to mention that similar orders restricting construction activities had also been passed during the winter seasons of the preceding years, namely 2017-2018 and 2018-2019. It is most respectfully submitted that a complete prohibition on construction activities at the project site inevitably results in a prolonged interruption in the construction process. Further, during such periods, the labourers engaged at the site are compelled to leave for their native places or seek employment in other States. Consequently, even after the restrictions are lifted, the resumption of construction activities is a gradual process, and considerable time is required before the construction work can return to its normal pace.

cc) That it is further relevant to mention that the Graded Response Action Plan, aimed at controlling major sources of pollution, was implemented

during the winter seasons of 2017-2018 and 2018-2019. The short-term measures imposed during periods of severe smog included closure of power plants and industrial units, restrictions and bans on construction activities, closure of brick kilns, action against waste burning, measures concerning construction-related pollution, mechanised cleaning of road dust and limited implementation of the odd-even scheme. The implementation of these measures also affected construction activities and contributed to the circumstances resulting in delay in completion of the project.

7. 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 complainant.

E. Jurisdiction of the authority

8. 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

9. 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

10. 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.*

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainant.

F.I Direct the respondent to complete the project as per the agreement and hand over the possession of the unit, with occupation certificate and all basic amenities as promised.

F.II Direct the respondent to pay delay interest on amount of Rs. 16,00,000/- from the promised date of possession dated June 2019 till the actual delivery of physical possession.

F.III Direct the respondent execute to the conveyance deed in favour of complainant after getting the occupation certificate from competent Authority.

12. The above-mentioned reliefs sought by the complainant are being taken together, as the findings in one relief will necessarily affect the outcome of the others and the same being interconnected.

13. The complainant intends to continue with the project and is seeking delay possession charges at a prescribed rate of interest on the amount already paid by him as provided under the proviso to Section 18(1) of the Act, which 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."*

14. **Due date of handing over possession:** As per Clause 1 of the Builder Buyer Agreement (BBA), the possession of the allotted unit was to be handed over to the allottee by June 2019. However, the respondent/promoter was entitled to a further grace period of six months. Accordingly, after allowing the grace period of six months, the due date for handing over possession works out to 31.12.2019. The relevant clause of the BBA is reproduced below for ready reference:

> **Clause 1: POSSESSION OF UNIT**
> *"The possession of the unit shall be given to the allottee by the company by JUNE 2019. However, this period can be extended for a further grace period of 6 months. The possession clause is subject to the timely payment of all instalments and other dues by the allottee and the allottee agrees to strictly abide by the same in this regard."*

15. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges till the date of delivery of possession to the complainant. 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, ibid. 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."*

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

17. 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., 14.08.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.

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

20. Upon consideration of the documents available on record and the submissions made by both the parties, this Authority is satisfied that the Respondent is in contravention of Section 11(4)(a) of the Real Estate (Regulation and Development) Act, 2016 by failing to hand over possession of the subject unit within the stipulated period as agreed between the parties. By virtue of Clause 1 of the Apartment Buyer's Agreement dated 07.03.2018 executed between the parties, the possession of the subject apartment was to be delivered on or before 31.12.2019. However, the Respondent failed to hand over possession by the said committed date, thereby violating the terms of the Agreement as well as the statutory obligation cast upon it under the Act.

21. It is the failure of the promoter to fulfil its obligations and responsibilities as per the buyer's agreement to hand over the possession within the stipulated period. 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 the prescribed rate of interest i.e. @10.80% p.a. w.e.f. 13.12.2019 till the offer of possession plus 2 months or actual handing over of possession, whichever is earlier as per provisions of Section 18(1) of the Act read with Rule 15 of the Rules, ibid.

G. Directions of the Authority

22. 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 no. 2 is directed to pay interest on the amount paid by the complainant at the prescribed rate of 10.80% p.a. for every month of delay from the due date of possession i.e., 31.12.2019 till the offer of possession plus 2 months 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 interest accrued so far shall be paid to the complainant within 90 days from the date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules, ibid.

III. The complainant is also directed to pay outstanding dues, if any, after adjustment of interest for the delayed period. The rate of interest chargeable from the allottee 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, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.

IV. The respondent no. 2 is directed to hand over possession of the subject unit to the Complainant/Allottees, upon payment of outstanding dues, if any. The Respondent shall further ensure execution of the conveyance deed in respect of the allotted unit in favour of the Complainant, in terms of Section 17(1) of the Real Estate (Regulation

and Development) Act, 2016, subject to payment of applicable stamp duty and registration charges.

V. The respondent no. 2 shall not charge anything from the complainant which is not part of the buyer's agreement

23. The complaints stand disposed of.

24. Files be consigned to the registry.

(Arun Kumar)
Chairman
Haryana Real Estate Regulatory Authority, Gurugram
Dated: 14.08.2026

HARERA
GURUGRAM