

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

Complaint no.: 4416 of 2025
Date of decision:- 19.05.2026

Radha Aggarwal

R/o: - House No.856, Sector-15, Part-II,
Gurugram -122001.

Complainant

Versus

M/s. Assotech Moonshine Urban Development
Pvt. Ltd.

Regd. office: 148-F, Pocket-IV, Mayor Vihar,
Phase-I, Delhi-110091.

Respondent

CORAM:

Shri. Arun Kumar

Chairman

APPEARANCE:

Arun Kumar (Advocate)

Complainant

Dhruv Lamba & Neha Yadav
(Advocates)

Respondent

ORDER

1. The present complaint dated 01.09.2025 has been filed by the complainants/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in

short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions as provided under the provision of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

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

S. No.	Particulars	Details
1.	Name of the project	"Assotech Blith", Sector-99, Gurgaon
2.	Project type	Group housing project
3.	Hrera registered	Registered Vide registration no. 83 of 2017 dated 23.08.2017 Valid upto 22.08.2023
4.	Allotment Letter	20.07.2012 (As on page no. 43 of complaint)
5.	Date of execution of BBA	Not executed
6.	Unit no.	A-904, Type-2BHK, Floor-9 th (As on page no. 43 of complaint)
7.	Unit area admeasuring	1365 sq.ft. [Super Area]



		(As on page no. 43 of complaint)
8.	Possession clause as per application letter for allotment	Clause 19 (1) The possession of the apartment shall be delivered to the Allottee(s) by the Company within Forty two (42) months from the date of allotment subject, to force majeure, circumstances, regular and timely payments of installments by the intending Allottee(s), availability of building material, change of laws by Governmental/local authorities etc. The construction shall be deemed to be complete on obtaining the occupation certificate by the Company from the DTCP. No claim by way of damage, compensation shall lie against the Company in case of delay in handing over of the possession on account of the aforesaid reasons or any other reasons beyond the control of the Company. (II) In case the Company is unable to construct the apartment within stipulated time for reasons other than as stated in sub clause I, and further within a grace period of six months, the Company shall compensate the intending Allottee(s) for delayed period @Rs.10/- per sq.ft. per month subject to regular and timely payments of all installments by the Allottee(s). No delayed charges shall be payable within the grace period. Such compensation shall be adjusted in the outstanding dues

		<i>of the Allottee(s) at the time of handing over of possession.</i> <i>(As on page 48 of complaint)</i>
9.	Due date of possession	20.07.2016 [Calculated 42 months from the date of allotment + 6 months grace period]
10.	Total consideration sale	Rs.76,35,865/- (As on page no. 43 of complaint)
11.	Amount paid by the complainants	Rs.69,76,177/- (As per Customer Ledger on page no. 85 of complaint)
12.	Occupation certificate	Not obtained
13.	Offer of possession	Not offered

B. Facts of the complaint:

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

- I. That the complainant was in the need of a residential apartment for her own residence purposes. In the month of April 2012, agents and representatives of the respondents approached the complainant and informed her that respondent is developing a residential complex known as "Assotech Blith" situated at Sector-99, Gurgaon being built on a plot of land admeasuring 12.062 acres in the revenue estate of Village Dhankot, Sector 99, District Gurgaon.
- II. That believing the assurances so given by the agents/officials of the respondent, the complainant booked a residential apartment on 03.05.2012 in the said project i.e. "Assotech Blith" situated at Sector-

- 99, Gurgaon and paid Rs.6,00,000/- as booking amount in this respect was issued by the respondent.
- III. That the respondent allotted Apartment No. A-904 located on the Ninth Floor of Tower A measuring 1365 Sq. feet in Project "Assotech Blith", situated at Sector-99, Gurugram.
- IV. That the complainant opted for "Construction linked payment plan" for a total sale consideration of Rs.76,35,865/-. The complainant regularly kept on making the payments due as per the payment plan on time and made a total payment of a sum of Rs.64,01,449/- as and when demanded by the respondent (i.e., payment till the Casting of 20th Floor slab as per Payment Plan) on time.
- V. As per clause 19 (i) and (ii) of the allotment letter, the respondent was liable to deliver the possession of the apartment to the complainant within 42 months from the date of issue of the allotment letter i.e. 20.07.2012. It is an implied term that in case the respondent completes the project until 42 months from the date of allotment i.e. up to 19.01.2016, the respondent can avail further 6 months grace period on account of applying and getting the necessary OC and CC. As the respondent failed to complete the construction of the project or the apartment till the filing of the complaint, the respondent has got no right or entitlement to claim the any benefit of grace period of 6 months.
- VI. That despite the fact that the respondent was entitled to complete the project within 42 months from the date of allotment and to raise demands strictly in accordance with the payment plan
- i.e. within 42 months as per its own pre-printed, dotted terms of

the allotment letter, the respondent raised demand letter to the complainant dated 15.03.2017 and demanded payment on completion of super structure frame work as well as through email dated 16.03.2017.

- VII. That the complainant again through her email dated 21.03.2017 raised concern in regard to the delay in completion as well as the delivery of possession of apartment, to which respondent didn't bother to reply. Further, the complainant raised her concern for delay in completion and delivery of possession of apartment vide email dated 03.04.2017, upon which respondent falsely assured the complainant to deliver the aforesaid apartment till 31.12.2018 vide its e-mail dated 06.04.2017 and asked the complainant to deposit the amount due on time knowing fully that the said time for raising the demands had already elapsed.
- VIII. Believing upon the assurances of the respondent, the complainant deposited the demanded amount of Rs.5,74,728/- on 16.4.2017 in compliance with the demand letter dated 15.03.2017 and a receipt was issued in this regard by the respondent.
- IX. That the provision of clause 19 (ii) of the allotment letter is another classic example of discriminating the complainant as on the one hand on account of delay in payment of instalment by the complainant/home buyer, the respondent provided penal interest as high as 18% and that too compounded quarterly while as on the other hand vide this clause the respondent provided to compensate the allottee/complainant for delayed period of the completion and delivery of possession as meagre as only at the rate of Rs. 10 per sq. ft. per month and that too subject to regular

and timely payment of all instalments by the complainant/home buyers, which is even much lesser from the monthly rental in the subject locality of the similar apartments.

- X. That there was no delay whatsoever in the payment of any of the instalment payable by the complainant to the respondent. The complainant has already paid a total amount of Rs.69,76,177/- to the respondent due upto the stage of completion of super structure framework.
- XI. That the complainant already raised her objections for inordinate, intentional, callous, deliberated delays in the completion of due construction work vide her email dated 21.3.2017 on demand letter dated 15.03.2017 raised on completion of superstructure frame work. Despite that being a good paymaster, she released the payment due on completion of superstructure frame work on 16.04.2017 only after believing the empty and false assurances so given by the agents/officials of the respondent to be true and correct that the tower is expected to be completed on or before 31.12.2018.
- XII. That a news article dated 03.11.2018 duly published in the '*Times City Gurgaon*' under its '*Realty Tracker*' revealed that the Company is not in a position to deliver the apartment even by 31.12.2018 as only 60 percent work of the project is complete till October 2018.
- XIII. That the respondent vide its e-mail dated 6.4.2017 in response to the e-mail dated 3.4.2017 of the complainant, informed about the sale of 390 apartments only out of total inventory of 558 apartments i.e. partial completion of the subject project "Assotech Blith", which makes it very much clear that the respondent had completed the

unsold inventory by committing Criminal cheating through misusing and transferring hard earned funds of allottees'/homebuyer's including that of the complainants sold inventories.

- XIV. That the complainant was forced to serve a legal notice dated 14-11-2018 through her counsel Sh. R S Hooda, Advocate, Distt. Courts, Gurugram, thereby seeking full refund of the amount paid along with interest at 18% per annum from date of payment of respective instalments and compensation of a sum of Rs. 5 lakh for loss of comfort. But on the other hand the respondent completely ignored to reply to the said notice.
- XV. That till date the respondent had neither completed the project or the apartment as assured nor delivered the physical possession of the apartment so booked.
- XVI. That the complainant had filed a complaint against the respondent company before the Hon'ble Permanent Lok Adalat, Gurugram but had withdrawn the same vide order dated 01.07.2025 with the liberty to file afresh before the competent authority.
- C. Relief sought by the complainant:**
4. The complainant has sought following relief(s):

- i. Direct the respondent to complete the project as well as the apartments so booked by the complainant and deliver the same duly completed in all respect as agreed between the parties, within 6 weeks from the date of the order.
- ii. Direct the respondents, jointly and severally, to pay the interest at the rate of 18% per annum compound quarterly for causing inordinate delay in delivery of possession of the unit in issue on

the amount deposited by the complainant to be calculated respective date of payment till the actual delivery of the possession of the apartment so booked till the actual delivery of the possession of the apartment so booked till its full and final realisation of the interest whichever is later.

- iii. Declare the allotment letter which formed as binding contract between the parties as one sided, favouring the respondent and discriminating the complainant, against the principles of reciprocity and equality and hence the same is void and is not binding on the complainant.
- iv. Direct the respondent to stop the deficient service as well as the unfair and restrictive trade practices with immediate effect and declare that the terms and conditions of the allotment letter are unfair, biased and unjust.
- v. Pass an order imposing appropriate penalty for violating the provisions of Section 13 of the Act as the respondent received the booking amount/first instalment without providing the BBA/Allotment Letter containing the terms and agreement.

D. Reply by respondent:

5. The respondent by way of written reply made following submissions.
 - I. That the complainant is not an "Allottee" but is investor who has booked the unit in question as a speculative investment in order to earn rental income/profit from its resale.
 - II. That the respondent allotted unit bearing no.A-904, 9th floor, Tower A having super area 1365 sq. ft. at the sale consideration of Rs.76,35,865/- in the residential group housing project. In pursuance

thereof, the complainant and the respondent executed an Allotment Letter dated 20.07.2012 containing detailed terms and conditions of the allotment which are binding on both the parties along with the schedule of payment (payment plan) opted by the complainant under Construction Linked payment Plan.

- III. That the cost of the unit was Rs.76,35,865/- plus other charges, as stated in the schedule of payment. As per clause 19(i) & 19(ii) of the allotment letter, the possession was to be offered within period of 42 months from the date of allotment with further six months grace period subject to Force Majeure' and subject to timely payments by the allottees of the project.
- IV. That as per clause 19 of the Allotment Letter, the respondent proposed to handover possession of the subject apartment within 42 months plus grace period of 6 month from the date of allotment letter dated 13.10.2012 subject to certain conditions. Thus, the due date of handing over possession comes out to be 20.07.2016 and the same has also been admitted by the complainants in the complaint.
- V. That the complainant had made payments of Rs.69,76,177/- till date and an outstanding of Rs.5,34,8198/- is still outstanding on the complainant.
- VI. As of 06.12.2025, the total late payment fees accrued and payable by the complainant to the respondent amounting to Rs.12,346/- and this amount is calculated at the rate of 10% simple interest per annum and shall continue to accrue on a daily basis until the full realization of the outstanding amount.
- VII. That the complainant is engaging in forum shopping with the intent to harass the respondent . She initially filed a complaint before the

Hon'ble Permanent Lok Adalat, Gurugram, seeking refund of her money with interest, but subsequently, withdrew the complaint vide order dated 01.07.2025. Thereafter, instead of pursuing the same relief, she filed a fresh complaint before the Authority, claiming DPC.

- VIII. That the respondent has completed the construction and applied for the Occupation Certificate on 15.01.2024 for Tower-c and G, which fall under Phase-II of the Project. The subject unit, however, is situated in Tower-A, which forms part of Phase-II of the project. The grant of Occupation certificate for Phase-II has been held up on account of the fact that the State Government has not yet constituted the Environmental Committee, which is the statutory authority empowered to grant the requisite Environmental Clearance. In the absence of such clearance, the competent authority, namely the DTCP is unable to issue the Occupation certificate for Phase-II.
- IX. That after the submission of the application for issuance of Occupation certificate, the respondent cannot be made liable in any manner for the time taken by the competent authorities to process the application and issue the Occupation certificate.
- X. That there is no default or lapse on the part of the respondent and there is no equity in favour of the complainants. The said project was going at a very great pace and was right at schedule, however, on 08.02.2016, the Hon'ble Delhi High Court appointed the Official Liquidator (OL) attached to this court as Provisional Liquidator and further enjoined the respondent from transferring, selling or creating any third party interest in its assets. Furthermore, the OL was directed to seal the premises in which the assets, book of accounts, documents

and other records of the respondent Company are stored after preparing an inventory on that behalf.

- XI. That the respondent is a subsidiary of M/s Assotech Limited which went into Liquidation and wherein PL was appointed by the above-mentioned order of Hon'ble Delhi High Court. The respondent's offices were sealed and they couldn't continue with the Construction of the subject project namely "Assotech Blith" since the affairs of the parent company who was also the Construction company of the subject project went into the hands of the PL. In simple words, the respondent couldn't keep the pace of construction in the project due to initiation of Liquidation proceedings, the affairs of the company went into the hands of the PL. and the respondent lost control over the affairs of the Company along with its assets and hence, were in no position to complete the subject project in a time bound manner.
- XII. That the respondent and the Contractor company had to also comply with various orders / directions / guidelines issued from time to time by the Hon'ble Supreme Court of India, Environment Pollution (Prevention and Control) Authority, Hon'ble National Green Tribunal, New Delhi vide which the aforesaid Courts and Authorities ordered / directed for a complete ban on the construction activities in the National Capital Region (NCR), which include the district of Gurugram for control of air pollution. On account of such complete ban on the construction, around 74 days were such days on which there was a complete ban. Also due to such ban by various Courts and Authorities, the labour used to leave the place of construction which again posed a great challenge as now the Contractor Company has to make

arrangements for new labourers and then teach them how to proceed with the work.

XIII. That in addition to the aforesaid orders, the development of the said project took another massive hit on account of the COVID-19 pandemic

which resulted in a nation wide lockdown starting from 25th March, 2020. During this time large number of workers moved to their native villages/ home towns in Bihar, eastern parts of Uttar Pradesh, Jharkhand, West Bengal. In view of the situation, the Government of India suo moto extended the construction period of all projects by 9 months.

XIV. That the construction of the tower in which the unit in question is situated is complete and the respondent had applied for Occupation Certificate in respect of the same on 15.01.2024. However, the same has not been granted by the competent authority till date. The grant of occupation certificate is the prerogative of the concerned statutory authority, and the respondent does not exercise any control or influence over the same. Therefore, time period utilized by the concerned statutory authority in granting the occupation certificate to the respondent is necessarily required to be excluded from the computation of time period utilized for implementation of the project.

6. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submission made by the parties.

E. Jurisdiction of the authority:

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

E. I Territorial jurisdiction

8. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram District for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram district. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E. II Subject matter jurisdiction

9. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottee as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11(4)(a)

Be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottee as per the agreement for sale, or to the association of allottee, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottee, or the common areas to the association of allottee or the competent authority, as the case may be;

10. 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 leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainants at a later stage.

F. Findings on objections raised by the respondent**F.I Objection regarding delay due to force majeure circumstances**

11. The respondent-promoter has raised a contention that the construction of the project was delayed due to force majeure conditions such as various orders passed by the National Green Tribunal, Environment Pollution (Prevention & Control) Authority, institution of liquidation proceedings against the contractor company i.e. M/s. Athena Limited and appointment of official liquidator, shortage of labour and stoppage of work. Since there were circumstances beyond the control of respondent, so taking into consideration the above-mentioned facts, the respondent be allowed the period during which his construction activities came to stand still, and the said period be excluded while calculating the due date. But the plea taken in this regard is not tenable. The due date for completion of project is calculated as per clause 19(1) of the Allotment Letter dated 20.07.2012, which comes out to be 20.07.2016. Though there have been various orders issued to curb the environment pollution, but these were for a short period of time. So, the circumstances/conditions after that period can't be taken into consideration for delay in completion of the project.
12. The respondent further alleged that due to litigation proceedings going on against the contractor company, 'Assotech Limited" in the Delhi High Court vide Co. petition no. 357 of 2015 in the mid of year 2015, process of provisional liquidation has been initiated against Assotech Limited. Due to appointment of O.L., office of respondent company was sealed, and various restrictions were levied, due to which construction of the project got affected.

13. But it is pertinent to note here that neither the complainants are party to such contract nor the liquidation proceedings are binding on them. Hence, there was no privity of contract between the contractor company and the complainants. Moreover, there is no order placed on record by the respondent-company, wherein the period of liquidation proceedings has been declared as zero- period. Hence, the plea of the respondent on account of delay in completion due to initiation of liquidation proceeding is not tenable.

14. As far as the delay in construction due to outbreak of Covid-19 is concerned, Hon'ble Delhi High Court in case titled as ***M/s Halliburton Offshore Services Inc. V/S Vedanta Ltd. & Anr. bearing no. O.M.P (I) (Comm.) no. 88/ 2020 and IAs 3696-3697/2020*** dated 29.05.2020 has observed that-

"69. The past non-performance of the Contractor cannot be condoned due to the COVID-19 lockdown in March 2020 in India. The Contractor was in breach since September 2019. Opportunities were given to the Contractor to cure the same repeatedly. Despite the same, the Contractor could not complete the Project. The outbreak of a pandemic cannot be used as an excuse for non- performance of a contract for which the deadlines were much before the outbreak itself."

15. The respondent was liable to complete the construction of the project and the possession of the said unit was to be handed over within one year from date of execution of allotment along with grace period of 6 months which comes out to be 20.07.2016 and is claiming benefit of lockdown which came into effect on 23.03.2020 whereas the due date of handing over of possession was much prior to the event of outbreak of Covid-19 pandemic. Therefore, the Authority is of the view that outbreak of a pandemic cannot be used as an excuse for non-performance of a contract for which the deadlines were much before

the outbreak itself and for the said reason, the said time period is not excluded while calculating the delay in handing over possession.

F.II Objection regarding complainant being "Investor" and not "Allottee".

16. The respondent submitted that the complainant is an investor and not an allottee, thus is not entitled to the protection of the Act and hence the present complaint is not maintainable.
17. The Authority observes that the Act is enacted to protect the interest of the consumers of the real estate sector. It is a settled principle of interpretation that the preamble is an introduction of a statute and it states the main aims and objects of enacting a statute but at the same time preamble cannot be used to defeat the enacting provisions of the Act. Furthermore, it is pertinent to note that under Section 31 of the Act, any aggrieved person can file a complaint against the promoter if the promoter contravenes or violates of the Act or rules or regulations made thereunder. Upon careful perusal of all the terms and conditions of the allotment letter, it is revealed that the complainant is an allottee and she has paid total price of **Rs.69,76,177/-** towards the purchase of the said unit in the project of the promoter. At this stage, it is important to stress upon the definition of the term allottee under the Act, the same is reproduced below for ready reference:

" 2(d) "allottee" in relation to a real estate project means the person to whom a plot, apartment or building, as the case may be , has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but doesnot include a person to whom such plot, apartment or building , as the case may be , is given on rent."

18. In view of the above-mentioned definition of "allottee" as well as all the terms and conditions of the allotment letter cum Buyer's Agreement executed between the respondent and the complainant, it is crystal clear that the complainant is an allottee as the subject unit was allotted to her by the promoter. The concept of investor is not defined or referred in the Act. As per the definition given under Section 2 of the Act, there will be "promoter" and "allottee" and there cannot be a party having a status of "investor". The Maharashtra Real Estate Appellate Tribunal in its order dated 29.01.2019 in appeal no. 0006000000010557 titled as *M/s Srushti Sangam Developers Pvt. Ltd. Vs. Sarvapriya Leasing (P) Lts And anr.* Has also held that the concept of investor is not defined or referred in the Act. Thus, the contention of the promoter that the complainant-allottee being investor is not entitled to protection of this Act stands rejected.

G. Findings on the relief sought by the complainant.

- G.I Direct the respondent to complete the project as well as the apartments so booked by the complainant and deliver the same duly completed in all respect as agreed between the parties, within 6 weeks from the date of the order.**
- G.II. Direct the respondents, jointly and severally, to pay the interest at the rate of 18% per annum compound quarterly for causing inordinate delay in delivery of possession of the unit in issue on the amount deposited by the complainant to be calculated respective date of payment till the actual delivery of the possession of the apartment so booked till the actual delivery of the possession of the apartment so booked till its full and final realisation of the interest whichever is later.**
- G.III. Declare the allotment letter which formed as binding contract between the parties as one sided, favouring the respondent and discriminating the complainant, against the principles of**

reciprocity and equality and hence the same is void and is not binding on the complainant.

G.IV. Direct the respondent to stop the deficient service as well as the unfair and restrictive trade practices with immediate effect and declare that the terms and conditions of the allotment letter are unfair, biased and unjust.

G.V. Pass an order imposing appropriate penalty for violating the provisions of Section 13 of the Act as the respondent received the booking amount/first instalment without providing the BBA/Allotment Letter containing the terms and agreement.

19. In the present complaint, the complainants intend to continue with the project and are seeking possession and delay possession charges along with interest on the amount paid. Proviso to section 18 provides that where an allottee does not intend to withdraw from the project, the 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.

"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."*

20. Clause 19(I) of the Allotment Letter provides for handing over of possession and is reproduced below:

Clause 19(I)

*The possession of the apartment shall be delivered to the allottee(s) by the company within **42 months from the date of allotment** subject to the force majeure, circumstances, regular and timely payments by the intending allottee(s), availability of building material, change of laws by governmental/ local authorities, etc.*

Clause 19(II),

In case the Company is unable to construct the apartment within stipulated time for reasons other than as stated in sub-clause I, and further within a grace period of six months, the Company shall compensate the intending Allottee (s) for delayed period @ Rs.10/- per sq. ft. per month subject to regular and timely payments of all installments by the Allottee (s). No delayed charges shall be payable within the grace period. Such compensation shall be adjusted in the outstanding dues of the Allottee (s) at the time of handing over possession.

- 21. Admissibility of grace period:** The promoter has proposed to hand over the possession of the apartment within a period of 42 months from the date of allotment along with grace period of 6 months. Since in the present matter the allotment letter incorporates unqualified reason for grace period/extended period of 6 months in the possession clause subject to force majeure circumstances. Accordingly, this grace period of 6 months shall be allowed to the promoter at this stage. The due date of possession comes out to be 20.07.2016.
- 22. 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."

23. 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.
24. 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., 19.05.2026 is 8.80%. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., 10.80%.
25. The definition of term 'interest' as defined under section 2(z) of the Act provides that the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default. The relevant section is reproduced below:
- "(z) '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;"*
26. 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 complainants in case of delayed possession charges.

27. On consideration of the documents available on record and submissions made regarding contravention of provisions of the Act, the Authority is satisfied that the respondent is in contravention of the section 11(4)(a) of the Act by not handing over possession by the due date as per the agreement. By virtue of clause 19(I) and 19(II) of the Allotment Letter executed between the parties on 20.07.2012, 42 months year from the date of allotment. Due date of possession is calculated Forty Two months from the date of execution of allotment letter. As far as grace period is concerned, the same is allowed for the reasons quoted above. Therefore, the due date of handing over possession is 20.07.2016.
28. Upon consideration of the documents on record, the Authority observes that the complainant was allotted Unit No. A-904, Type-2BHK, on the 9th Floor, admeasuring 1365 sq. ft. (super area), in the project "Assotech Blith" situated at Sector-99, Gurugram. An Allotment Letter dated 20.07.2012, was issued in favour of the complainant. In terms of Clauses 19(I) and 19(II) thereof, the respondent undertook to complete construction and hand over possession of the unit on or before 20.07.2016. The total sale consideration was fixed at Rs.76,35,865/-, out of which the complainant has paid Rs.69,76,177/- to date. Notwithstanding the foregoing, the respondent has failed to obtain the Occupation Certificate from the competent authority till date, despite the expiry of approximately ten years from the promised date of possession.
29. The complainant has requested that delayed possession charges be granted till the unit is officially handed over, as it is not yet ready for

occupancy. The Authority after taking into consideration the documents and the submissions made by the complainant, is of the view that the Occupation Certificate in respect of the subject unit has not been granted to the respondent by the competent authorities.

30. Section 19(10) of the Act obligates the allottee to take possession of the subject unit within 2 months from the date of receipt of occupation certificate. In the present complaint, the occupation certificate has not been obtained by the respondent till date. Therefore, in the interest of natural justice, the complainants should be given 2 months time from the date of offer of possession. These 2 months of reasonable time is being given to the complainant keeping in mind that even after intimation of possession practically he has to arrange a lot of logistics and requisite documents including but not limited to inspection of the completely finished unit, but this is subject to that the unit being handed over at the time of taking possession is in habitable condition.
31. Accordingly, the non-compliance of the mandate contained in section 11(4)(a) read with section 18(1) of the Act on the part of the respondent is established. As such the complainants is entitled to delayed possession at prescribed rate of interest i.e., 10.80% p.a. from the due date of possession 20.07.2016 till the valid offer of possession plus 2 months after obtaining the occupation certificate from the competent authorities or actual handover, whichever is earlier, as per provisions of section 18(1) of the Act read with rule 15 of the rules and section 19(10) of the Act. The respondent is directed to handover physical possession of the unit to the complainant within a period of 30

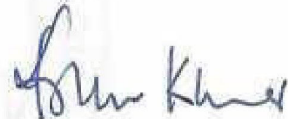
days from the date of offer of possession, after obtaining the Occupation Certificate.

H. Directions of the authority

32. Hence, the Authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations casted upon the promoters as per the functions entrusted to the authority under section 34(f):

- i. The respondent is directed to pay the interest at the prescribed rate i.e., 10.80% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e., 20.07.2016 till offer of possession plus two months or actual handing over of possession after obtaining Occupation Certificate from the competent authority, whichever is earlier, as per section 18(1) of the Act of 2016 read with rule 15 of the rules.
- ii. The complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.
- iii. The rate of interest chargeable from the allottees/complainants 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 promoters shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2(za) of the Act.
- iv. The respondent is directed to handover possession of the unit within 30 days of from the date of offer of possession, after obtaining the Occupation Certificate.

- v. The arrears of such interest accrued from 20.07.2016 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.
- v. The respondent is directed to execute the conveyance deed in favor of the complainant within a period of sixty days from the date of obtaining the Occupation certificate.
- vi. The respondent shall not charge anything from the complainant which is not the part of the agreement.
33. Complaint stands disposed of.
34. File be consigned to registry.


Arun Kumar
(Chairman)

Haryana Real Estate Regulatory Authority, Gurugram
Dated: 19.05.2026