BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Complaint no.:	**5374 of 2025**
Date of filing of complaint:	**28.10.2025**
Date of Order:	**13.10.2026**

Sunil Kumar Kaushik
R/o: House No. D-797, Chawla Colony, Ballabgarh, Faridabad-121004 — **Complainant**

Versus

Tulsiani Constructions & Developers Pvt. Ltd.
Office at: Plot No. 3, Block "N", Green Park (Main), New Delhi-110016 — **Respondent**

CORAM:
Shri Arun Kumar — Chairman

APPEARANCE:
Complainant in person — Complainant
Sh. Himanshu Singh (Advocate) — Respondent

ORDER

1. The present complaint dated 28.10.2025 has been filed by the complainant/allottee 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 provision of the Act or the Rules and regulations made thereunder or to the allottee as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	Easy In Homes
2.	Project location	Sector-35, Sohna Road, Gurugram, Haryana
3.	Project type	Affordable Group Housing
4.	DTCP License	69 of 2014 dated 25.07.2014 valid up to 24.07.2019
5.	Name of licensee	Dharmpal Singh and Surender Singh
6.	RERA Registration	144 of 2017 dated 28.08.2017valid up to 27.08.2021
7.	Date of apartment buyer's agreement	08.04.2016 (As per page no. 28 of the complaint)
8.	Unit no.	E-314, 14th floor, Tower- 3 (As per page no. 31 of the complaint)
9.	Unit area admeasuring	505.58 (Carpet Area) and 79.97 sq. ft. (Balcony Area) (As per page no. 33 of the complaint)
10.	Possession clause	*5.2 Possession Time:* *The company shall sincerely endeavour to complete the construction and offer the possession of the said unit with 48 months from the date of receiving of environment clearance or sanction of building plans, whichever is later.* (As per page no. 39 of the complaint)
	Possession clause as per Affordable Housing Policy, 2013	***1(IV) of the Affordable Housing Policy, 2013*** *All such projects shall be required to be necessarily completed within* ***4 years from the approval of building plans or grant of environmental clearance, whichever is later****. This date shall be referred to as the "date of commencement of project" for the purpose of this policy. The licenses shall not be renewed beyond the said 4 years period from the date of commencement of project.*

11.	Approval of building plans	16.06.2015 (Taken from CR/878/2023 of similar project and decided on 30.05.2024)
12.	Environment clearance	28.12.2015 (Taken from CR/878/2023 of similar project and decided on 30.05.2024)
13.	Due date of possession	28.12.2019 (**Note:** Due date to be calculated 48 months from the date of environmental clearance i.e., 28.12.2015 being later)
14.	Total sale consideration	Rs.18,60,073/- (As per page no. 34 of the complaint)
15.	Amount paid by the complainant	Rs.17,78,668/- (As per details provided by the complainant on page no. 23 of the complaint)
16.	Occupation certificate	Not obtained
17.	Offer of possession for fit-outs	22.09.2025 (As per page no. 75 of the complaint)

B. Facts of the complaint

3. The complainant has made the following submissions:

I. That the complainant, Mr. Sunil Kumar Kaushik, a bona fide allottee and investor in affordable housing, entered into a flat buyer's agreement dated 08.04.2016 with the respondent, for the allotment and purchase of flat no. E-314, a 2 BHK unit admeasuring 505 sq. ft. carpet area situated on the 14th floor in Tower-3 in the respondent's ongoing affordable housing project known as "Easy in Homes" situated at Village Dhunela, Sector-35, Sohna Road, Gurugram.

II. That as per clause 5.2 of the agreement, the respondent stipulated a general timeline for possession within 48 months from the date of sanction of building plans by the competent authority (or commencement of construction, whichever is later) or grant of

environmental clearance, whichever is later, ensuring development in accordance with the Haryana Affordable Housing Policy, 2013 and all requisite approvals.

III. That pursuant to this framework, the respondent unequivocally via clause 5.4 to hand over physical possession of the said flat, complete in all respects with common areas, fit-out works, amenities, and the mandatory occupancy certificate (OC)/ completion certificate (CC) from the competent authority on or before 31.03.2020, subject only to the complainant's timely payment of the total sale consideration (fixed at Rs.18,90,888/-, comprising basic cost of Rs.18,60,073/- plus stamp duty of Rs.1,30,205/-) and the absence of any force majeure events as defined under clause 7 thereof. It is submitted that the complainant has scrupulously adhered to his payment obligations, having remitted a cumulative sum of Rs.14,50,858/- up to the committed possession date (i.e., 31.03.2020), constituting approximately 87.5% of the basic cost, as meticulously documented in the payment schedule. The respondent's contention, if any, to the contrary, stands belied by the irrefutable evidence of bank transfers and demand notices.

IV. That notwithstanding the complainant's full compliance, the respondent has brazenly defaulted on its solemn undertaking, failing to tender possession of the flat by the stipulated date of 31.03.2020. As on the date of filing, i.e., 03.10.2025, the respondent has neither obtained nor uploaded the requisite OC/CC on the HRERA portal, in flagrant violation of Section 19(10) of RERA, which imperatively prohibits the transfer of possession without such certification, thereby rendering the Project non-compliant and exposing allottees to undue hardship. The project's status on the HRERA portal remains

stagnant at "Approved and Certificate Uploaded" (last substantive update circa 2021), with no evidence of OC issuance, underscoring the respondent's protracted administrative lapses in securing DTCP approvals.

V. That compounding this delinquency, the respondent, in a patently mala fide and misleading maneuver, issued an offer of possession dated 17.07.2025 to the complainant, falsely averring that the flat is "ready for fit-out possession on the basis of occupancy certificate issued by the competent authority," complete with one underground and one stilt parking space. The said offer imperiously demands immediate clearance of purported outstanding dues of Rs.2,89,583/- (Rs.2,61,110/- payable to the respondent for final charges/reimbursements, including internal electrification and reimbursable labor cess, plus Rs.28,473/- to Tulsiani Fitness and Healthcare Pvt. Ltd. for security deposits and maintenance charges. It is respectfully submitted that this offer is wholly illusory and unenforceable ab initio, as it predicates itself on a non-existent OC—a fact corroborated by the HRERA portal (as of October 2025, explicitly stating "OC not granted"). Such conduct not only perpetuates the delay but also constitutes a deliberate misrepresentation under Section 12 of Act, 2016 warranting penal consequences.

VI. That qua the respondent's potential invocation of force majeure, particularly the COVID-19 lockdown period (15.03.2020 to 15.09.2020; 184 days), it is averred that while the Authority extended a one-time exemption vide Advisory dated May, 2020 pursuant to MHA order dated 13.03.2020, the same is wholly inapposite to the instant case. The default crystallized on 31.03.2020—post the exemption's inception—and no bespoke notification of site closure or

impact was ever communicated to the complainant by the respondent, as mandated under clause 7 of the agreement. Moreover, the persistent non-issuance of OC stems from administrative bottlenecks (DTCP processing), amenable to virtual submissions post April, 2020, and not direct lockdown impediments to construction. With over five years elapsed post-exemption, the respondent cannot cloak its negligence in the garb of a transient pandemic.

VII. That the aforesaid defaults have inflicted manifold prejudice upon the complainant, including opportunity costs, escalated living expenses (e.g., rental equivalents in Gurgaon), and emotional distress, all while the respondent unjustly withholds the fruits of the complainant's investment. The complainant, desirous of continuing with the allotment, invokes the protective ambit of Section 18(1)(b) of Act, 2016 read with Rule 15 of the Rules, 2017, seeking enforcement of possession post OC alongside compensatory interest, sans termination.

VIII. That all averments hereinabove are true to the deponent's knowledge and belief, corroborated by annexed documents, and no material particular has been concealed. The respondent be called upon to demonstrate compliance, failing which the Authority may graciously mould relief in the paramount interest of justice.

C. Relief sought by the complainant:

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

i. Declare the offer of possession dated 22.09.2025 invalid due to non-issuance of OC and direct the respondent to obtain and upload OC immediately.

ii. Direct the respondent to pay delay interest on Rs.17,78,668/- under Rule 15 until legal possession handover.

iii. Direct handover of flat no. E-314 post OC, with all amenities, without further demands until compliance.

iv. Award litigation costs, compensation for mental agony/financial losses (e.g., rental equivalents), and penalties under Section 18(2) of the Act, 2016.

v. Direct the respondent to pay the complainant Rs.8,00,000/- for mental agony/harassment and for deficiency of service and Rs.50,000/- towards cost of legal expenses.

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.

6. The authority issued a notice dated 29.10.2025 to the respondent by speed post and also on the given email address at skaushikblb@rediffmail.com and tcdl.cmd@gmail.com for filing of reply and putting up appearance on the date fixed for hearing. The delivery reports have been placed in the file. The respondent/promoter put in appearance through its Advocate and marked attendance on 03.03.2026 and sought short adjournment for filing of the reply. Despite a lapse of more than a year since the notice has been issued to the respondent to file reply, it failed to file the reply. It shows that the respondent was intentionally delaying by avoiding filing of written reply and the authority is left with no option but to strike off the defence of the respondent. Therefore, the defence of the respondent is hereby struck off.

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 parties.

D. 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.

D.I Territorial jurisdiction

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.

D.II Subject matter jurisdiction

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.

9. 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.

E. Findings on the relief sought by the complainant:

E.I Declare the offer of possession dated 22.09.2025 invalid due to non-issuance of OC and direct the respondent to obtain and upload OC immediately.

10. In the present complaint, the complainant was allotted a unit in the project of respondent "Easy In Homes" situated in Sector-35, Gurugram for a total sale consideration of Rs.18,60,073/-. An apartment buyer's agreement was executed between the parties on 08.04.2016 and the complainant has started paying the amount due against the allotted unit and paid an amount of Rs.17,78,668/-.

11. On perusal of documents placed on record, the Authority observes that the respondent has made an offer of possession for fit-outs on 22.09.2025 which is prior to the obtaining of occupation certificate, as the respondent has not obtained the occupation certificate of the project till date. The complaint has sought the relief of setting aside the offer of possession for fit-outs dated 22.09.2025 being invalid.

12. The Authority would express its views regarding the concept of a "valid offer of possession". It is necessary to clarify this concept because, after a valid and lawful offer of possession, the liability of the promoter for the delayed offer of possession comes to an end. On the other hand, if the possession is not valid and lawful, the liability of the promoter continues till a valid offer is made and the allottee remains entitled to receive interest for the delay caused in handing over of possession. The Authority after a detailed consideration of the matter has concluded that a valid offer of possession must have the following components:

a. *The possession must be offered after obtaining an occupation certificate/completion certificate.*

b. *The subject unit must be in a habitable condition.*

c. *Possession should not be accompanied by unreasonable additional demands.*

13. In the present case, the essential condition for a valid offer of possession has not been met. The occupation certificate for the project in which the subject unit is located is yet to be obtained by the respondent. However, the respondent had offered possession for the fit-out of the allotted unit prior to obtaining this certificate, specifically on 22.09.2025. Consequently, this offer does not constitute a valid offer of possession.

14. The Department of Town and Country Planning is the competent Authority to issue the occupation certificate of the project which has been issued on completion of project and fulfilling of necessary requisites for issuance of occupation certificate. Thus, no directions to this effect.

E.II Direct the respondent to pay delay interest on Rs.17,78,668/- under Rule 15 until legal possession handover.

E.III Direct handover of flat no. E-314 post OC, with all amenities, without further demands until compliance.

15. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.

16. In the present complaint, the complainant intends to continue with the project and is seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under:

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

17. Clause 5.2 of the agreement for sale dated 08.04.2016 provides for handing over of possession and is reproduced below:

> ***5.2 Possession Time:***
> *The company shall sincerely endeavour to complete the construction and offer the possession of the said unit with 48 months from the date of receiving of environment clearance or sanction of building plans, whichever is later.*

18. At the outset, it is relevant to comment on the preset possession clause of the agreement wherein the possession has been subjected to all kinds of terms and conditions of this agreement and application, and the complainants not being in default under any provisions of these agreements and compliance with all provisions, formalities and documentation as prescribed by the promoter. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favour of the promoter and against the allottees that even a single default by the allottees in fulfilling formalities and documentations etc. as prescribed by the promoter may make the possession clause irrelevant for the purpose of allottees and the commitment date for handing over possession loses its meaning. The incorporation of such clause in the buyer's agreement by the promoter is not only in grave violation of clause 1(iv) of the Affordable Housing Policy, 2013, but also deprive the allottees of their right accruing after delay in possession. This is just to comment as to how the builder has misused his dominant position and drafted such mischievous clause in the agreement and the allottees are left with no option but to sign on the dotted lines.

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

> ***1 (iv)***
> *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance,*

whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of the policy."

20. **Due date of handing over of possession:** As per clause 1(iv) of the Affordable Housing Policy, 2013 it is prescribed that *"All such projects shall be required to be necessarily completed within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. This date shall be referred to as the "date of commencement of project" for the purpose of this policy.* The respondent has obtained environment clearance and building plan approval in respect of the said project on 16.06.2015 and 28.12.2015 respectively. Therefore, the due date of possession is being calculated from the date of environmental clearance, being later. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 28.12.2019.

21. **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.*

22. 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. 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., 13.10.2026 is **8.80%.** Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%.**

23. The definition of term 'interest' as defined under Section 2(za) of the Act provides that the rate of interest chargeable from the allottees by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottees, 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;"*

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

25. On consideration of the documents available on record and submissions made by both the parties, the Authority is satisfied that the respondent is in contravention of the Section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 1(iv) of the Affordable Housing Policy, 2013, the respondent/promoter shall be

necessarily required to complete the construction of the project within 4 years from the date of approval of building plans or grant of environmental clearance, whichever is later. Therefore, in view of the findings given above, the due date of handing over of possession was 28.12.2019. However, the respondent has failed to handover possession of the subject apartment to the complainant till the date of this order. Accordingly, it is the failure of the respondent/promoter to fulfil its obligations and responsibilities as per the agreement to hand over the possession within the stipulated period. Moreover, the Authority observes that there is no document on record from which it can be ascertained as to whether the respondent has applied for occupation certificate or what is the status of construction of the project. Hence, this project is to be treated as on-going project and the provisions of the Act shall be applicable equally to the builder as well as allottees.

26. Accordingly, the non-compliance of the mandate contained in Section 11(4)(a) read with proviso to Section 18(1) of the Act on the part of the respondent is established. As such, the allottee shall be paid, by the promoter, interest for every month of delay from due date of possession i.e., 28.12.2019 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.

27. Further, as per Section 11(4)(f) and Section 17(1) of the Act of 2016, the promoter is under an obligation to handover possession of the unit and to get the conveyance deed executed in favour of the allottee. Whereas as per Section 19(11) of the Act of 2016, the allottee is also obligated to participate towards registration of the conveyance deed of the unit in question. However, the respondent has failed to obtain occupation

certificate from the competent authority till date. In view of the above, the respondent is directed to handover possession of the flat/unit and execute conveyance deed in favour of the complainant in terms of Section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable, within three months after obtaining occupation certificate from the competent authority.

E.IV Award litigation costs, compensation for mental agony/financial losses (e.g., rental equivalents), and penalties under Section 18(2) of the Act, 2016.

E.V Direct the respondent to pay the complainant Rs.8,00,000/- for mental agony/harassment and for deficiency of service and Rs.50,000/- towards cost of legal expenses.

28. The above-mentioned relief(s) sought by the complainant are taken together being inter-connected.

29. The complainant is seeking relief w.r.t compensation in the aforesaid relief, **Hon'ble Supreme Court of India in civil appeal titled as M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. Supra** held that an allottee is entitled to claim compensation 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 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.

F. Directions of the authority:

30. 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 the complainant against the paid-up amount at the prescribed rate of 10.80% p.a. for

every month of delay from the due date of possession i.e., 28.12.2019 till valid offer of possession plus 2 months after obtaining occupation certificate from the competent authority or actual handing over of possession, whichever is earlier, as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules.

ii. The arrears of such interest accrued from 31.07.2023 till the date of order by the Authority shall be paid by the promoter to the allottee within a period of 90 days from date of this order and interest for every month of delay shall be paid by the promoter to the allottee before 10th of the subsequent month as per Rule 16(2) of the Rules.

iii. The respondent is directed to supply a copy of the updated statement of account after adjusting delay possession charges within a period of 30 days to the complainant.

iv. The complainant is directed to pay outstanding dues, if any, after adjustment of delay possession charges within a period of 60 days from the date of receipt of updated statement of account.

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

vi. 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.

vii. The respondent shall not charge anything from the complainant which is not a part of the apartment buyer's agreement dated 08.04.2016 or provided under the Affordable Housing Policy, 2013.

31. Complaint stand disposed of.

32. File be consigned to registry.

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

Dated: 13.10.2026

HARERA
GURUGRAM