

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

Complaint no. : 817 of 2019
First date of hearing: 30.07.2019
Date of decision : 08.04.2021

Mr. Himanshu Dadlani

**R/O: - C2B, 39A, Janakpuri New, Delhi-
110058**

Complainant

Versus

1. M/s BPTP Limited
2. M/s Countrywide Promoters Pvt. Ltd.

**Both Having Regd. Office at: - M-11, Middle
Circle, Connaught Circus, New Delhi-110001**

Respondents

3. Housing Development Finance Corporation
Limited

**Regd. Office at: - HDFC Bank House, Senapati
Bapat Marg, Lower Parel, Mumbai,
Maharashtra- 400013**

CORAM:

Dr. K.K. Khandelwal
Shri Samir Kumar

**Chairman
Member**

APPEARANCE:

Smt. Vridhi Sharma
Himanshu Dadlani
Sh. Venket Rao

Advocate for the complainant

Complainant in person

Advocate for the respondent

no.1 and no. 2

Smt. Amrita Singh

Advocate for respondent no. 3

ORDER

1. The present complaint dated 27.02.2019 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 there under or to the allottee as per the agreement for sale executed inter se.

A. Unit and project 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	Heads	Information
1.	Unit no.	T-25-901, 9 th floor, tower T25 (Page no. 41 of the complaint)
2.	Unit measuring	1691 sq. ft. (Page no. 41 of the complaint)
3.	Allotment letter	07.12.2012 (Page no. 54 of the reply)
4.	Date of execution of flat buyer's agreement	24.12.2012 (Page no. 36 of the complaint)
5.	Date of execution of tripartite agreement	29.12.2012 (Page no. 95 of reply)
6.	Payment plan	Subvention scheme payment plan (Page no. 54 of reply)

7.	Total consideration	Rs. 98,28,680.30/- (As per ledger account dated 29.10.2018 on page no. 69 of the complaint)
8.	Total amount paid by the complainant	Rs. 98,22,511.30/- (As per ledger account dated 29.10.2018 on page no. 69 of the complaint)
9.	Due date of delivery of possession as per clause 5.1 read with clause 1.6 of the apartment buyer agreement. (Note: - 42 months from the date of sanction of the building plan or execution of agreement, whichever is later plus 180 days of grace period after the expiry of the said commitment period for making offer of possession of the said unit.)	24.06.2016 (Due date is calculated from the date of execution of agreement being later) (Note: - Grace period is not allowed)
10.	Offer of possession	Not offered
11.	Occupation certificate	Occupation Certificate for this tower has not been received.
12.	Delay in handing over possession till the date of decision i.e. 08.04.2021	4 years 9 months 15 days

3. The particulars of the project namely, "Park Terra" as provided by the registration branch of the authority are as under:

Project related details		
1.	Name of the promoter	M/s BPTP Ltd.
2.	Name of the project	Park Terra
3.	Location of the project	Sector-37D, Gurugram
4.	Nature of the project	Group Housing Project



5.	Whether project is new or ongoing	Ongoing	
6.	Registered as whole/phase	Phase	
7.	If developed in phase, then phase no.	Not Provided	
8.	Total no. of phases in which it is proposed to be developed, if any	Not Provided	
9.	HARERA registration no.	299 of 2017	
10.	Registration certificate	Date	Validity
		13.10.2017	12.10.2020
11.	Area registered	10.23 acres	
12.	Extension applied on	N/A	
13.	Extension certificate no.	Date	Validity
		N/A	N/A
Licence related details of the project			
1.	DTCP license no.	83 of 2008 dated 05.04.2008	
2.	License validity/ renewal period	04.04.2025 and 23.10.2019	
3.	Licensed area	23.814 Acres	
4.	Name of the license holder	Countrywide Promoters Pvt Ltd and 4 Others.	
5.	Name of the collaborator	N/A	
6.	Name of the developer/s in case of development agreement and/or marketing agreement entered into after obtaining license.	N/A	

7.	Whether BIP permission has been obtained from DTCP	N/A	
Date of commencement of the project			
1.	Date of commencement of the project	Not Provided	
Details of statutory approvals obtained			
S.N.	Particulars	Approval no and date	Validity
1.	Approved building plan	21.09.2012	20.09.2017
2.	Environment clearance	15.10.2013	14.10.2020
3.	Occupation certificate date	Occupation Certificate for this Tower has not been received.	

B. Facts of the complaint

The complainant has submitted as under: -

4. That the respondents no. 1 and 2, M/s BPTP Ltd. and M/s Countrywide Promoters Pvt. Ltd. are companies incorporated under the Companies Act 1956 and claim to be one of the leading real estate companies in the country. Both the respondent companies have their registered office at M-11, Middle Circle, Connaught Circus, New Delhi- 110001, India and had launched the project, "Terra" located at sector 37-D, Gurgaon, Haryana.
5. That the respondent no. 3, HDFC Limited, is a company duly registered under the Companies Act, 1956 and is involved in financing housing services. The finance company has its

registered office at HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai, Maharashtra 400013. The respondent no. 3 is an essential part to the dispute.

6. That the respondents through various representations lured the complainant to book a unit in their project "Terra" located at sector 37-D, Gurgaon, Haryana.
7. That lured by such representations, the complainant in 2012 signed the application for allotment of a residential unit in the project of the respondents. On 07.12.2012, the complainant received an allotment letter from the respondents. The unit bearing no. T25-901 admeasuring 1,691 sq. ft. had been allotted to the complainant under the subvention plan and the customer code BE88/142923 was also allotted to the complainant.
8. That finally a flat buyer's agreement was executed between the parties on 04.12.2012 and as per the agreement, the possession of the said unit was to be handed over to the complainant within 42 months from the date of execution of the agreement that is by 04.06.2016. The construction at the project site had already started at the time of allotment and thus, the respondents were obliged to deliver the possession of the unit within 42 months from the date of execution of the agreement that is by 04.06.2016 as per clause 1.6 of the agreement. In violation of the above clause, the respondents till date have miserably failed to complete the construction of the unit of the complainant and deliver the possession of the same. Such indefinite delay has hereby constrained the



complainant to file the present complaint before this authority for immediate possession of the flat along with delay compensation.

9. That it was submitted that in conformity with the payment plan, the complainant also availed loan facilities from the respondent no. 3. The complainant has now been burdened to pay the pre-EMI/EMI instalments for the repayment of loan. It was further submitted that the payment plan was adopted by the complainant on the advice of the respondent no. 1 and 2 and relying on the assurances and the reputation of all the respondents the complainant had proceeded with the allotment. Now, the complainant feels duped and cheated as he has been unnecessarily burdened with the loan and no intimation of possession of the unit is foreseen in the near future as the respondents have maintained silence on the same.
10. That it is to be noted by this authority that the complainant has till date made a payment of Rs. 98,22,511.30/- out of the total consideration of Rs. 98,28,680.30/-. The complainant has almost paid 100% of the total consideration towards the said allotment and surprisingly till date no intimation regarding the possession has been made by the respondents herein.
11. That it was submitted that the complainant is a salaried person and thus, focused on entire utilization of his life savings and his money by investing in this allotment for the purpose of a peaceful life. It is to be noted that the complainant herein suffers from 47% permanent disability and precisely has a



case of right lower limb monopolesis with severe kyphoscoliosis (locomotor disability). The complainant has undergone various mental and physical stress while making the allotment. After the allotment, the respondents stopped responding to the queries of the complainant and have refrained from giving any due date of possession as the project is still not completed. The respondents have further illegally retained the money of the complainant and have been charging him with interest for the repayment of loan. That such hardships have further led to the deteriorated condition of the complainant as he is understandably not physically well equipped to be made to run from post to pillar in order to get his money. But in this case in spite of the condition of the complainant, the respondents have inflicted great mental and physical harassment on him for which he seeks compensation before this authority. This authority is requested to grant him compensation which could reinstate his financial position and also helps him to redeem his health and bring him some relief from the stress caused by the increasing financial hardships borne by him for all these years.

12. That it is submitted that understandably the complainant is under a lot of financial and mental stress, as he has to repay the home loan with interest and has also spent his entire life savings and pooled all his resources to no avail as the flat has not been delivered to him till date. Moreover, the complainant is now physically and mentally exhausted after running to and for seeking possession of the flat which has further



deteriorated his health condition. The complainant thus, has approached this authority with the hope of getting immediate possession of the unit and justice due to him for several years now.

13. That regardless of the stage of construction, the complainant was consistently getting demand letters from the respondents to make the payments. Perturbed by the same, the complainant made various inquiries from the respondents regarding the stage of construction and the date of delivery of the possession of the unit, but no response was given to the complainant from the respondent resulting into increased mental harassment of the complainant.
14. That the complainant has been made to pay around hundred per cent of the total consideration of the unit without any details on the construction of the same or the intimation of the date of delivery of the unit. The complainant several times expressed his plight before the respondents but apart from false assurances did not receive any concrete date of delivery of the possession. The complainant on several occasions also pleaded that he was not fit enough to make the regular visits and take the mental stress, but the respondents were insensitive to his cause and only had monetary interests on their minds and heeded no such pleadings of the complainant. Such actions of the respondent are fit to be dealt with a heavy hand by this authority.
15. That no updates were further received by the complainant from the respondents regarding any of his queries. In order to



get a clear picture of things, the complainant through his several visits/phone calls requested the respondents to arrange a site visit for him or to update him regarding the construction stage and what was causing the present delay. All such requests of the complainant were blatantly ignored by the respondents, constraining the complainant to file the present complaint before this authority.

16. That a perusal of various clauses of the agreement executed between the parties represents that the present agreement is unilateral and arbitrary where the respondents have an upper hand in the entire transaction. As per the clause 7.2 and 6.1 of the agreement, the respondents had the authority to impose an exorbitant rate of interest on the complainant to the tune of 18% on delayed payments whereas, the respondents were only liable to pay a meagre amount in case of delayed possession to the tune of Rs. 5 per sq. ft. of the super built-up area of the flat. The above-said clauses are unilateral as the respondents have only tried to save themselves from compensating the complainant in case of a delay in completion of the project and in giving the possession of the flat to the complainant. The respondents have only tried to considerably limit their own liability and impose unfair and arbitrary interest on the complainant in order to grab his hard-earned money. Such clauses also create a fear in the minds of the customers to make the payments as per the whims and arbitrary demands of the companies as they are under a constant fear of paying considerably more than what they

would have been normally charged. These clauses give arbitrary power to the companies to exploit its customers and should be dealt with a heavy hand by this authority.

17. That the said clause is also in clear contravention of section 2(za) of the Real Estate (Regulation and Development) Act, 2016 which has clarified the position that the interest payable by the promoter in case of default shall be the same as the interest payable by the allottee in case of any default made by them. The term was introduced and explained by the legislators, in order to avoid the exploitation of the consumer by the real estate companies, by providing a level playing field where similar interests have to be paid by the parties for any default on their part. The said section has been miserably defeated and contravened by the unilateral clauses of the respondent's agreement. Thus, this authority is requested to take a note of the same and grant appropriate relief to the complainant herein as he has been subjected to financial and emotional distress because of the said unilateral and illegal clauses.
18. That the respondent has also wielded power to the extent of being the sole authority for making any changes to the allotment of the complainant. As per clause 4.1 the agreement, the building plans, lay out plan and other crucial details were to be managed by the respondents solely without obtaining any consent of the complainant. This does not leave any scope of negotiation or consent from the complainant, and he was constrained to accept such changes and alterations and make

the payments accordingly. Such a clause is liable to put the allottee in a difficult situation, as they are forced to accept the changes or to get their allotment cancelled.

19. That there is no provision in the agreement which mandates or even mentions the consent of the complainant and imposes unilateral changes made by the respondents. Section 14 of the Real Estate (Regulation and Development) Act, 2016 is also against such unilateral changes. The above-said clauses have established the unilaterality of the agreement where the respondents have very cleverly tried to close all the gates for the complainant to seek protection under any terms of the agreement. The Real Estate (Regulation and Development) Act, 2016 has clearly pressed on terms like interest and consent which has been blithely contravened by the respondents. This authority is requested to take a note of all these factors so that the present case can be a deterrent for the arbitrary and illegal behaviour of the big companies, which is inclined to exploit the buyer. The complainant has been diligently paying the instalments as per the demand of the respondents believing that the money was being used to construct the unit/flat. Much to the shock and disappointment of the complainant his money was being retained by the respondents as they have till date failed to deliver the possession of the flat. The respondents are liable to immediately deliver the possession of the flat to the complainant along with the delay compensation.

20. That the complainant has preferred the present complaint before this authority established specially to protect the interests of the consumers in the real estate sector and to provide speedy dispute redressal in such cases.
21. That the respondents have failed to convey any reason for the delay or stage of construction to the complainant giving him strong reasons to make the present complaint. Thus, the complainant now seeks the intervention of this authority to grant him the immediate possession of the flat along with delay compensation at a prescribed rate of interest.
22. that the malicious intentions of the respondents are manifested by their act of retaining the money of the complainant and not using the same for the construction of the unit/flat. The respondents have no reason to illegally retain the money of the complainant when they have failed to deliver the possession of the unit.
23. That the complainant cannot be expected to wait endlessly for the completion of the unit/flat. Hence, the complainant has preferred the present complaint for immediate possession of the flat along with delay compensation at a prescribed rate of interest.
24. That it was submitted that in above circumstances, it is absolutely just and necessary that this authority be pleased to declare that the respondents were bound to deliver the possession of the unit by June 2016.
25. That it was submitted that in above circumstances, it is just and necessary that this authority be pleased to hold that the

respondents have illegally retained the money of the complainant and is unjustly maintaining silence on the same. It was submitted that the complainant cannot be expected to endlessly wait for the possession.

26. That it was submitted that in above circumstances, it is absolutely just and necessary that this authority be pleased to direct the respondents to grant immediate possession of the flat along with delay compensation at a prescribed rate of interest.
27. That the complainant reserves his right to seek compensation from the respondents for which a separate application shall be made to the adjudicating officer, if required.

C. Relief sought by the complainant:

28. The complainant has sought following relief(s):
 - (i) Direct the respondents to grant immediate possession of the flat/unit along with delay compensation at a prescribed rate to the complainant along with a prescribed rate of interest from the date of allotment till the actual date of handing over of the possession to the complainant.
29. On the date of hearing, the authority explained to the respondents/promoters 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.

D. Reply by respondent no. 3 dated 03.04.2019.

The respondent no. 3 submitted the following:

30. That the complainant approached the respondent no. 3 herein with a request for grant of loan for the purpose of purchasing a property being flat no. 901, tower 25, floor-09, BPTP Terra. sector 37-D, Gurgaon - 122001, Haryana alongwith the construction thereon, present and future. Vide sanction letter dated 15.12.2012, the respondent no. 3, in principle, sanctioned a loan of Rs.67,00,000/- in favour of the complainant based on the documents and representations furnished by the complainant and his interest shown in the property.
31. That pursuant to the sanction of the loan, a tripartite agreement dated 29.12.2012 ("tripartite agreement") was executed between the complainant, respondent no.1 and 2 ('the builder') and respondent no.3 herein, recording the inter-se contractual understanding between the parties.
32. That the tripartite agreement records that as a security towards payment of the dues under the loan agreement dated 18.01.2013 entered between the complainant and respondent no. 3 (loan agreement) and vide loan account no. 606702951, the complainant has mortgaged all his rights, title and benefits that would accrue from the unit, in favour of the respondent no.3 till the currency of the loan. The builder specifically confirmed that they have noted the mortgage created by the complainant and accordingly the builder also gave an undertaking that the builder shall not create any third-party rights or security interest of any nature whatsoever in the unit, without the prior consent of respondent no. 3. The builder also

issued permission to mortgage dated 26.12.2012. in favour of respondent no.3. Further, the original documents issued by the builder in favour of the complainant, pertaining to the allotment of unit, namely the allotment letter dated 07.12.2012 and the builder-buyer agreement dated 24.12.2012 were deposited by the complainant with respondent no.3, as security towards payment of dues under the loan agreement.

33. That the tripartite agreement further provides that the builder is required to take clearance from the respondent no. 3 herein, before handing over possession of the unit to the complainant. Further, in consonance with the lien marked on the property under the 'permission to mortgage', the builder is also required to submit the sale deed to respondent no. 3 as and when the same is executed.
34. That the tripartite agreement also provides that notwithstanding any issues or concerns between the complainant and the builder, the complainant shall not default in repayment of the loan. Further, clause 8 of the tripartite agreement provides that in the event of cancellation of the allotment of the unit for any reason whatsoever, the entire amount advanced by respondent no.3 herein will be forth with refunded by the builder to the respondent no. 3. The complainant has subrogated all his rights for refund with respect to the unit in favour of respondent no.3.
35. That pursuant to the tripartite agreement a loan agreement dated 18.01.2013 ('loan agreement') was entered into between

the complainant and the respondent no. 3 herein, containing detailed terms and conditions governing the loan.

36. That in terms of the loan agreement, the respondent no. 3 has till date disbursed a total sum of Rs. 58,60,745/- to the builder, on behalf of the complainant. As on 01.04.2019 a sum of Rs. 47,81,546/- is payable by the complainant to the respondent no. 3 for seeking closure of the loan. In addition to the above, future interest and charges will also be payable in accordance with the terms of the loan agreement.

E. The respondent by no. 1 and 2 dated 27.08.2019

37. That it was submitted that the respondent no. 1 and 2 had diligently applied for registration of the project in question i.e., "Terra" located at sector-37D, Gurugram including towers-T 20 to T-25 and EWS before this authority and accordingly, registration certificate dated 13.10.2017 was issued by this authority wherein the registration for the said project is valid for a period commencing from 13.10.2017 to 12.10.2020.
38. That it was submitted that the complainant approached this authority for redressal of their alleged grievances with unclean hands, i.e., by not disclosing material facts pertaining to the case at hand and also, by distorting and/or misrepresenting the actual factual situation with regard to several aspects. It was further submitted that the Hon'ble Apex Court in plethora of decisions has laid down strictly, that a party approaching the court for any relief, must come with clean hands, without concealment and/or misrepresentation of material facts, as the same amounts to fraud not only against



the respondents but also against the court and in such situation, the complaint is liable to be dismissed at the threshold without any further adjudication.

39. That the complainant approached the respondents through a broker, namely "S.S. Realtors Pvt. Ltd." after conducting due diligence of the relevant real estate geographical market and after ascertaining the financial viability of the same. It was further submitted that complainant is an investor and has booked the unit in question to yield gainful returns by selling the same in the open market, however, due to the ongoing slump in the real estate market, the complainant has filed the present purported complaint to wriggle out of the agreement.
40. That the complainant has concealed from this authority that complainant has earned a broker discount of Rs. 88,778/- from respondent no. 1 company.
41. That complainant, in the entire complaint including the prayer, alleged and portrayed that the complainant paid an amount of Rs. 93,57,695/-, whereas, out of the said amount, the complainant has only paid Rs. Rs.34,96,950/-, whereas HDFC's contribution is Rs.58,60,745/-. It was further submitted that respondent company paid pre-EMI interest amount of Rs.4,23,536.70/- as per the subvention plan towards the unit in question.
42. That the complainant falsely stated that the timely payments were made by the complainant as and when demanded by respondent no. 1, however, the complainant made several defaults in making timely payments as a result thereof,

respondent no. 1 had to issue reminder letters for payment of the outstanding amounts.

43. That the complainant has concealed the fact that he himself committed defaults in making timely payments of various instalments within the stipulated time despite having clearly agreed that timely payment is the essence of the agreement between the parties as is evident from the clause C (10) of the agreement. The said understanding was reproduced in the flat buyer's agreement as well wherein vide clause 7.1 of the agreement.
44. That it is pertinent to point out that till date, the complainant made inordinate delay in making timely payments of instalments and the delay is continuing further since the complainant has still not cleared the dues. This act of not making timely payments is in breach of the agreement which also affects the cash flow projections and hence, impacts the projected timelines for possession. Hence, the projected timelines for possession got diluted due to the defaults committed by various allottee including the complainant in making timely payments.
45. That the complainant in the entire complaint concealed the fact that no updates regarding the status of the project were provided to him by the respondent no. 1. However, complainant was constantly provided construction updates by the respondents vide emails dated 25.09.2015, 16.03.2017, 24.04.2017, 24.05.2017, 21.06.2017, 28.07.2017, 21.08.2017, 11.12.2017, 26.03.2018, 09.04.2018, 08.05.2018, 15.06.2018,



09.09.2018, 07.11.2018, 19.12.2018, 21.01.2019, 24.01.2019, 24.02.2019, 22.03.2019, 19.04.2019 and 15.05.2019. From the above, it is very well established that the complainant has approached this authority with unclean hands by distorting / concealing / misrepresenting the relevant facts pertaining to the case at hand. It was further submitted that the sole intention of the complainant is to unjustly enrich himself at the expense of the respondent no. 1 by filing this frivolous complaint which is nothing but gross abuse of the due process of law. In light of the law laid down by the Hon'ble Apex Court, the present complaint warrants dismissal without any further adjudication.

46. That it was submitted that the relief(s) sought by the complainant is unjustified, baseless and beyond the scope/ambit of the agreement duly executed between the parties, which forms a basis for the subsisting relationship between the parties and the complainant entered into the said agreement with the respondents with open eyes and is bound by the same. It was further submitted that the relief(s) sought by the complainant travel way beyond the four walls of the agreement duly executed between the parties. It was submitted that the complainant while entering into the agreement has accepted and is bound by each and every clause of the said agreement, including clause-6.1 which provides for delayed penalty in case of delay in delivery of possession of the said floor by respondent no. 1.

47. That the complainant goes beyond the jurisdiction of this authority under the Real Estate (Regulation and Development) Act, 2016 and therefore the present complaint is not maintainable qua the reliefs claimed by the complainant.
48. That it was further submitted that, the above submission implies that while entering into the agreement, the complainant had the knowledge that there may arise a situation whereby the possession could not be granted to the complainant as per the commitment period and in order to protect and/or safeguard the interest of the complainant, the respondent no. 1 has provided reasonable remedy under clause-6.1, and, the complainant having accepted to the same in totality, cannot claim anything beyond what has been reduced to in writing between the parties.
49. That in this regard, reference may be made to section-74 of the Indian Contracts Act, 1872, which clearly spells out the law regarding sanctity and binding nature of the ascertained amount of compensation provided in the agreement and further specifies that any party is not entitled to anything beyond the same. Therefore, the complainant, if at all, is only entitled to compensation under clause-6 of the agreement.
50. That at the stage of entering into the agreement and raising vague allegations and seeking baseless reliefs beyond the ambit of the agreement, the complainant is blowing hot and cold at the same time which is not permissible under law as the same is in violation of the '*Doctrine of Aprobate & Reprobate*'. In this regard, the respondents reserve their right

to refer to and rely upon decisions of the Hon'ble Supreme Court at the time of arguments, if required. Therefore, in light of the settled law, the reliefs sought by the complainant in the complaint under reply cannot be granted by this authority.

51. That as contemplated in section 13 of the Act, subsequent to the commencement of the rules, a promoter has to enter into an agreement for sale with the allottee and get the same registered prior to receipt of more than 10 percent of the cost of the plot, or building. Form of such agreement for sale has to be prescribed by the relevant State Government and such agreement for sale shall specify amongst various other things, the particulars of development, specifications, charges, possession timeline, provisions of default etc. By a notification in the Gazette of India dated 19.04.2017, the Central Government, in terms of section 1 (3) of the Act prescribed 01.05.2017 as the date on which the operative part of the Act became applicable. In terms of the Act, the Government of Haryana, under the provisions of section 84 of the Act notified the rules on 28.07.2017. In terms of the rules, the Government prescribed the agreement for sale and specified the same in annexure A of the rule 8(1) of the rules. Rule 8 (1) clearly specifies that the form of the "agreement for sale" is prescribed in annexure A to the rules and in terms of section 13 of the Act the promoter is obligated to register the agreement for sale upon receipt of any amount in excess of 10 percent of the cost of the plot. Rule 8(2) provides that any documents such as allotment letter or any other document executed post

registration of the project with the Real Estate Regulatory Authority between the promoter and the allottee, which are contrary to the form of the agreement for sale, Act of rules, the contents of the form of the agreement for sale, Act or rules shall prevail.

52. That it is very important to note that the rule 8 deals with documents executed by and between promoter and allottee after registration of the project by the promoter, however with respect to the documents including agreement for sale/ flat buyers agreement/plot buyers agreement executed prior to the registration of the project which falls within the definition if "ongoing projects" explained herein below and where the promoter has already collected an amount in excess of 10 percent of the total price Rule 8 is not applicable. The aforesaid view stated in the preceding para is clarified in the rules published by the state of Haryana, the explanation given at the end of the prescribed agreement for sale in annexure A of the rules, it has been clarified that the developer shall disclose the existing agreement for sale in respect of ongoing project and further that such disclosure shall not affect the validity of such existing agreement executed with its customers. Thus, what has not been saved under the Act and rules are sales where mere booking has been made and no legal and valid contract has been executed and is subsisting,
53. That the parties had agreed under clause 17 of the floor buyer's agreement (FBA) to attempt at amicably settling the

matter and if the matter is not settled amicably, to refer the matter for arbitration.

54. That admittedly, the complainant has raised dispute but did not take any steps to invoke arbitration. Hence, is in breach of the agreement between the parties. The allegations made requires proper adjudication by tendering evidence, cross examination etc, and therefore cannot be adjudicated in summary proceedings.
55. That it was submitted that the proposed timelines for possession being within 42 months from the date of sanction of building plans or execution of FBA, whichever is later, along with 180 days of grace period was subject to *force majeure* circumstances and circumstances beyond control of the respondents. However, the complainant has indulged in selective reading of the clauses of the FBA whereas the FBA ought to be read as a whole. It was further submitted that the construction is going on in full swing and respondent no. 1 is making every endeavour to hand over the possession at the earliest. The parties had, vide clause 5.1 of the FBA (clause G(1) of the booking application), duly agreed that subject to *force majeure* and compliance by the complainant of all the terms and conditions of the FBA, the respondent no. 1 proposes to hand over possession of the flat to the complainant within 42 months from the date of sanction of the building plans or execution of the FBA, whichever is later along with a further grace period of 180 days.

56. That the proposed timelines for possession have been diluted due to defaults in making timely payment of instalments by various allottees of the project "Terra" including the complainant herein.
57. That the project in question was launched by the respondent no. 1 in August 2012. It was submitted that while the total number of flats sold in the project "Terra" is 401, for non-payment of dues, 78 bookings/ allotments have since been cancelled. Further, the number of customers of the project "Terra" who are in default of making payments for more than 365 days are 125. Hence, there have been huge defaults in making payments of various instalments by large number of applicants in the project.
58. That it is well known fact that the projected timelines for possession are based on the cash flow. It was not in the contemplation of the respondent no. 1 that the allottees would hugely default in making payments and hence, cause cash flow crunch in the project
59. That vide clause 7.3 of the FBA, an option to cancel the allotment is available to the complainant, and however, acceptance of the same is on discretion of the respondent no. 1. It is pertinent to mention herein that the project in question is at an advanced stage of construction. It was submitted that the respondents shall stand by its commitment as per the terms of FBA. It was further submitted that the respondent no. 1 has already invested huge money and at this stage cancelling the allotment is not acceptable.

60. That it was clearly agreed between the parties that in case the project is delayed, and the complainant is entitled for delay payment penalty @ Rs. 5/- per sq. ft. per month for the period of delay, that the same shall be payable only at the time of execution of conveyance deed and further that the complainant shall not be entitled to seek any other compensation as is evident from a bare reading of clause G (2) of the terms and conditions of the application for allotment. The said understanding was also reiterated vide clause G (2) of the booking application and also vide clause 6.1 of the flat buyer's agreement.
61. That thus, the understanding between the parties regarding compensation for delay in offering possession had been agreed and accepted prior to entering into the transaction. It is stated that the respondent no. 1 has been diligently working upon the project, "Terra" and every endeavour is being made to complete the project and hand over possession at the earliest. In addition to the above, it was submitted that the respondent no. 1 had diligently applied for registration of the project in question i.e., "Terra" located at sector 37D, Gurugram including towers-T-20 to T-25 & EWS before this authority and accordingly, registration certificate dated 13.10.2017 was issued by this authority wherein the registration for the said project is valid for a period commencing from 13.10.2017 to 12.10.2020.

F. Jurisdiction of the authority

The authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below:

F. I Territorial jurisdiction

67. 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.

F. II Subject matter jurisdiction

68. The authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter as per provisions of section 11(4)(a) of the Act leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

G. Findings on the objections raised by the respondents.

G. I Objection regarding untimely payments done by the complainant.

69. The respondents have contended that the complainant has made defaults in making payments as a result thereof, the respondent had to issue reminder letters dated 25.09.2015, 16.03.2017, 24.04.2017, 24.05.2017, 21.06.2017, 28.07.2017,

21.08.2017, 11.12.2017, 26.03.2018, 09.04.2018, 08.05.2018, 15.06.2018, 09.09.2018, 07.11.2018, 19.12.2018, 21.01.2019, 24.01.2019, 24.02.2019, 22.03.2019, 19.04.2019 and 15.05.2019. The respondents have further submitted that the complainant has still not cleared the dues. The counsel for the respondents stressed upon clause 7.1 of the buyer's agreement wherein it is stated that timely payment of instalment is the essence of the transaction, and the relevant clause is reproduced below:

"7. TIMELY PAYMENT ESSENCE OF CONTRACT. TERMINATION, CANCELLATION AND FORFEITURE"

7.1 The timely payment of each instalment of the Total Sale Consideration i.e., COP and other charges as stated herein is the essence of this transaction/Agreement. In case the Purchaser(s) neglects, omits, ignores, defaults, delays or fails, for any reason whatsoever, to pay in time any of the instalments or other amounts and charges due and payable by the Purchaser(s) as per the payment schedule opted or if the Purchaser(s) in any other way fails to perform, comply or observe any of the terms and conditions on his/her part under this Agreement or commits any breach of the undertakings and covenants contained herein, the Seller/Confirming Party may at its sole discretion be entitled to terminate this Agreement forthwith and forfeit the amount of Earnest Money and Non-Refundable Amounts and other amounts of such nature..."

70. At the outset it is relevant to comment on the said clause of the agreement i.e., *"7. TIMELY PAYMENT ESSENCE OF CONTRACT. TERMINATION, CANCELLATION AND FORFEITURE"* wherein the payments to be made by the complainant have been subjected to all kinds of terms and conditions. The drafting of this clause and incorporation of such conditions are not only vague and uncertain but so heavily loaded in favor of the

promoter and against the allottee that even a single default by the allottee in making timely payment as per the payment plan may result in termination of the said agreement and forfeiture of the earnest money. Moreover, the authority has observed that despite complainant being in default in making timely payments, the respondents have not exercised his discretion to terminate the buyer's agreement. The attention of authority was also drawn towards clause 7.2 of the flat buyer's agreement whereby the complainant shall be liable to pay the outstanding dues together with interest @ 18% p.a. compounded quarterly or such higher rate as may be mentioned in the notice for the period of delay in making payments. In fact, the respondents have charged delay payment interest as per clause 7.2 of the buyer's agreement and has not terminated the agreement in terms of clause 7.1 of the buyer's agreement. In other words, the respondents have already charged penalized interest from the complainant on account of delay in making payments as per the payment schedule. However, after the enactment of the Act of 2016, the position has changed. 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. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 9.30% by the respondents which is the same as is being granted to the complainant in case of delay possession charges.

G. II Objection regarding jurisdiction of authority w.r.t. buyer's agreement executed prior to coming into force of the Act.

71. Another contention of the respondents is that authority is deprived of the jurisdiction to go into the interpretation of, or rights of the parties inter-se in accordance with the apartment buyer's agreement executed between the parties and no agreement for sale as referred to under the provisions of the Act or the said rules has been executed inter se parties. The authority is of the view that the Act nowhere provides, nor can be so construed, that all previous agreements will be re-written after coming into force of the Act. Therefore, the provisions of the Act, rules and agreement have to be read and interpreted harmoniously. However, if the Act has provided for dealing with certain specific provisions/situation in a specific/particular manner, then that situation will be dealt with in accordance with the Act and the rules after the date of coming into force of the Act and the rules. Numerous provisions of the Act save the provisions of the agreements made between the buyers and sellers. The said contention has been upheld in the landmark judgment of **Neelkamal Realtors Suburban Pvt. Ltd. Vs. UOI and others. (W.P 2737 of 2017)** which provides as under:

"119. Under the provisions of Section 18, the delay in handing over the possession would be counted from the date mentioned in the agreement for sale entered into by the promoter and the allottee prior to its registration under RERA. Under the provisions of RERA, the promoter is given a facility to revise the date of completion of project and declare the same under Section 4. The RERA does not contemplate rewriting of

contract between the flat purchaser and the promoter....

122. We have already discussed that above stated provisions of the RERA are not retrospective in nature. They may to some extent be having a retroactive or quasi retroactive effect but then on that ground the validity of the provisions of RERA cannot be challenged. The Parliament is competent enough to legislate law having retrospective or retroactive effect. A law can be even framed to affect subsisting / existing contractual rights between the parties in the larger public interest. We do not have any doubt in our mind that the RERA has been framed in the larger public interest after a thorough study and discussion made at the highest level by the Standing Committee and Select Committee, which submitted its detailed reports."

72. Also, in appeal no. 173 of 2019 titled as ***Magic Eye Developer Pvt. Ltd. Vs. Ishwer Singh Dahiya***, in order dated 17.12.2019 the Haryana Real Estate Appellate Tribunal has observed-

"34. Thus, keeping in view our aforesaid discussion, we are of the considered opinion that the provisions of the Act are quasi retroactive to some extent in operation and will be applicable to the agreements for sale entered into even prior to coming into operation of the Act where the transaction are still in the process of completion. Hence in case of delay in the offer/delivery of possession as per the terms and conditions of the agreement for sale the allottee shall be entitled to the interest/delayed possession charges on the reasonable rate of interest as provided in Rule 15 of the rules and one sided, unfair and unreasonable rate of compensation mentioned in the agreement for sale is liable to be ignored."

73. The agreements are sacrosanct save and except for the provisions which have been abrogated by the Act itself. Further, it is noted that the builder-buyer agreements have been executed in the manner that there is no scope left to the allottee to negotiate any of the clauses contained therein. Therefore, the authority is of the view that the charges payable

under various heads shall be payable as per the agreed terms and conditions of the agreement subject to the condition that the same are in accordance with the plans/permissions approved by the respective departments/competent authorities and are not in contravention of any other Act, rules, statutes, instructions, directions issued thereunder and are not unreasonable or exorbitant in nature.

G. III Objection regarding complainant is in breach of agreement for non-invocation of arbitration.

74. The respondents have raised an objection for not invoking arbitration proceedings as per the provisions of flat buyer's agreement which contains provisions regarding initiation of arbitration proceedings in case of breach of agreement. The following clause 17 has been incorporated w.r.t arbitration in the buyer's agreement:

"17. Dispute Resolution by Arbitration

All or any disputes arising from or out of or touching upon or in relation to the terms or formation of this Agreement or its termination, including the interpretation and validity thereof and the respective rights and obligations of the Parties shall be settled amicably by mutual discussion, failing which the same shall be settled through arbitration. The arbitration proceedings shall be governed by the Arbitration & Conciliation Act, 1996, or any statutory amendments, modifications or re-enactment thereof for the time being in force. A Sole Arbitrator, who shall be nominated by the Seller/Confirming Party's Managing Director, shall hold the arbitration proceedings at Gurgaon. The Purchaser(s) hereby confirms that he shall have no objection to such appointment and the Purchaser(s) confirms that the Purchaser(s) shall have no doubts as to the independence or impartiality of the said Arbitrator and shall not challenge the same. The arbitration proceedings shall be held in English language and decision of the Arbitrator including but

not limited to costs of the proceedings/award shall be final and binding on the parties."

75. The authority is of the opinion that the jurisdiction of the authority cannot be fettered by the existence of an arbitration clause in the buyer's agreement as it may be noted that section 79 of the Act bars the jurisdiction of civil courts about any matter which falls within the purview of this authority, or the Real Estate Appellate Tribunal. Thus, the intention to render such disputes as non-arbitrable seems to be clear. Also, section 88 of the Act says that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Further, the authority puts reliance on catena of judgments of the Hon'ble Supreme Court, particularly in *National Seeds Corporation Limited v. M. Madhusudhan Reddy & Anr. (2012) 2 SCC 506*, wherein it has been held that the remedies provided under the Consumer Protection Act are in addition to and not in derogation of the other laws in force, consequently the authority would not be bound to refer parties to arbitration even if the agreement between the parties had an arbitration clause. Therefore, by applying same analogy the presence of arbitration clause could not be construed to take away the jurisdiction of the authority.
76. Further, in *Aftab Singh and ors. v. Emaar MGF Land Ltd and ors., Consumer case no. 701 of 2015 decided on 13.07.2017*, the National Consumer Disputes Redressal Commission, New Delhi (NCDRC) has held that the arbitration clause in

agreements between the complainant and builder could not circumscribe the jurisdiction of a consumer. The relevant paras are reproduced below:

"49. Support to the above view is also lent by Section 79 of the recently enacted Real Estate (Regulation and Development) Act, 2016 (for short "the Real Estate Act"). Section 79 of the said Act reads as follows: -

"79. Bar of jurisdiction - No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

It can thus, be seen that the said provision expressly ousts the jurisdiction of the Civil Court in respect of any matter which the Real Estate Regulatory Authority, established under Sub-section (1) of Section 20 or the Adjudicating Officer, appointed under Sub-section (1) of Section 71 or the Real Estate Appellate Tribunal established under Section 43 of the Real Estate Act, is empowered to determine. Hence, in view of the binding dictum of the Hon'ble Supreme Court in A. Ayyaswamy (supra), the matters/disputes, which the Authorities under the Real Estate Act are empowered to decide, are non-arbitrable, notwithstanding an Arbitration Agreement between the parties to such matters, which, to a large extent, are similar to the disputes falling for resolution under the Consumer Act.

56. Consequently, we unhesitatingly reject the arguments on behalf of the Builder and hold that an Arbitration Clause in the afore-stated kind of Agreements between the Complainants and the Builder cannot circumscribe the jurisdiction of a Consumer Fora, notwithstanding the amendments made to Section 8 of the Arbitration Act."

77. While considering the issue of maintainability of a complaint before a consumer forum/commission in the fact of an existing arbitration clause in the builder buyer agreement, the hon'ble Supreme Court in case titled as *M/s Emaar MGF Land Ltd. V.*



Aftab Singh in revision petition no. 2629-30/2018 in civil appeal no. 23512-23513 of 2017 decided on 10.12.2018 has upheld the aforesaid judgement of NCDRC and as provided in Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India and accordingly, the authority is bound by the aforesaid view. The relevant paras are of the judgement passed by the Supreme Court is reproduced below:

"25. This Court in the series of judgments as noticed above considered the provisions of Consumer Protection Act, 1986 as well as Arbitration Act, 1996 and laid down that complaint under Consumer Protection Act being a special remedy, despite there being an arbitration agreement the proceedings before Consumer Forum have to go on and no error committed by Consumer Forum on rejecting the application. There is reason for not interjecting proceedings under Consumer Protection Act on the strength an arbitration agreement by Act, 1996. The remedy under Consumer Protection Act is a remedy provided to a consumer when there is a defect in any goods or services. The complaint means any allegation in writing made by a complainant has also been explained in Section 2(c) of the Act. The remedy under the Consumer Protection Act is confined to complaint by consumer as defined under the Act for defect or deficiencies caused by a service provider, the cheap and a quick remedy has been provided to the consumer which is the object and purpose of the Act as noticed above."

78. Therefore, in view of the above judgements and considering the provision of the Act, the authority is of the view that complainant is well within their rights to seek a special remedy available in a beneficial Act such as the Consumer Protection Act and Act of 2016, instead of going in for an arbitration. Hence, we have no hesitation in holding that this authority has the

requisite jurisdiction to entertain the complaint and that the dispute does not require to be referred to arbitration necessarily.

H. Findings on the relief sought by the complainant.

Relief sought by the complainant: The complainant has sought following relief(s):

(ii) Direct the respondents to grant immediate possession of the flat/unit along with delay compensation at a prescribed rate to the complainant along with a prescribed rate of interest from the date of allotment till the actual date of handing over of the possession to the complainant.

79. 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."

80. **Admissibility of grace period:** The promoters have proposed to hand over the possession of the apartment within a period of 42 months from the date of sanction of the building plan or execution of flat buyer's agreement, whichever is later. The flat



buyer's agreement was executed on 24.12.2012 and the building plan was approved on 21.09.2012. The flat buyer's agreement being executed later, the due date is calculated from the date of execution of flat buyer's agreement. The said period of 42 months expires on 24.06.2016. Further, it was provided in the flat buyer's agreement that promoter shall be entitled to a grace period of 180 days after the expiry of the said committed period for making offer of possession of the said unit. In other words, the respondents are claiming this grace period of 180 days for making offer of possession of the said unit. There is no material evidence on record that the respondents/promoters had completed the said project within this span of 42 months and had started the process of issuing offer of possession after obtaining the occupation certificate. As a matter of fact, the promoter has not offered the possession within the time limit prescribed by the promoters in the flat buyer's agreement nor has the promoters offered the possession till date. As per the settled law one cannot be allowed to take advantage of his own wrong. Accordingly, this grace period of 180 days cannot be allowed to the promoter at this stage.

81. **Admissibility of delay possession charges at prescribed rate of interest:** The complainant is seeking delay possession charges. However, proviso to section 18 provides that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoters, 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.

82. 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. The Haryana Real Estate Appellate Tribunal in ***Emaar MGF Land Ltd. vs. Simmi Sikka*** observed as under: -

"64. Taking the case from another angle, the allottee was only entitled to the delayed possession charges/interest only at the rate of Rs.15/- per sq. ft. per month as per clause 18 of the Buyer's Agreement for the period of such delay; whereas, the promoter was entitled to interest @ 24% per annum compounded at the time of every succeeding instalment for the delayed payments. The functions of the Authority/Tribunal are to safeguard the interest of the aggrieved person, may be the allottee or the promoter. The rights of the parties are to be balanced and must be equitable. The promoter cannot be allowed to take undue advantage of his dominate position and to exploit the needs of the home buyers. This Tribunal is duty bound to take into consideration the legislative intent i.e., to protect the interest of the consumers/allottees in the real estate sector. The clauses of the Buyer's Agreement entered into between

the parties are one-sided, unfair and unreasonable with respect to the grant of interest for delayed possession. There are various other clauses in the Buyer's Agreement which give sweeping powers to the promoter to cancel the allotment and forfeit the amount paid. Thus, the terms and conditions of the Buyer's Agreement dated 09.05.2014 are ex-facie one-sided, unfair and unreasonable, and the same shall constitute the unfair trade practice on the part of the promoter. These types of discriminatory terms and conditions of the Buyer's Agreement will not be final and binding."

83. 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., 08.04.2021 is 7.30%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 9.30%.
84. 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 promoters, in case of default, shall be equal to the rate of interest which the promoters 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;"*



85. Therefore, interest on the delay payments from the complainant shall be charged at the prescribed rate i.e., 9.30% by the respondents/promoters which is the same as is being granted to the complainant in case of delayed possession charges.
86. On consideration of the documents available on record and submissions made by both the parties regarding contravention of provisions of the Act, the authority is satisfied that the respondents are 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 5.1 read with clause 1.6 of the agreement executed between the parties on 24.12.2012, the possession of the subject apartment was to be delivered within stipulated time i.e., by 24.06.2016. As far as grace period is concerned, the same is disallowed for the reasons quoted above. Therefore, the due date of handing over possession is 24.06.2016. The respondents have failed to handover possession of the subject apartment till date of this order. Accordingly, it is the failure of the respondents/promoters to fulfil its obligations and responsibilities as per the 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 proviso to section 18(1) of the Act on the part of the respondents 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., 24.06.2016 till the handing over of the

possession, at prescribed rate i.e., 9.30 % p.a. as per proviso to section 18(1) of the Act read with rule 15 of the rules.

I. Directions of the authority

87. 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 promoters as per the function entrusted to the authority under section 34(f):

- i. The complainant is entitled for delayed possession charges under section 18 (1) of the Real Estate (Regulation & Development) Act, 2016 at the prescribed rate of interest i.e., 9.30% per annum for every month of delay on the amount paid by the complainant with the respondents from the due date of possession i.e., 24.06.2016 till the handing over of possession after obtaining occupation certificate.
- ii. The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till handing over of possession shall be paid on or before 10th of each subsequent month.
- iii. The complainant is also directed to pay the outstanding dues, if any. Interest on the due payments from the complainant and interest on account of delayed possession charges to be paid by the respondents shall be equitable i.e., at the prescribed rate of interest i.e., 9.30% per annum.

iv. The respondents shall not charge anything from the complainant which is not the part of the agreement.

88. Complaint stands disposed of.

89. File be consigned to registry.

(Samir Kumar)
Member


(Dr. K.K. Khandelwal)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 08.04.2021

Judgement uploaded on 18.11.2021


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