

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,  
HARYANA REAL ESTATE REGULATORY AUTHORITY**

**GURUGRAM**

**Complaint no. : 4892 of 2022**  
**Date of decision : 22.12.2022**

Rajender Chaudhary

ADDRESS: H.No. G/4 , Block-G , Lajpat Nagar -I, Delhi **Complainant**  
110024

Versus

M/S Pareena Infrastructure Private Limited  
ADDRESS: C-I (7A), Second Floor, Omaxe City  
Centre, Sohna Road, Gurugram,

**Respondent**

**APPEARANCE:**

For Complainant:

Complainant In Person

For Respondent:

Mr. Prashant Sheoran Advocate

**ORDER**

1. This is a complaint filed by Rajender Chaudhary (buyer/allottee) under section 31 read with section 35,36,37 and 38 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) with prayer:

- to award compensation on account of physical harassment, mental agony, and monetary loss in his favour.
- to award Rs. 1,00,000/- as cost of litigation,

  
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- c) to pass such other and further order as Adjudicating Officer may deem fit and proper, in the facts and circumstances of the present case.
2. By filing an application dated 05.08.2022, the complainant sought an amendment in prayer clause of complaint and quantified the amount of compensation as Rs. 62,00,000/- (Rs 50,00,000/- + 11,00,000/- as interest and 1,00,000/- as ligation cost.-. This application was allowed vide order of this forum dated 12.08.2022.
  3. According to the complainant, he along with his wife had provisionally booked a residential apartment of approx. 1997 sq. ft. in project named. "Coban Residences" of the respondent, situated at sector 99-A, Gurugram, Haryana at basic sale price of Rs. 4896/- per sq., ft. An Apartment Buyer Agreement (ABA) was executed between them on 14.12.2013 The respondent issued provisional allotment letter dated 26.12.2013, in respect of the said unit. They (complainants) on 29.08.2014 moved an application and thereafter a fresh ABA was executed between the parties with revised basic sale price from Rs.4896 to Rs. 4690 per sq. ft.
  4. As per clause no. 3.1 of the ABA, the possession of the unit was to be handed over to the complainants within 48 months from the date of signing of the agreement. They made timely payments as per the demands raised by respondent Rebate of Rs. 110/- per. Sq. ft. was given by the respondent to them (complainants).
  5. Aforesaid complaint was allowed by order of AO dated 17.08.2021. The respondent preferred an appeal against said order before the Appellate Tribunal. The tribunal allowed appeal and remanded back the matter to the authority, for fresh decision. The authority vide order dated 31.05.2022

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again allowed the complaint and directed the respondent to refund an amount of Rs. 1,05,98,325/- along with interest @ 9.50% p.a from the date of recovery of the amount within 90 days from the date of said order dated 31.05.2022.

6. Contending that during this period of trial, his wife died, and he (complainant) suffered mental agony and pain, in absence of his wife, they had booked said apartment in the hope that they will live in the flat, in their last stage of life, but the respondent shattered all of their dreams, had the respondent delivered possession within agreed time, his wife would not have died, the complainant prayed for compensation as described above.
7. The respondent contested the claim of complainant by filing a reply. It is pleaded by respondent that the present complaint is not maintainable in the eyes of law as the complainant failed to prove that the same is entitled to any compensation as per rules laid down in the Act. As per respondent, after receipt copy of final order passed by the authority on 18.07.2022, it (respondent) filed an appeal before Appellate Tribunal on 20.07.2022 and same is still pending before the Appellate Tribunal.
8. I heard the complainant in person and counsel for respondent. Factual matrix as stated earlier is not in dispute. Complaint seeking refund of amount was allowed by this forum (AO) vide order dated 17.08.2021. On appeal said order was set aside by the Appellate Tribunal and the matter was remanded back to the authority for fresh decision. The authority decided the complaint again on 31.05.2022 and directed respondent to refund an amount of Rs. 1,05,98,325/- as paid by complainant along with interest @9.50% p.a from the date of recovery of the amount, within 90

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days from the date of order. The respondent has again approached the Appellate Tribunal, feeling aggrieved by said order.

9. Even if wife of complainant died during this period of pendency of matter and the respondent did not make payment of decretal amount, there is no evidence to prove that the respondent was responsible for her death. As described above, by filing appeal the respondent challenged the order passed by this forum and again the order passed by the authority, as per law. The respondent has every right to exhaust its remedy by filing an appeal and thus same (respondent) cannot be held liable for the death of complainant's wife.
10. So far compensation in the name of suffering mental agony by the complainant is concerned, same is part and parcel of earlier complaint. Complaint in hands based on same cause of action, is not maintainable. It is a principle of public policy that there should be end of litigation. When complaint has already been decided, No fresh case/ complaint can be allowed on same cause of action.
11. Due to reason mentioned above, the complaint in hands is dismissed. Both of the parties to bear their own costs.
12. File be consigned to records.

  
**(Rajender Kumar)**  
**Adjudicating Officer,**  
**Haryana Real Estate Regulatory Authority**  
**Gurugram**