HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No:	**889 of 2024**
Date of Filing:	**15.07.2024**
Date of First Hearing:	**04.11.2024**
Date of Decision:	**20.11.2026**

Sham Lal Goel S/o Late Sh. Ram Kishan Goel
R/o 59, Sharda Niketan, Pitampura, Delhi-110034.

....COMPLAINANT(S)

VERSUS

TDI Infrastructure Ltd.
2nd Floor, Mahindra Tower 2A, Bhikaji Cama Place, Delhi-110066.

....RESPONDENT(S)

CORAM: **Sh. Chander Shekhar** **Member**

Hearing: **9th**

Present: - Mr. Gaurav Gupta, Advocate, for the Complainant through VC.
Mr. Shubhnit Hans, Advocate with Ms. Samriti, Advocate, for the Respondent.

ORDER:

The present complaint was filed by the complainant under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (for

short Act of 2016) read with Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017, for violation or contravention of the provisions of the Act of 2016, or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

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, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	TDI City, Kundli, Sonipat
2.	RERA registered/not registered	Un-registered
3.	Plot No.	J-97B
4.	Plot Area	250 sq. yds.
5.	Date of Booking by Original Allottee	21.08.2005
6.	Date of Allotment Letter in favor of Complainant	01.11.2011
8.	Date of Builder Buyer Agreement	Not Executed
9.	Due Date of Offer of Possession	Not Available
10.	Possession Clause	Not Available
11.	Total Sale Consideration	₹22,02,812/-

12.	Amount Paid by the Complainant	₹23,75,659/-
13.	Offer of Possession	05.06.2018 without OC

B. FACTS OF THE COMPLAINT:

3. Brief facts of the case are that the complainant, Mr. Sham Lal Goel, has filed the present complaint against M/s TDI Infrastructure Pvt. Ltd. (formerly known as Intime Promoters Pvt. Ltd.), in respect of Plot No. J-97B (Corner), situated in TDI City, Kundli, Sonipat, Haryana. It is submitted that the respondent company advertised its proposed township project, namely TDI City, Kundli, during 2004-2005 and invited applications from prospective purchasers. According to the complainant, the respondent company offered 10% interest on the initial deposit, if allotment was not made within six months from the date of application. It also represented that allotment would be made after registration of the project and receipt of the necessary approvals from the competent authorities.

4. On 21.08.2005, the original purchaser, Mr. Anil Mittal, applied for advance registration of a plot in the project and deposited ₹3,87,500/-, being 20% of the total plot cost. The amount was duly acknowledged by the respondent company. The complainant alleged that on the same date, the respondent company adjusted the advance registration amount towards booking of the plot and issued a payment schedule without first making a

formal offer of allotment. Thereafter, it started raising further demands in accordance with the said schedule.

5. It is further alleged that the respondent company repeatedly issued demand letters and made telephone reminders, pressurising the purchaser to make payments. The company also allegedly assured him that the basic infrastructure facilities would be completed shortly and threatened cancellation of the allotment in case of non-payment. It is submitted that Mr. Anil Mittal transferred his rights in the plot to Mr. Chand Gidwani on 07.02.2006. Subsequently, Mr. Chand Gidwani transferred the said rights in favour of the present complainant, Mr. Sham Lal Goel, on 01.11.2011. The respondent company allotted Plot No. J-97B (Corner), bearing Allotment ID No. KR2-1172, vide allotment letter dated 12.02.2006, after receiving 40% of the plot cost. However, the allotment letter did not specify any date for handing over possession or disclose the status of the statutory approvals and development of the project. The complainant further stated that the additional payments were made towards the cost of the plot, preferential location charges(PLC) and external development charges(EDC), as demanded by the respondent company.

6. According to the complainant, when he visited the project site in December 2006, he found that the development work had not progressed as represented by the respondent company. Despite this, the respondent

company continued to raise demands for the remaining payments and also charged interest on delayed payments. It is further alleged that the respondent company issued newsletters and made representations in January 2007 stating that the possession of plots in Blocks A, B, C and D had been handed over to other buyers and the development work was progressing. However, the complainant claimed that the actual site conditions did not reflect the same. The complainant stated that, due to repeated threats of cancellation and forfeiture of the amount already deposited, he was compelled to pay the remaining 40% of the plot cost amounting to ₹8,43,750/- on 18.03.2008, along with ₹50,000/- towards delayed payment interest. Despite receiving 90% of the plot cost and the EDC, the respondent company did not offer possession. Instead, it raised a further demand of ₹2,18,125/- towards enhanced EDC on 31.07.2009, which was also paid by the complainant. The complainant further alleged that, during his visits to the project site between 2009 and 2011, he found that the basic development work had still not been completed. He also visited the office of the respondent company, where he was repeatedly assured that the development work would be completed shortly.

7. It is submitted that the respondent company also charged ₹75,000/- towards delayed payment interest on the plot cost and ₹23,472/- towards delayed payment interest on EDC on 07.09.2011. The complainant

claimed that these amounts were paid under pressure to secure possession of the plot. The complainant further stated that, despite repeated visits to the respondent company's office, the possession was not offered. The company continued to assure him that development work was in progress and the possession would be offered after obtaining the requisite Part Completion Certificate. The statements of account issued by the respondent company in the year 2011 acknowledged the payments received, except for the remaining 10%, which was payable at the time of possession.

8. It is alleged that, in the year 2014, the respondent company showed the complainant a revised layout plan and assured him that his plot formed part of the revised plan and that possession would be offered after some further delay. The complainant stated that, on several occasions, including in the year 2008, 2013 and 2017, the respondent company assured him that the possession would be offered after obtaining the Part Completion Certificate for the relevant portion of the project. However, even after obtaining the third Part Completion Certificate in the year 2017, the respondent company failed to offer possession of the plot in question. The complainant alleged that the prolonged delay caused him considerable mental stress and financial hardship. He has also stated that he is a senior citizen and the delay adversely affected his health and quality of life.

9. It is submitted that the Department of Town and Country Planning (DTCP) conducted an inspection of the project in 2020. As per the report dated 05.01.2021, the Part Completion Certificates had been issued for approximately 927 acres out of the total project area of 1,130 acres, leaving approximately 205 acres without completion certificates. The complainant further stated that, as per the inspection report and the approved layout plan bearing Drawing No. 4842-1 dated 20.08.2014, his plot forms part of the approved layout plan but falls within the undeveloped portion of the project. It is further alleged that another inspection was conducted by the DTCP on 16.12.2022, which again confirmed that the plot in question was situated in the undeveloped portion of the project and the necessary development work had not been completed. The complainant also stated that the basic infrastructure facilities, including roads, water supply, sewerage and electricity, have not been provided in the project. He subsequently joined the Residents Welfare Association of TDI plotted buyers to raise the grievances of the allottees collectively. It is further submitted that, during a visit to the respondent company's office, the complainant was again assured that the possession would be offered after March 2024. However, the respondent company subsequently postponed the same. Having failed to obtain possession despite repeated requests, the complainant issued a legal notice dated 09.05.2024 through his counsel. However, according to the complainant, no reply was received from the respondent company till date.

10. It is further alleged that the single layout plan for the project was approved on 21.04.2006, whereas the demarcation plan for the J Block was submitted in August and December 2007 and approved on 04.02.2008. Despite this, the respondent company had already collected substantial payments from the purchasers. The complainant has also alleged that the respondent company repeatedly obtained renewals of licences and revised the layout plan over the years, but failed to complete the necessary development work, particularly in Blocks G to L. It is further contended that the Part Completion Certificates obtained by the respondent company in the year 2008, 2013 and 2017 did not establish that the entire project had been fully developed. The complainant has relied upon the DTCP inspection reports dated 05.01.2021 and 16.12.2022 to support his contention that the required internal and external infrastructure facilities were still incomplete.

11. On the basis of the above facts, the complainant alleged that the respondent company failed to develop the project in accordance with the approved layout plan and did not provide the necessary infrastructure despite receiving substantial payments from the allottees. The complainant stated that he does not wish to withdraw from the project and is still willing to continue with the allotment and take possession of the plot. He has, therefore, approached the Authority seeking appropriate reliefs for delivery of possession and interest for the delay.

C. RELIEF SOUGHT:

12. The complainant in his complaint has sought the following reliefs:

i. To direct the respondent company to hand over the physical possession of Plot No. J-97B (Corner), allotted on 12.02.2006, which forms part of the approved layout plan and the revised layout plan approved by the DTCP vide Drawing No. 4842-1 dated 20.08.2014;

ii. To direct the respondent company to pay delay interest amounting to ₹40,73,297/- at the rate of 10.95%, calculated from 21.08.2008 after allowing three years for development of the project, till the date of filing of the complaint, along with further interest until actual possession is handed over;

iii. To direct a forensic audit of the title of the land forming part of the undeveloped portion of the project and covered under the approved layout plan;

iv. To direct the respondent company to offer physical possession of the plot and execute the conveyance deed in favour of the complainant, on the ground that the possession and registration have allegedly been provided to other allottees;

v. In the alternative, to direct the respondent company to offer an alternative plot in place of the allotted plot, subject to the satisfaction of the complainant, from the plots surrendered or forfeited by other

allottees or from the undeveloped land available with the respondent company;

vi. To direct the respondent company to register the project with the RERA Authority, treating it as an ongoing project and to complete the pending development work, which has allegedly remained incomplete since 2004-2006;

vii. To pass any other order which the Authority may deem fit and proper in the facts and circumstances of the case.

D. REPLY SUBMITTED ON BEHALF OF RESPONDENT:

13. On receipt of notice of the complaint, the respondent filed a reply on 28.02.2025 in which it is submitted that the respondent company has developed several real estate projects across the country over the years. It is submitted that the complainant invested in the project of the respondent company, namely, "TDI City", situated at Kundli, Sonipat, Haryana, on the basis of the company's reputation and goodwill.

14. It is submitted that the respondent company has already obtained Part Completion Certificates for different portions of the township, covering approximately 927 acres. The details of the certificates are as follows:

i. Part Completion Certificate dated 23.01.2008, issued vide Memo No. 5DP-2007/1772, for land measuring 109.5 acres,

forming part of Licence Nos. 183-228 of 2004, 153-157 of 2004 and 101-144 of 2005.

ii. Part Completion Certificate dated 18.11.2013, issued vide Memo No. CC-70-JE(BR)-2013/57692, for land measuring 415 acres, forming part of the residential plotted colony covered under the relevant licences.

iii. Part Completion Certificate dated 22.09.2017, issued vide Memo No. CC-70-PA(SN)-2017/23751, for land measuring 573.394 acres, forming part of the residential plotted colony covered under the relevant licences.

15. It is submitted that the respondent company had commenced the project before the enactment of the RERA Act. Therefore, the provisions of the Act cannot be applied retrospectively to the project. It is further submitted that applying the provisions of the RERA Act retrospectively would impose additional liabilities and penalties upon the respondent company, beyond the terms originally agreed between the parties and would cause financial hardship and adversely affect the construction and development activities of the project. It is, therefore, submitted that the provisions of the RERA Act should be applied prospectively and that the present complaint is not maintainable under the Act.

16. It is submitted that the original purchaser, Mr. Anil Mittal, had applied for the plot in question on 21.08.2005. Thereafter, he transferred his rights in the plot to Mr. Chand Gidwani, in whose favour the plot was allotted by the respondent company. Subsequently, on 01.11.2011, the complainant purchased the rights in the said plot from Mr. Chand Gidwani. It is submitted that the complainant, being a subsequent purchaser, was aware of the terms and conditions of the allotment, payment schedule and other obligations relating to the plot before purchasing the same. It is further submitted that the complainant is bound by the terms and conditions originally agreed upon between the respondent company and the original purchaser. The complainant cannot now dispute those terms after having purchased the rights in the plot with full knowledge of the existing arrangement. It is also submitted that the tentative nature of possession was communicated to the original purchaser, Mr. Anil Mittal, as well as the subsequent allottee, Mr. Chand Gidwani. Therefore, the complainant cannot claim that he was unaware of the terms relating to possession. It is further submitted that the payments made by the original and subsequent purchasers were in accordance with the agreed payment schedule and the respondent company acted in accordance with its contractual obligations. In view of the above, the respondent company contended that the complainant, being a subsequent purchaser, is bound by the original terms and conditions of

allotment. Therefore, the claims raised by the complainant are stated to be without merit and liable to be dismissed.

17. It is submitted that the respondent company had requested the complainant on several occasions to visit its office for execution of the Builder-Buyer Agreement. However, the complainant did not come forward to complete the necessary formalities. It is submitted that vide letter dated 05.06.2018, the respondent company informed the complainant that, due to circumstances beyond its control, it was unable to offer possession of the originally booked unit. Through the said letter, the respondent company offered the complainant the following alternatives:

(a) To take possession of an alternative ready-to-move-in unit in the same project, with execution and registration of the sale deed within 15 days after completion of the necessary formalities; or

(b) To adjust the entire amount deposited by the complainant against any unit of his choice in another project of the respondent company.

However, the complainant did not accept either of the above offers or approach the respondent company for completion of the necessary formalities. A copy of the letter dated 05.06.2018 has been annexed as

Annexure R-1. It is further submitted that no alternative or unallotted plot with a clear title is presently available in the inventory of the respondent company. Therefore, according to the respondent company, refund of the deposited amount is the only available option, which has already been communicated to the complainant.

18. It is submitted that disputes arose between the respondent company and the landowners concerning the land forming part of the project. Despite the dispute, the respondent company made several efforts to resolve the matter through meetings and discussions with the landowners so that the development work could be completed. However, these efforts were unsuccessful. Consequently, the respondent company was compelled to issue legal notices to the landowners, requesting them to cooperate and permit completion of the development work in accordance with the Collaboration Agreement dated 12.07.2005. Through the said notices, the respondent company requested the landowners to fulfil their obligations under the Collaboration Agreement and allow it to complete the development of TDI City, Kundli. Copies of the legal notices have been annexed as Annexure R-2 (Colly).

19. The respondent company further submitted that passing an order directing delivery of possession would be unjustified when the land in question is not in its possession. It is also contended that, unless the dispute

with the landowners is resolved and the land is made available, the respondent company would not be in a position to complete the development or deliver possession of the plot.

20. The respondent company has also raised an objection that the present complaint is barred by limitation. It is submitted that the last payment towards the plot was made by the erstwhile allottee on 31.07.2009, whereas the complainant acquired the rights in the plot on 01.11.2011. According to the respondent company, the complainant ought to have approached the appropriate Authority within three years from the date of the last payment. However, the complaint was filed after a considerable delay and is, therefore, claimed to be time-barred. The respondent company has relied upon Section 29(2) of the Limitation Act, 1963, in support of its objection regarding limitation.

E. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

21. Learned counsel for the respondent has filed written submissions on 24.09.2026, wherein stating that the present complaint is not maintainable as the project was commenced before the enactment of the RE(RD) Act and is not registered under the Act. Therefore, the Authority has no jurisdiction to adjudicate the dispute. In support of this contention, a reliance has been placed on the judgment passed by Hon'ble High Court of Madras in M/s Devinarayan Housing and Property Developments Private

Ltd. and Anr. vs Manu Karan and Anr. in CMSA no.23 and 24 of 2020 decided on 20.09.2023. The respondent has further contended that the complaint has been filed after an unexplained delay of more than 13 years from the last payment made in year 2009, without any communication or assertion of rights by the complainant during the intervening period and is therefore liable to be dismissed on the ground of delay and laches. In support of this contention, a reliance has been placed on the judgment passed by Hon'ble Appellate Tribunal in Janak Mehta and Anr. vs M/s Parsvnath Developers Ltd. in Appeal no.552 of 2026 decided on 31.08.2026. It has also been stated that the respondent is no longer continuing with the development of the project and, consequently, is not in a position to offer or hand over possession of the unit to the complainant. Relying upon the judgments cited in its written submissions, the respondent has submitted that the complainant cannot be kept waiting indefinitely for possession. On these grounds, the respondent has prayed for dismissal of the complaint.

F. REJOINDER FILED BY THE COMPLAINANT:

22. The complainant filed the rejoinder on 09.04.2026. It is submitted that the original booking of the plot was made on 21.08.2005 and, after successive transfers, the plot was allotted to the complainant. According to the complainant, a total amount of ₹23,75,659/- has been paid against the total plot cost of ₹22,02,812/-, but the respondent has failed to develop the plot and deliver the physical possession. The complainant

further alleged that the respondent raised demands towards EDC, enhanced EDC and delayed payment interest despite the plot remaining undeveloped. Reliance has been placed on the DTCP inspection report, which allegedly shows that a substantial portion of the project, including the area where the subject plot is situated, remained undeveloped. It is also alleged that the project was incomplete as of the commencement of RERA and was therefore required to be registered as an ongoing project.

23. The complainant has denied the respondent's pleas regarding non-applicability of RERA, limitation, non-availability of land and the alleged offer of an alternative plot. It is contended that the alleged alternative offer was not properly communicated and the respondent has failed to establish the claimed land dispute. The complainant has also relied upon site photographs and RTI information to contend that other plots in the same vicinity have been developed and sold, while the subject plot remains undeveloped. Accordingly, the complainant seeks directions for completion of development and delivery of physical possession, payment of delay interest/compensation of ₹40,73,297/- at 10.95% per annum from 21.08.2008 till actual possession, execution and registration of the Agreement for Sale/conveyance deed, registration of the project as an ongoing project under RERA and appointment of a Local Commissioner to inspect the site and report on its actual development status. The complainant

has clarified that he is not presently seeking refund and wishes to obtain possession of the plot.

G. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

24. Learned counsel for the respondent has filed written submissions on 27.10.2026 and seeks dismissal on following four grounds:

(A) The project is unregistered and was begun, with a Part Completion Certificate obtained, before RERA came into force, so RERA does not apply retrospectively and the Authority lacks jurisdiction. Reliance has been placed on *Devinarayan Housing v. Manu Karan*.

(B) The complaint is barred by delay and laches, because the complainant was silent for over 17 years after the alternate-unit offer. Reliance has been placed on *Janak Mehta v. Parsvnath*, HREAT, 31.08.2026.

(C) As a subsequent allottee, he can claim no relief, including interest, for the period before he stepped into the original allottee's shoes. It cites *Laureate Buildwell v. Charanjeet Singh*, SC 2021.

(D) Respondent submitted that it told him the booked plot was unavailable because of a land dispute, offered an alternate unit with 15 days to accept and he did not respond.

H. WRITTEN SUBMISSIONS FILED BY THE COMPLAINANT:

25. Mr. Gaurav Gupta, Advocate for the complainant has filed his fresh power of attorney along with written submissions on 13.11.2026.The same are taken on record.It is submitted that the complainant is a subsequent allottee of Plot J-97B (250 sq. yds., corner) in TDI City, Kundli.The original booking was made on 09.09.2005 and the plot was allotted on 12.02.2006. The original and erstwhile allottees paid ₹23,75,659/- up to 07.09.2011, which is more than the total sale price of ₹22,02,812/-(an excess of ₹1,72,847/-).The plot was transferred to him on 01.11.2011 and the respondent recorded the transfer.He said the respondent never executed a Builder Buyer Agreement, never wrote to him for years and never gave possession and now cited a land-owner dispute and an alleged alternate-plot offer dated 05.06.2018, which he says he never received and which names no plot and has no proof of dispatch.He relies on this Authority's earlier rulings in *Ram Parkash* and *Varun Punani* that an alternate offer that is not concrete cannot replace possession, and the cause of action continues. He also pointed to site photographs showing neighbouring plots J-92 to J-96C already delivered and walled and to respondent's own Hindustan Times advertisement of 27.08.2026 claiming "possession ready, registry ready, fully developed". He

argued the cause of action is continuing, so there is no limitation or delay. He takes the deemed possession date as 09.09.2008 as 3 years from booking. He seeks possession of the plot, or an equal alternate plot along with delay interest under the HRERA Rules, 2017, a registered sale deed and a refund of the excess ₹1,72,847/- with interest.

I. ARGUMENTS OF LEARNED COUNSEL FOR THE COMPLAINANT AND RESPONDENT:

26. During oral arguments, learned counsel for the complainant as well the respondent has reiterated arguments as were submitted in the complaint, reply and written submissions.

J. ISSUES FOR ADJUDICATION

27. Whether the complainant is entitled to get possession of booked plot alongwith delay interest in terms of Section 18 of RE(RD) Act, 2016?

K. OBSERVATIONS AND DECISION OF THE AUTHORITY

28. The Authority has gone through the rival contentions. In the light of the background of the matter as captured in this order and also the arguments submitted by both parties, the Authority observes as follows:

(i) The first objection raised by the respondent is that the present complaint is not maintainable as the project was commenced prior to the enactment of the RE(RD) Act, 2016 and the project is not registered under the Act. The contention,

however, cannot be accepted merely on the ground that the project was launched before the commencement of the Act. The Hon'ble Supreme Court in ***M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors.*, (2021) 18 SCC 1,** has examined the applicability of the Act to projects which commenced prior to the enactment of the Act and held that the Act operates retroactively in respect of ongoing projects. The Court specifically held that all ongoing projects which commenced prior to the Act and in respect of which a completion certificate had not been issued were brought within the ambit of the Act. The Supreme Court further clarified that projects which had already been completed or in respect of which a completion certificate had been granted prior to the commencement of the Act were outside its purview. Thus, the relevant consideration is not merely the date on which the project was launched, but whether the project was an ongoing project and whether a completion certificate had been issued before the Act came into force. In the present case, the respondent has not placed on record any material showing that the project in question had obtained a valid completion certificate prior to 01.05.2017, i.e. the date on which Section 3 of the Act came into force. On the contrary, from the stand

taken by the respondent itself, the development of the project was not complete and the respondent has now stated that it is no longer continuing with the development of the project. Therefore, the mere fact that the project was launched before 2016 does not take it outside the scope of the Act. The Supreme Court in *Newtech Promoters* has made it clear that the Act was specifically intended to bring ongoing projects within its regulatory framework so as to protect the interests of allottees whose projects had remained incomplete. The reliance placed by the respondent on the judgment of the Hon'ble Madras High Court in *M/s Devinarayan Housing and Property Developments Pvt. Ltd. & Anr. v. Manu Karan & Anr.*, C.M.S.A. Nos.23 and 24 of 2020, decided on 20.09.2023, also requires consideration in the factual context of the present case. In *Devinarayan*, the High Court was dealing with a project which was held to fall within the exemption contemplated under Section 3(2)(a) of the Act and, on that factual basis, held that the project was not required to be registered and that the grievances relating to such an unregistered project could not be adjudicated under the Act. The said decision, therefore, cannot be applied mechanically to every project merely because the project was launched before 2016 or remained unregistered. The position applicable in

Haryana is also reflected in the judgment of the Haryana Real Estate Appellate Tribunal in ***Shalimar Estates Pvt. Ltd. v. Rakesh Kumar Garg*, Appeal No.499 of 2022, decided on 21.04.2023, along with Appeal No.501 of 2022**. In that case also, the promoter contended that the project was unregistered and, therefore, outside the jurisdiction of the Authority. The Tribunal examined *Newtech Promoters* and held that an ongoing project commenced prior to the Act, in respect of which a completion certificate had not been obtained before 01.05.2017, falls within the purview of the Act. The Tribunal further held that merely because such an ongoing project was not registered, the promoter could not claim immunity from the operation of the Act. It was specifically observed that the promoter was required to establish on record that the project had been completed or that a completion certificate had been issued prior to 01.05.2017. The distinction between an Occupancy Certificate and a Completion Certificate is also material. In *Shalimar Estates*, the Haryana Real Estate Appellate Tribunal observed that an Occupancy Certificate permitting occupation of a building cannot, by itself, be treated as a Completion Certificate unless it satisfies the requirements of Section 2(q) of the Act. The Tribunal held that, in the

absence of evidence showing completion of the project or issuance of a completion certificate before 01.05.2017, the project remained within the jurisdiction of the Authority. Thus, in the present case also, the respondent must establish, by cogent documentary evidence, that the project had obtained a completion certificate before 01.05.2017. Mere assertion that the project was launched prior to the enactment of the Act or that the project is presently unregistered is not sufficient.

(ii) The respondent has also objected that the complaint is grossly barred by the limitation. The respondent has contended that the last payment was made in the year 2009 and the complaint has been filed after more than 13 years without any communication or assertion of rights by the complainant. This objection also cannot be examined solely with reference to the date of the last payment. The grievance of the complainant is essentially regarding the failure of the respondent to perform its continuing obligation to hand over possession of the allotted plot. Where possession has not been delivered, the breach does not necessarily come to an end on the date of the last payment. The question of delay and laches has therefore to be examined with reference to the entire conduct of the parties and the

subsisting obligation of the promoter. The complainant has specifically pleaded that he had addressed communications to the respondent from time to time seeking execution of the necessary agreement and delivery of possession. Therefore, the submission of the respondent that there was no communication or assertion of rights by the complainant during the intervening period is a matter which has to be tested from the documents placed on record. If the communications relied upon by the complainant are found to be genuine and form part of the record, the plea that the complainant remained completely silent for the entire period cannot be accepted as a matter of fact. More importantly, where the promoter has failed to hand over possession, the cause of action arising from such failure may continue so long as the obligation remains unfulfilled. The Hon'ble Supreme Court in ***Kolkata West International City Pvt. Ltd. v. Devasis Rudra*, (2019) 18 SCC 613**, while dealing with prolonged failure to deliver possession, held that it would be unreasonable to construe the contractual relationship as requiring a buyer to wait indefinitely for possession. The Court recognised that a buyer can be expected to wait for a reasonable period, but prolonged failure to deliver possession gives rise to a continuing grievance. The reliance placed by the respondent

upon ***Janak Mehta & Anr. v. M/s Parsvnath Developers Ltd.*, Appeal No.552 of 2026, decided on 31.08.2026**, has also been considered. However, the applicability of any decision concerning delay and laches depends upon the factual circumstances of that particular case, including the nature of the relief claimed, the conduct of the allottee, subsequent correspondence between the parties and whether the promoter's obligation remained subsisting. The mere fact that the last payment was made in the year 2009 cannot, by itself, determine the issue when the complainant's case is that possession was never delivered. The complete facts and ratio of the said judgment therefore have to be examined before applying it to the present case. Further, the Authority places reliance upon the judgement of Apex court in ***"Civil Appeal No. 4367 of 2004 titled as M.P Steel Corporation v/s Commissioner of Central Excise"*** where it has been held that Indian Limitation Act deals with applicability to courts and not tribunals. Further, the RE(RD) Act is a special enactment with particular aim and object covering certain issues and violations relating to the housing sector. Provisions of the Limitation Act, 1963, would not be applicable to the proceedings under the RE(RD) Act, 2016, as the Authority set up under that Act being quasi-judicial

and not a Court. The respondent/promoter has till date failed to fulfil its obligations because of which the cause of action is re-occurring.

(iii) The respondent has submitted that it is no longer continuing with the development of the project and is, therefore, not in a position to offer possession to the complainant. This submission, in fact, requires the Authority to examine the respondent's present ability and legal obligation to perform its commitment rather than treating the same as a ground for dismissal of the complaint. A promoter cannot ordinarily rely upon its own inability to complete the project as a ground to defeat the allottee's statutory remedies. The consequences of prolonged failure to deliver possession have to be considered in accordance with Section 18 of the Act and the relief sought by the allottee. The Hon'ble Supreme Court in ***Fortune Infrastructure (Now known as Hicon Infrastructure) v. Trevor D'Lima*, (2018) 5 SCC 442**, and ***Kolkata West International City Pvt. Ltd. v. Devasis Rudra*, (2019) 18 SCC 613**, has recognised that an allottee cannot be compelled to wait indefinitely for possession where the delay has become unreasonable. The principle is that the allottee must have an

effective remedy where possession is not delivered within a reasonable period.

(iv) Regarding receiving of Part Completion Certificates for the project measuring approximately 927 acres approx. on 23.01.2008, 18.11.2013 and 22.09.2017, it is observed that mere issuance of a part completion/completion certificate cannot be treated as conclusive proof that the project has been developed in accordance with the promises and obligations undertaken by the promoter. If the allottees still have genuine grievances regarding incomplete development works, lack of promised amenities or non-fulfilment of obligations by the promoter, such grievances can very well be examined by this Authority notwithstanding the issuance of such Part Completion Certificate. The actual status of development is always subject to verification by the Authority to determine whether the promoter has discharged all its obligations. Therefore, the objection raised by respondent on the basis of part completion certificate is not sustainable and the Authority continues to have jurisdiction to adjudicate upon the grievances of the allottee regarding non-performance or deficiency in development works.

(v) It is further observed that the respondent has admitted that the possession of the originally allotted plot could not be offered to the complainant and the area in which the plot is situated is presently under dispute with local farmers, due to which there is no likelihood of possession being handed over in the foreseeable future. The plea of the respondent that the complainant is a subsequent allottee does not absolve the respondent/promoter of its obligation to provide a developed and legally marketable plot or to offer an effective remedy in accordance with law. Further, the contention regarding non-execution of the Builder Buyer Agreement cannot be accepted to defeat the rights of the complainant when the respondent has admittedly accepted consideration and allotted the plot to the present complainant. Execution of the Builder Buyer Agreement is primarily the responsibility of the promoter/ respondent and the respondent cannot take advantage of its own omission or failure to execute the agreement so as to deny the complainant the reliefs otherwise available under law.

(vi) It is further observed that although the respondent has relied upon the offer letter dated 05.06.2018, no postal receipt, courier receipt, tracking report, or any other proof of dispatch and delivery has been placed on record to establish that the said

offer was ever communicated to the complainant. The offer of an alternative plot made in the year 2018 also does not cure the continuing failure of the respondent to deliver possession of the originally allotted plot. Moreover, the respondent has not placed on record any material to show that a specific alternative plot, along with its particulars such as plot number, location, size, and status of development, was actually offered to the complainant for consideration and acceptance. In the absence of any definite and concrete alternative allotment, the alleged offer cannot be treated as a valid substitute for the respondent's obligation to hand over the possession of the allotted plot. Since the respondent itself acknowledges its inability to hand over possession due to ongoing disputes affecting the land, the cause of action continues to subsist. The respondent's inability to offer possession of the allotted plot for an indefinite period amounts to deficiency in service and failure to fulfil its obligations towards the complainant.

(vii) Further the respondent has taken an objection that the complainant is a subsequent purchaser. In this regard, it is observed that the respondent itself has quoted *Laureate*'s passage which says a subsequent purchaser is in the same class as the original allottee and is entitled to a reasonable time for

delivery, so it supports respondent only on the limited point of interest from the date of transfer. Hence, this contention can not be accepted.

29. In the present case, the complainant has consistently sought possession and has specifically expressed his willingness to continue with the allotment. Therefore, the case falls within the second part of Section 18(1) of the Act. The respondent is consequently liable to hand over possession of the allotted plot, subject to compliance with the statutory requirements and obtaining the requisite approvals from the competent authority along with delay interest.

30. As regards the date from which the complainant is entitled to delayed possession interest, it is observed that the original allottee had booked the unit in the year 2005. Considering the period of three years for delivery of possession, the deemed date of possession would fall in the year 2008. However, the complainant purchased the unit subsequently in the year 2011, with full knowledge that the possession had already been delayed beyond the stipulated period. Thus, the complainant acquired the unit after the deemed date of possession, being aware of the existing delay in handing over the possession. Accordingly, the claim for delay interest from 21.08.2008, i.e. a date prior to the complainant's acquisition of rights in the plot, may be examined in light of the date of transfer and the complainant's

entitlement under the applicable provisions of law. It is pertinent to note that the booking for the plot in question was made in favour of the original allottee on 21.08.2005 and the same was transferred to the complainant on 01.11.2011. It is further observed that no Builder Buyer Agreement has been executed between the parties till date, nor does the allotment letter or booking form contain any specific clause providing for the deemed date of possession. In the absence of a specific clause for the deemed date of possession, it cannot rightly be ascertained as to when the possession of said plot was due to be given to the complainant. In ***Appeal No. 273 of 2019 titled as TDI Infrastructure Ltd Vs Manju Arya***, Hon'ble Appellate Tribunal has referred to the observation of Hon'ble Apex Court in "***2018 STPL 4215 SC titled as M/s Fortune Infrastructure (now known as M/s Hicon Infrastructure) & Anr.***"' in which it has been observed that period of three years is reasonable time for completion of construction work and delivery of possession. In the present complaint, the plot was allotted to the complainant on 01.11.2011 by the respondent. Accordingly, taking a period of three years from the date of allotment, as a reasonable time to complete development works in the project and to handover possession to the complainant, the deemed date of possession comes to 01.11.2014. In the present situation, the respondent failed to honour its contractual obligations without any reasonable justification.

31. The Authority observes that the respondent has severely misused its dominant position. The respondent has offered alternate possession in the year 2018 i.e. after delay of almost 10 years and that too without obtaining occupation certificate/completion certificate. Hence, the said offer was not valid in the eyes of law. Even today, the respondent is not able to offer valid possession to the complainant and has not even specified the valid reason/ground for not offering the possession of the booked plot. The complainant however is interested in getting the possession of the booked plot and does not wish to withdraw from the project. In these circumstances, the provisions of Section 18 of the Act, 2016, clearly come into play by virtue of which while exercising the option of taking possession of the plot the allottee can also demand delay interest along with monthly interest and the respondent is liable to pay the same for the entire period of delay caused at the rates prescribed. For ready reference, the provisions of Section 18 is reproduced below:

Section 18 - Return of amount and compensation

"(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—

(a) *in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or (b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment,*

plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

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.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act."

32. So, the Authority hereby concludes that the complainant is entitled for the delay interest from the deemed date of possession i.e. 01.11.2014 to the date on which a valid offer is to be sent to the complainant after obtaining occupation certificate/completion certificate.

33. The definition of term 'interest' is defined under Section 2(za) of the Act which is as under:

(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;

34. Rule 15 of HRERA Rules, 2017, provides for prescribed rate of interest which is 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".

35. Consequently, as per the website of the State Bank of India, i.e., https://sbi.co.in, the highest marginal cost of lending rate (in short MCLR) as on date i.e. 20.11.2026 is 8.95%. Accordingly, the prescribed rate of interest will be MCLR + 2% i.e., 10.95%.

36. Authority has got calculated the interest on total paid amount from the deemed date of possession till the date of this order at the rate of 10.95% and said amount works out as per detail given in the table below:

Sr. No.	Principal Amount	From Deemed date of possession or date of payment whichever is later	Interest Accrued till 20.11.2026
1.	₹23,75,659/-	01.11.2014	₹31,38,008/-
	Monthly interest		₹21,381/-

L. DIRECTIONS OF THE AUTHORITY

37. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the respondent/promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

(i) Respondent is directed to pay upfront delay interest of ₹31,38,008/- to the complainant towards delay already caused in handing over the possession till the date of order and further monthly interest of ₹21,381/- till the date of valid offer of possession after receipt of Occupation/Completion Certificate.

(ii) The complainant will remain liable to pay balance consideration amount, if any, to the respondent at the time when valid possession is offered to the complainant as per the agreed terms and conditions.

(iii) The rate of interest chargeable from the allottees/ complainant by the respondent/promoter, in case of default shall

be charged at the prescribed rate, i.e., 10.95% by the respondent/promoter which is the same rate of interest which the respondent/promoter shall be liable to pay to the allottee.

(iv) A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017, failing which legal consequences would follow.

(v) The respondent shall not charge anything from the complainant which is not part of the agreed terms and conditions.

38. **Disposed of**. File be consigned to the record room after uploading of the order on the website of the Authority.

(CHANDER SHEKHAR)
MEMBER

20.11.2026
Narinder Kaur
(Law Associate)