

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

**Appeal No.39 of 2024
Date of Decision: 12.12.2024**

Rajdeep Aggarwal, resident of House NO.387, Sector-A, Pocket-C,
Vasant Kunj, New Delhi-110070.

..Appellant

Versus

Pareena Infrastructure Pvt. Ltd., registered office at # C-(7A), 2nd
Floor, Omaxe City Centre, Sohna Road, Gurugram-122018,
Haryana.

..Respondent.

CORAM:

**Justice Rajan Gupta
Mr. Rakesh Manocha**

**Chairman
Member (Technical)**

Present : Mr. Arun Sharma, Advocate,
for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated
20.09.2023 passed by the Authority at Gurugram¹. Same reads as
under:

*“The authority has already heard and decided the matter in
issue between the parties vide order dated 20.03.2019 in
complaint bearing no. 2191 of 2018, vide which delay
possession charges (DPC) @10.75% from due date of
possession till offer of possession plus two months was
allowed to him. However, the respondent defaulted in
payment of DPC to him. Therefore, in order to execute the
order dated 20.03.2019, he has filed an execution petition
bearing no. 4119/2021 before the Adjudicating Officer, but
the same was dismissed as withdrawn.*

¹ Haryana Real Estate Regulatory Authority, Gurugram

*The complainant stated that he wishes to withdraw from the project of the respondent and the said right of refund of allottee under section 18(1) of Act is unqualified and the same has been upheld by judgement of the Hon'ble Supreme Court of India in the cases of **Newtech Promoters and Developers Private Limited Vs State of U.P. and Ors.***

On considering the factual as well as legal provisions of the case, the Authority is of view that the present complaint is not maintainable and barred by res-judicata. Thus, the present complaint stands dismissed. File be consigned to the registry.

2. When the case came up for hearing on 05.05.2024, this Bench had noticed that after dismissal of the original complaint, another complaint was preferred by the appellant-allottee (Rajdeep Aggarwal). Same was dismissed vide impugned order.

3. A report was, thus, sought from HRERA, Grugram and the same has been received. A perusal thereof, shows that the allottee-Rajdeep Aggarwal had filed a complaint bearing No.2191 of 2018 before the Authority. After considering the same, the complaint was disposed of vide order dated 20.03.2019. The respondent-promoter (Pareena Infrastructure Pvt. Ltd.) was directed to pay delay possession charges @ 10.75% from the due date of possession i.e. 16.10.2018 till offer of possession. He, thereafter, preferred an execution petition before the Authority. Admittedly, pursuant to same, a sum of Rs.23,82,814/- was received by the allottee. He further claimed that another amount of Rs.1,38,373.75/- was still due and payable. The execution petition was, however, dismissed as withdrawn vide order dated 02.09.2022.

4. Surprisingly, allottee-Rajdeep Aggarwal instituted another complaint (CR No.2496/2022) praying for refund of

amount of Rs.1,12,08,414/-. Same was dismissed by the Authority vide order dated 20.09.2023 being not maintainable and barred by principle of res judicata. The allottee did not stop here and moved another application before the Authority praying that a reasoned order be passed. It, thus, passed order dated 28.02.2024. It appears that the unit allotted to the allottee was cancelled meanwhile, which he challenged by filing complaint No.1512 of 2022. Same is stated to be pending.

5. From the aforesaid facts, it is evident that no interference in impugned orders is called for. Besides, the present appeal deserves outright dismissal with exemplary costs keeping in view the facts and circumstances of the case.

6. Mr. Sharma, however, submits that the Bench may refrain from doing so due to the fact that the appellant is an allottee and a senior citizen.

7. On due consideration of the submission made by Mr. Sharma, this Bench refrains from imposing costs.

8. Appeal is hereby dismissed.

9. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

12.12.2024
Manoj Rana