

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

**Complaint no. : 4297 of 2019**  
**Date of first hearing : 07.11.2019**  
**Date of decision : 01.10.2020**

Anjum Chopra  
R/o: Leo House Chopra Farms, Next to  
St. Brij Mohan Lal School, Village  
Anangpur, Faridabad, Haryana -121002  
Versus

**Complainant**

M/s Ireo Grace Realtech Pvt. Ltd.,  
Office at: 304, Kanchan House, Karampura,  
Commercial Complex, New Delhi 110015

**Respondent**

**CORAM:**

Shri K. K. Khandelwal  
Shri Samir Kumar  
Shri Subhash Chander Kush

**Chairman**  
**Member**  
**Member**

**APPEARANCE:**

Shri Rishabh Gupta Advocate for the complainant  
Shri M K Dang Advocate for the respondent

**ORDER**

1. The present complaint dated 17.09.2019 has been filed by the complainant/allottee in Form CRA 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 to the allottee as per the agreement for sale executed inter se them.

2. The particulars of the project, the details of 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.	Heads	Information
1.	Name and location of the project	"The Corridors", Sector 67A, Gurugram, Haryana
2.	Project area	37.5125 acres
3.	Nature of the project	Group housing colony
4.	RERA registered/ not registered	<b>Registered in 3 Phases vide no. 377 of 2017 dated 07.12.2017, 378 of 2017 dated 07.12.2017 &amp; 379 of 2017 dated 07.12.2017</b>
5.	RERA registration valid Upto	Registered vide no. 377 of 2017 valid up to 30.06.2020 and 378 of 2017 valid up to 30.06.2020 Registered vide no. 379 of 2017 valid up to 31.12.2023
6.	<b>DTCP license no. and validity status</b>	<b>05 of 2013 dated 21.02.2013 valid up to 20.02.2021</b>
7.	<b>Name of the Licensee</b>	<b>M/s Precision Realtors Pvt. Ltd. And others</b>
8.	Unit no.	503, 5 <sup>th</sup> Floor, Tower C-7
9.	Unit admeasuring	1540.42 sq. ft.

10.	Date of apartment buyer's agreement	07.07.2014
11.	Total consideration (as per payment plan at page 79 of complaint)	Rs. 1,51,58,046.12/-
12.	Total amount paid by the complainant (as per statement of account dated 11.06.2019 at page 95 of reply)	Rs. 1,48,60,355/-
13.	Payment plan	Construction linked payment plan
14.	Due date of delivery of possession (as per clause 13.3 of the apartment buyer's agreement- within 42 months from the date of approval of the building plans and/or fulfilment of the preconditions along with 180 days grace period)	27.11.2018 <b>Note:</b> - Calculated from firefighting approvals dated 27.11.2014 as admitted in para 13 at page 11 of reply
15.	Date of occupation certificate	31.05.2019 (as admitted by respondent in para 13 at page 11 of reply)
16.	<b>Date of offer of possession to the complainant</b>	<b>11.06.2019</b> (page 114 of complaint)
17.	Delay in handing over possession till date of offer of possession i.e. 11.06.2019	6 months 15 days

3. As per clause 13.3 of the apartment buyer's agreement, the possession of the unit in question was to be handed over within a period of 42 months from the date of approval of the building plans and/or fulfilment of the preconditions imposed thereunder plus grace period of 180 days which comes out to

be 27.11.2018 (calculated from firefighting approval i.e. 27.11.2014). Clause 13.3 of the apartment buyer's agreement is reproduced below:

"13. POSSESSION AND HOLDING CHARGES

*13.3. Subject to Force Majeure, as defined herein and further subject to the Applicant having complied with all its obligations under the terms and conditions of this Agreement and the Applicant not having defaulted under any provision(s) of this Agreement including but not limited to the timely payment of the total sale consideration, Stamp Duty and other charges and also subject to the Applicant having complied with all formalities or documentation as prescribed by the Company proposes to hand over the possession of the said Apartment to the Applicant within a period of 42 months from the date of approval of the Building Plan and/or fulfilment of the preconditions imposed thereunder ("Commitment Period"). The Allottee further agrees and understands that the Company shall additionally be entitled to a period of 180 days ("Grace Period"), after the expiry of the said Commitment Period to allow for unforeseen delays beyond the reasonable control of the company."*

4. The complainant submitted that the apartment buyer's agreement was executed between the parties on 07.07.2014. The complainant has already invested a substantial amount of Rs. 1,48,60,354.72 in this residential apartment and is also

willing to pay the balance amount due towards him but due to the non-completion of the project as per the commitments made by the respondent the complainant filed this complaint for the aforementioned relief:

- i. Direct the respondent to pay interest on the amount paid by him at prescribed rate towards delay in handing over the possession of property in question as per the provisions of the Act and the Rules.
5. On the date of hearing, the authority explained to the respondent/promoter about the contravention 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 respondent submitted the reply on 22.10.2019 and an additional affidavit has also been filed on behalf of the respondent on 07.01.2020. The respondent contests the complaint on the following grounds:
- i. That based on the application for booking, the respondent vide its allotment offer letter dated 07.08.2013 allotted to the complainant apartment bearing no. CD-C7-05-503 having tentative super area of 1540.42 sq. ft. for a total sale consideration of Rs. 1,51,58,046.12. However, the complainant failed to return either of the signed copies of

the agreement despite reminder dated 28.05.2014 by the respondent.

- ii. That the complainant is a willful defaulter as the balance amount is due and payable by the complainant to the respondent.
- iii. That despite the approval of the building plan on 23.07.2013 the construction could not commence as approval granted by DTCP Haryana imposed certain conditions precedent that have to be complied with before any construction activity could commence in relation to the said project. The respondent on receipt of building plan approval as above forthwith filed respective applications for fulfillment of conditions imposed thereunder as most of the payment obligation of the complainant/allottee is (70-80%) linked to the construction. Accordingly, the respondent filed an application for fire scheme approval on 23.10.2013. However, since "The Corridors" project is very large, comprising of more than 34 towers and 2009 apartments over multiple phases, safety being major concern of the department, despite multiple interactions with the department, the fire scheme approval was granted on 27.11.2014.

- iv. That the respondent has not taken any installment linked to actual construction prior to 27.11.2014 and only on or after 27.01.2015 demand for casting of lower roof slab was sent to the allottee in the project including the complainant herein. The respondent has already offered the possession of the unit to the complainant vide notice of possession dated 11.06.2019 strictly as per the terms of the allotment.
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.
8. The Authority, on the basis of information and other submissions made and the documents filed by the complainant and the respondent, is of considered view that there is no need of further hearing in the complaint.
9. Arguments heard.
10. The authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter as held in ***Simmi Sikka v/s M/s EMAAR MGF Land Ltd.*** leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

11. On consideration of the circumstances, the documents and other record and submissions made by the parties and based on the findings of the authority regarding contravention as per provisions of rule 28(2), the authority is satisfied that the respondent is in contravention of the provisions of the Act. By virtue of clause 13.3 of the apartment buyer's agreement dated 07.07.2014, possession of the booked unit was to be delivered within a period of 42 months plus 180 days grace period from the date of approval of the building plans and/or fulfilment of the preconditions imposed thereunder. In the present case, the due date of handing over of possession is calculated from firefighting approval i.e. 27.11.2014. The grace period of 180 days is allowed to the promoter due to exigencies beyond the control of the developer. Therefore, the due date of handing over possession comes out to be 27.11.2018. Since, the promoter has handed over the possession to the complainant on 11.06.2019. Accordingly, it is the failure of the promoter to fulfil his obligations, responsibilities as per the apartment buyer's agreement dated 07.07.2014 to hand over the possession within the stipulated period.
12. 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. In the present case, the



possession of the said unit was offered by the respondent to the complainant on 11.06.2019. As such the complainant is entitled to delayed possession charges interest at the prescribed rate of interest i.e. 9.30% p.a. w.e.f. 27.11.2018 till the offer of possession i.e. 11.06.2019 as per provisions of section 18(1) of the Act read with rule 15 of the Rules.


13. Hence, the Authority hereby pass the following order and issue directions under section 34(f) of the Act:
- i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30 % per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 27.11.2018 till the offer of possession i.e. 11.06.2019.
  - ii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order.
  - iii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
  - iv. The respondent shall not charge anything from the complainant which is not part of the apartment buyer's agreement.
  - v. Interest on the due payments from the complainant shall be charged at the prescribed rate @9.30% by the


promoter which is the same as is being granted to the complainant in case of delayed possession charges.

14. Complaint stands disposed of.

15. File be consigned to registry.

  
**(Samir Kumar)**  
Member

  
**(Subhash Chander Kush)**  
Member

  
**(Dr. K.K. Khandelwal)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 01.10.2020

**JUDGEMENT UPLOADED ON 09.10.2020**

  
**HARERA**  
GURUGRAM