

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

Date of Decision: 02.05.2025

NAME OF THE BUILDER		PAREENA INFRASTRUCTURES PRIVATE LIMITED	
PROJECT NAME		"Coban Residences"	
S. No.	Case No.	Case title	APPEARANCE
1.	CR/4203/2024	Shikha Nautiyal and Sunil Nautiyal V/S Pareena Infrastructures Private Limited	Ms. Seema (Advocate) Sh. Prashant Sheoran (Advocate)
2.	CR/4204/2024	Neena Goel and Vikas Goel V/S Pareena Infrastructures Private Limited	Ms. Seema (Advocate) Sh. Prashant Sheoran (Advocate)
3.	CR/4208/2024	Aditya Varma and Asha Varma V/S Pareena Infrastructures Private Limited	Ms. Seema (Advocate) Sh. Prashant Sheoran (Advocate)

CORAM:

Shri Arun Kumar

Chairman**ORDER**

1. This order shall dispose of three complaints titled as above filed before this authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is inter alia prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provision of the Act or the rules and regulations made there under or to the allottee as per the agreement for sale executed inter se.

2. The core issues emanating from them are similar in nature and the complainant(s) in the above referred matters are allottees of the project, namely, "Coban Residences" being developed by the same respondent/promoter i.e., M/s Pareena Infrastructure Private Limited. The terms and conditions of the buyer's agreements, fulcrum of the issues involved in all these cases pertains to failure on the part of the promoter to deliver timely possession of the units in question, seeking delay possession charges along with interest and other.
3. The details of the complaints, reply, unit no., date of agreement, possession clause, due date of possession, total sale consideration, total paid amount and relief sought are given in the table below:

Project Name and Location		[Coban Residences] situated in Sector- 99A, Gurugram.			
Project Area DTCP License No.		10.5875 Acres 10 of 2013 dated 12.03.2013 valid upto 11.06.2024			
RERA Registered		Registered Vide registration no. 35 of 2020 dated 16.10.2020 Valid upto 11.03.2024 + 6 months = 11.09.2024			
Possession Clause: -					
7. Possession of the apartment					
7.1 Schedule for possession of the said Unit/Apartment for residential purposes- The Promoter agrees and understands that timely delivery of possession of the Unit/apartment for Residential purposes alongwith parking to the Allottee(s) and the common Areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule2(1)(f) of the Rules, 2017 is the essence of the Agreement.					
Occupation certificate: - 13.12.2022					
Sr. No.	Complaint no. / Title/ Date of Filing / Reply	Unit no. and area	Date of builder buyer agreement	Status of Possession	Total sale consideration and amount paid
1.	CR/4203/2024 Shikha Nautiyal and Sunil Nautiyal V/S Pareena	1403, 14 th floor, Tower-T1 2352 sq. ft.	02.07.2021 (page 25 of complaint)	Due date of possession: 11.03.2024 OC:	TSC: - Rs. 1,13,10,416/- AP: - Rs. 1,16,27,483/-



	Infrastructure Private Limited	(page 32 of complaint)		13.12.2022	
	DOF 09.09.2024			Offer of Possession: 14.12.2022	
	Reply 23.01.2025			CD: 24.11.2023	
2.	CR/4204/2024 Neena Goel and Vikas Goel V/S Pareena Infrastructures Private Limited	404, 4 th floor, Tower-T1 2352 sq. ft. (page 35 of complaint)	23.11.2021 (page 30 of complaint)	Due date of possession: 11.03.2024 OC: 13.12.2022 Offer of Possession: 14.12.2022 CD: 15.12.2023	TSC: - Rs. 1,13,10,416/- AP: - Rs. 1,18,34,824/-
3.	CR/4208/2024 Aditya Varma and Asha Varma V/S Pareena Infrastructures Private Limited	704, 7 th floor, Tower-T1 2352 sq. ft. (page 29 of complaint)	17.08.2022 (page 23 of complaint)	Due date of possession: 11.03.2024 OC: 13.12.2022 Offer of Possession: 14.12.2022 CD: Not on records	TSC: - Rs. 1,29,54,661/- AP: - Rs. 1,40,07,377/-

The complainants in the above complaint(s) have sought the following reliefs:

1. Direct the respondent to make payment of interest for delay in handing over possession, MCLR + 2% p.a. paid by the complainants to the respondent under the agreement.
2. Direct the respondent to refund the amount of Rs. 3,67,500/- paid by the complainants towards common car parking.
3. Direct the respondent to refund the amount of Rs. 83,262/- charged under the head of firefighting charge among with interest.
4. Direct the respondent to refund excess IFMS of Rs. 44,341/- along with interest.
5. Direct the respondent to refund EEC of Rs. 1,16,039/- with interest.
6. Direct the respondent to refund excess maintenance charges collected in contraventions of the agreement along with interest.

7. Direct the respondent to pay an amount of Rs. 50,000/- towards legal expenses.

Note: In the table referred above, certain abbreviations have been used. They are elaborated as follows:

Abbreviation	Full form
DOF	Date of filing complaint
OC	Occupation Certificate
CD	Conveyance Deed
TSC	Total Sale consideration
AP	Amount paid by the allottee(s)

4. The aforesaid complaints were filed against the promoter on account of violation of the apartment buyer's agreement and allotment letter against the allotment of units in the project of the respondent/promoter and for not handing over the possession by the due date, seeking award of possession along with delayed possession charges.
5. It has been decided to treat the said complaints as an application for non-compliance of statutory obligations on the part of the promoter/respondent in terms of section 34(f) of the Act which mandates the authority to ensure compliance of the obligations cast upon the promoters, the allottee(s) and the real estate agents under the Act, the rules and the regulations made thereunder.
6. The facts of all the complaints filed by the complainant(s)/allottee(s) are also similar. Out of the above-mentioned case, the particulars of lead case ***CR/4203/2024 titled as Shikha Nautiyal And Sunil Nautiyal V/S Pareena Infrastructures Private Limited*** are being taken into consideration for determining the rights of the allottee(s) qua delayed possession charges along with interest and others.

A. Unit and project related details

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

S.N.	Particulars	Details
1.	Name and location of the project	"Coban Residences", sector-99A, Gurgaon
2.	Nature of the project	Group Housing Project
3.	Project area	10.5875 acres
4.	DTCP license no.	10 of 2013 dated 12.03.2013 valid up to 11.06.2024
5.	Name of licensee	Monex Infrastructure Pvt. Ltd.
6.	RERA Registered/ not registered	Registered Vide no. 35 of 2020 issued on 16.10.2020 valid up to 11.03.2024 + 6 months = 11.09.2024
7.	Unit no.	1403, 14 th Floor, Tower T-1 (Along with car parking of 376.737 sq. ft.) [Page 32 of complaint]
8.	Unit admeasuring area	2352 sq. ft. of super area [Page 32 of complaint]
9.	Allotment letter	20.06.2021 (Page no. 69 of complaint)
10.	Date of builder buyer agreement	02.07.2021 [page 25 of complaint]



11. Possession Clause	<p>7. Possession of the apartment</p> <p>7.1 Schedule for possession of the said Unit/Apartment for residential purposes-The Promoter agrees and understands that timely delivery of possession of the Unit/apartment for Residential purposes alongwith parking to the Allottee(s) and the common Areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule2(1)(f) of the Rules, 2017 is the essence of the Agreement.</p> <p>(page no. 42 of complaint)</p>
12. Due date of possession	<p>11.03.2024</p> <p>(as per rera registration certificate)</p>
13. Total sale consideration	<p>Rs. 1,13,10,416/-</p> <p>[as per payment plan on page 65 of the complaint]</p> <p>Rs. 1,17,41,481/-</p> <p>(as per SOA at page no. 120 of complaint)</p>
14. Total amount paid by the complainants	<p>Rs. 1,16,27,483/-</p> <p>(as per SOA at page no. 139 of complaint)</p>
15. Occupation certificate	<p>13.12.2022</p> <p>(Page no. 115 of complaint)</p>
16. Offer of possession	<p>14.12.2022</p> <p>(Page no. 118 of complaint)</p>

17. Conveyance deed	24.11.2023 (page no. 77 of complaint)
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B. Facts of the complaint:

8. The complainants have made the following submissions in the complaint:
- I. That the complainants on 05.06.2021 booked an apartment no. 1403 on the 14th floor in tower no. A, T-1 of the "Coban Residences" project located at Sector 99A, Gurugram, Haryana being constructed and developed by the Respondent.
 - II. That the respondent registered the project under the provisions of the act with Haryana Real Estate Regulatory Authority at Gurugram on 15.10.2020 under registration number 419/151/2020/35. As per registration certificate, the registration validity was up to 11th March 2024 i.e. The completion date as declared by the Promoter in REP-II.
 - III. That the respondent was granted occupation certificate on 13.12.2022 thereafter the possession of the said apartment was proposed to be offered by the company as per offer of possession letter dated 14.12.2022, to the allottee in about 45 days after clearing all dues on or before 30.12.2022. Effectively, the possession was to be offered by 13.02.2023.
 - IV. That though the complainants made all the payments, the respondent has failed to deliver possession of the apartment as per the promised timeline of approximately 45 days as mentioned in offer of possession letter. The complainants repeatedly followed up with the respondent's officials regarding the status of their apartment but with every communication with the respondent, complainants received a new timeline.

- V. That the respondent overcharged the complainants for interest free maintenance security deposit by Rs. 44,341/-, which should be Rs. 50/- per sq. ft. of the carpet area as per the clause 3(iii) of the conveyance deed but respondent charged the complainants Rs. 1,17,600/- as per statement of account.
- VI. That the respondent has charged Rs. 3,50,000/- as covered car parking. As per provision of the act, car parking could only be charges if it a garage covered from 03 sides.
- VII. That the respondent wrongly charged fire fighting charges of Rs. 83,262/- whereas clause 1.2 (iv) of the agreement of sale states that the total price of the apartment includes fire detection and fire equipment charges.
- VIII. That the respondent wrongly charged maintenance as the respondent was to provide the maintenance for 12 months and further as per clause 11 of the sale agreement, the promoter was to provide and maintain essential services in the project till the taking over of the maintenance of the project by the association of allottee. As per statement of account, respondent collected advance maintenance charges of Rs. 1,24,892 /- and again raised the quarterly maintenance bill of Rs. 31,222/- each for two consecutive quarters (from April 2024 to October 2024) which complainants paid under protest to respondent.
- IX. That the respondent has delayed the delivery of possession of the apartment to the complainants, contrary to the terms and conditions of the agreement. The delay caused by the respondent in handing over the possession of the apartment has caused considerable financial hardship, harassment and mental distress to the complainants, who have invested their life savings in the project.

C. Relief sought by the complainants:

9. The complainants have sought the following relief(s)
- i. Direct the respondent to make payment of interest for delay in handing over possession, MCLR + 2% p.a. paid by the complainants to the respondent under the agreement.
 - ii. Direct the respondent to refund the amount of Rs. 3,67,500/- paid by the complainants towards common car parking.
 - iii. Direct the respondent to refund the amount of Rs. 83,262/- charged under the head of firefighting charge among with interest.
 - iv. Direct the respondent to refund excess IFMS of Rs. 44,341/- along with interest.
 - v. Direct the respondent to refund EEC of Rs. 1,16,039/- with interest.
 - vi. Direct the respondent to refund excess maintenance charges collected in contraventions of the agreement along with interest.
 - vii. Direct the respondent to pay an amount of Rs. 50,000/- towards legal expenses.
10. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent:

11. The respondent has contested the complaint on the following grounds:
- I. That the respondent is in the process of developing several residential group housing colonies in Gurugram, out of them one is "Coban Residences" at sector 99A.
 - II. That the present complaint is not maintainable before the Hon'ble Haryana Real Estate Regulatory Authority (HRERA) as the facts disclosed by the complainants are incorrect. The complaint is based on a flawed understanding of the terms of the agreement. Moreover, the

complainant's failure to comply with the prescribed conditions under the agreement.

- III. That the respondent was obligated to hand over possession of the apartment by 11th March 2024, as acknowledged by the complainants in their complaint. Contrary to the allegations in the complaint, there has been no delay in the handing over of possession. The respondent issued an allotment letter on 20.06.2021 and made an offer for possession on 14.12.2022. However, it was the complainants who delayed the process by demanding modifications to the apartment that were not part of the original agreement. The due date for possession, as per the registration certificate, was 11.03.2024, but the respondent, in a gesture of goodwill, handed over possession on 16.09.2023, well ahead of the stipulated date after obtaining of occupation certificate. Therefore, the complainant's allegations are without merit and the complaint ought to be dismissed as it is not maintainable. Offering possession prior to the due date cannot, in any circumstance, be deemed unlawful. Moreover, the complainants took possession prior to due date as admitted by complaint himself and thereafter conveyance deed was also executed in favor of complainants.
- IV. There is no delay in the part of respondent in handing over of possession. Rather the respondent tried to hand over possession much prior to due date but it is the complainants who delayed in taking possession and finally took possession. The date of taking possession is also prior to due date of handing over of possession.
- V. That the complainant's allegation regarding overcharging for the Interest-Free Maintenance Security Deposit (IFMS) is without merit. The amount charged by the respondent is in full accordance with the

agreement for sale and the provisions therein. The complainants have misunderstood the applicable provisions regarding the IFMS, and the respondent submits that the charges were calculated correctly based on the terms of the agreement.

VI. That the respondent denies that the complainants have suffered financial hardship or mental distress or there is any delay in possession. There is no delay in possession. Therefore, the respondent submits that the claims for financial hardship are unfounded and not supported by the facts of the case.

12. 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 those undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority:

13. The respondent has raised a preliminary submission/objection the authority has no jurisdiction to entertain the present complaint. The objection of the respondent regarding rejection of complaint on ground of jurisdiction stands rejected. 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

14. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana, the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. 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

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

Section 11.....

(4) The promoter shall-

(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 allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

16. 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 the relief sought by the complainant(s):

- i. **Direct the respondent to make payment of interest for delay in handing over possession, MCLR + 2% p.a. paid by the complainants to the respondent under the agreement.**
17. In the present complaint, the complainants are seeking delay possession charges as provided under the proviso to section 18(1) of the Act. Sec. 18(1) proviso reads as under.

"Section 18: - Return of amount and compensation

18(1). If the promoter fails to complete or is unable to give possession of an apartment, plot, or building, —

.....

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed."
(Emphasis supplied)

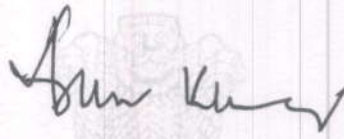
18. The complainants booked a unit in the project of the respondent namely, Coban Residences situated at sector-99A, Gurugram. The complainants were allotted a unit bearing no. 1403 situated at 14th floor, in tower 1 admeasuring 2352 sq. ft. the allotment letter for the said unit was issued on 20.06.2021 and thereafter builder buyer agreement was executed between the parties on 02.07.2021.
19. Clause 7 of the buyer's agreement provides for completion of construction and is reproduced below:
- 7.1.**
"7.1 Schedule for possession of the said Unit/Apartment for residential purposes- The Promoter agrees and understands that timely delivery of possession of the Unit/apartment for Residential purposes alongwith parking to the Allottee(s) and the common Areas to the association of Allottee(s) or the competent authority, as the case may be, as provided under Rule2(1)(f) of the Rules, 2017 is the essence of the Agreement."
(Emphasis supplied)
20. As per possession clause 7 of the agreement dated 02.07.2021 the possession of the allotted unit was to be handed over as per the Rule 2(1) (f) of the Rules, 2017 i.e., as per Rera registration certificate which comes out to be 11.03.2024. In the present case the Authority observes that the respondent has obtained the occupation certificate on 13.12.2022 and subsequently offered the unit to the complainants for possession on 14.12.2022. Moreover, the conveyance deed also got executed on 24.11.2023.
21. The Authority is of the considered view that the respondent has completed the construction of the project and offered possession of the allotted unit to the complainants prior to the stipulated date of possession, as per the terms of the agreement. In light of this timely completion and offer of

possession, the complainants are not entitled to any delay possession charges (DPC).

22. It is a settled principle under Section 18 of the Real Estate (Regulation and Development) Act, 2016, that a promoter becomes liable to pay compensation in the form of delay possession charges only in the event of a failure to complete the construction or hand over possession within the agreed timeline. In the present case, no such delay has occurred. On the contrary, the respondent has demonstrated due diligence by obtaining the occupation certificate on 13.12.2022 and offering possession on 14.12.2022.
23. Since there has been no breach of the buyer's agreement as well as of the provisions of Section 18(1) of the Act of 2016 for delay in the completion of the project, therefore the Authority finds no justification for awarding delay possession charges to the complainants. Accordingly, no case for delay possession charges is made out.
- ii. **Direct the respondent to refund the amount of Rs. 3,67,500/- paid by the complainants towards common car parking.**
 - iii. **Direct the respondent to refund the amount of Rs. 83,262/- charged under the head of firefighting charge along with interest.**
 - iv. **Direct the respondent to refund excess IFMS of Rs. 44,341/- along with interest.**
 - v. **Direct the respondent to refund EEC of Rs. 1,16,039/- with interest.**
 - vi. **Direct the respondent to refund excess maintenance charges collected in contraventions of the agreement along with interest.**
 - vii. **Direct the respondent to pay an amount of Rs. 50,000/- towards legal expenses.**
24. As far as common issues with regard to refund of amount collected at time of offer of possession, legal expenses are concerned, the authority is of the

view that after the execution of the conveyance deed between the complainants and the respondent, all the financial liabilities between the parties come to an end except the statutory rights of the allottee.

25. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.
26. Complaints stand disposed of.
27. Files be consigned to registry.



(Arun Kumar)

Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 02.05.2025

HARERA
GURUGRAM