

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

Complaint no. : 938 of 2025
Date of complaint : 24.02.2025
Date of order : 09.01.2026

1. Shweta Jain,
2. Sushma Jain,
Both R/o: - C-77, Lajpat Nagar, Part-2, South Delhi-110024.
3. Shilpi Jain,
R/o: - B-904, Millenium Park, 9th Floor,
Akruti Vega Niharika Complex, Sai Wadi,
Andheri East, Mumbai-400069.

Complainants

Versus

M/s Pareena Infrastructure Pvt. Ltd.
Regd. Office at: - Flat no.2, Palm Apartment,
Plot no.13-B, Sector-6, Dwarka, New Delhi-110075.

Respondent

CORAM:
Arun Kumar

Chairman

APPEARANCE:
Shalu Bhatia (Advocate)
Prashant Sheoran (Advocate)
None

Complainants
Respondent No.1
Respondent No.2

ORDER

1. The present complaint has been filed by the complainant/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 under the provisions of the Act or the Rules and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. 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	"Micasa", sector-68, Gurgaon
2.	Nature of the project	Group Housing
3.	Project area	12.25085 acres
4.	DTCP license no.	111 of 2013 dated 30.12.2013 valid up to 12.08.2024 (area 10.12 acre) 92 of 2014 dated 13.08.2014 valid up to 12.08.2019 (area 0.64 acre) 94 of 2014 dated 13.04.2014 valid up to 12.08.2024 (area 2.73 acre)
5.	RERA Registered/ not registered	Registered vide no. 99 of 2017 issued on 28.08.2017 up to 30.06.2022
6.	Allotment letter	24.05.2018 (page 29 of complaint)
7.	Unit allotted	T-1/104, Tower-1 (page 37 of complaint)
8.	Unit admeasuring area	2326.5 sq. ft. (super area), (page 37 of complaint)
9.	Date of start of construction	Not on record
10.	Date of builder buyer agreement	24.05.2018 (page 31 of complaint)
11.	Possession Clause	13. Completion of Project <i>"That the Developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building</i>

		<i>in which the said Flat is to be located within 3 years of the start of construction or execution of this Agreement whichever is later...."</i> (page 71 of complaint)
12.	Due date of possession	24.11.2021 [Calculated as 36 months from execution of BBA + 6 months as per HARERA notification no. 9/3-2020 dated 26.05.2020 for the projects having completion date on or after 25.03.2020]
13.	Total sale consideration	Rs.1,52,47,826/- (as per conveyance deed at page 88 of complaint)
14.	Total amount paid by the complainant	Rs.1,52,47,826/- (as per conveyance deed at page 88 of complaint)
15.	Occupation certificate	03.01.2023 (as per DTCP website)
16.	Offer of possession	17.01.2023 (page 73 of complaint)
17.	Execution of Conveyance deed	17.07.2024 (page 83 of complaint)
18.	Possession handover letter	10.06.2023 (page 78 of complaint)

B. Facts of the complaint

3. The complainants have made the following submissions: -

- I. That the present complaint is being respectfully submitted through Power of Attorney Holder namely Sh. Paritosh Kumar Jain.
- II. That on 29th November, 2017, a booking application form of the Armed Forces Officials Welfare Organisation (AFOWO), Regn. No. S/1431, New Delhi having its office at J-25 and J-29 Jor Bagh Lane, New Delhi-110003 was signed by the Complainant no.1 and 2. This

was regarding the booking of the respondents project Mi-casa 3 BHK Apartment no. 104 in Tower T-1 with an area of 1,999 sq ft along with 655 sq. ft. and super area of 2,326.5 sq.ft @Rs.4,950/-.

- III. That the complainant no.1 and no. 2 issued a SBI cheque no. 709393 dated 30th November 2017 for Rs. 1 Lakh to the AFOWO, to book an apartment in Mi-Casa, Sector 68, Gurugram.
- IV. That on 2nd February, 2018, after frequent discussions, the respondents issued a letter to the complainant no.1 and no.2, granting them a free of cost extra car parking space for the booked apartment.
- V. That on 13th March, 2018, the respondents issued a letter to the complainant no. 1 and no. 2, clearly specifying the terrace area for the booked apartment.
- VI. That on 24th May, 2018, the respondents had signed an apartment buyer's agreement with the complainant, specifying the terms and conditions of the allotment of the said apartment. As per the verbal discussions on the terms of agreement, and as per clause 13 of the said buyer's agreement dated 24.05.2018, the respondents proposed to hand over the possession of the unit in question within a period of three years from the date of start of construction or execution of agreement. However, the respondents failed in handing over possession in accordance with the said agreement.
- VII. That as per allotment letter dated 24th May 2018, the complainant no.1 and no.2 were allotted the apartment no.104(3bhk + SQ), Tower-1 in Project Mi-Casa, Sector 68, Gurugram, Haryana-122018, having super area of 2,326.50 sq. ft (1,999 sq.ft. with Podium of 655 sq.ft) with exclusive right to use one parking space in the complex. As per the earlier letter dated 2nd February 2018, an additional parking space was allotted to the complainant making it total to two covered parking

- spaces. As per the apartment buyer's agreement, the basic sales price of the booked apartment was Rs.1,15,16,175/- and the complainant paid an amount of Rs. 11,50,000/- towards the sales price of the booked apartment. As per apartment buyer's agreement, Annexure I for the summary of dues, to this Basic Sales price, addition expenses were added finally making the final cost of the apartment as Rs. 1,38,63,621/-.
- VIII. That on 17th January, 2023, the respondents issued a letter for offer of possession in terms of the apartment buyers agreement dated 24th May,2018 for the said apartment to the complainants, asking them to pay the due amount of Rs.26,21,933/- and stamp duty of Rs.6,19,500/- and submit the necessary required documents. The complainants complied with the terms of the offer of possession of the apartment.
- IX. That the respondents on a payment of Rs.1,38,63,621/- gave the complainants a GST ITC reduction @3.75% of Rs.457,908/-, whereas the complainants are entitled to a total of 5% GST ITC Reduction and hence the complainants are further entitled to receive 1.25% of Rs.173,295/- more GST ITC Reduction.
- X. That the respondents had charged GST on the amount of EDC/IDC payment of Rs.10,21,333/- and had charged a year's advance maintenance charges of Rs.69,795/- for the period July 2023 to June 2024.
- XI. That after a delay of more than 2 years on 10th June, 2023, the complainant certified on the possession letter (issued by the respondents) that they had taken possession of the aforesaid unit number along with two car parking spaces in the basement after fully satisfying themselves.

- XII. That on 14th May 2024 again, the complainants paid an amount of GST of Rs.1,25,898/- via NEFT to respondents against their demand invoice for EDC and IDC charges. This was a double payment as the same had already been charged earlier as per Annexure A, Statement of Accounts of the offer of possession letter dated 17.01.23.
- XIII. That after taking possession of the apartment, the complainants faced a lot of problems to get the registered conveyance deed. The respondents kept on delaying the issuance and registration of the conveyance deed thereby causing lots of harassment to the complainants.
- XIV. That the respondent's the maintenance invoice dated 8th June, 2024 for an amount of Rs.30,884.14/- for the period 15th April to 14th July 2024 was issued to the complainants and the same amount was also paid to the respondents. But as per the offer of possession letter, Annexure A- Statement of Accounts the advance maintenance charges of Rs.69,795/- had already been charged by respondents, for the period July 2023 to June 2024. Therefore, the complainants were doubly charged for the period 15th April-June 2024 which needs to be refunded back.
- XV. That on 17th July, 2024, the conveyance deed between respondents and the complainants was signed. Also, on the same date it was registered with the Sub-Registrar, Badshahpur with Regn no. 4931, year 2024-25 in Book no.1.
- XVI. That on 10th September 2024, the complainants send a legal notice to the respondents seeking the above reliefs but the complainants received no reply from them.
- XVII. That the respondents fraudulently kept the money of the complainants for more than 2 years and never paid any interest for delay possession

charges. The complainants after receiving the offer of possession approached the respondents project to take the possession but the size of the unit has been reduced by the respondents without any consent of the complainant and was full of irregularities.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s):

- I. Direct the respondent to pay delay possession charges as per the Act.
 - II. Direct the respondent to refund amount on account of (discrepancy in flat area, unutilized portion of AMC, GST paid on EDC/IDC and ITC reduction of 1.25%), Provide two parallel parking spaces, Repair bathroom and kitchen sink, Maintain Garden area allocated to complainant.
5. 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.

6. Despite due service of notice through speed post and specific direction for filing reply in the matter, no reply has been received from respondent no.1 with regard to the present complaint. Therefore, the defence of the respondent no.1 was struck off vide proceedings dated 09.01.2026. Further, neither anyone has put in appearance on behalf of respondent no.2 before the Authority, nor any written reply to the present complaint has been received from it. Thus, the respondent no.2 was proceeded ex-parte vide proceedings dated 09.01.2026.
7. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and submission made by the complainants.

E. Jurisdiction of the authority

The Authority has complete territorial and 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 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.

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.

F. Findings on the relief sought by the complainants.

F.I Direct the respondent to pay delay possession charges as per the Act.

11. In the present complaint, the complainants intend to continue with the project and 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."

12. Clause 13 of the buyer's agreement provides for handing over of possession and is reproduced below:

"13. That the Developer shall, under normal conditions, subject to force majeure, complete construction of Tower/Building in which the said Flat is to be located within 3 years of the start of construction or execution of this Agreement whichever is later..."

(Emphasis supplied)

13. The respondent/promoter has proposed to handover possession of the subject apartment within a period of 3 years from the date of start of construction or execution of buyer's agreement, whichever is later. However, the date of start of construction is not available on record. Therefore, the due date of possession is being calculated from the date of execution of the agreement i.e. 24.05.2018. Further, an extension of 6 months is granted to the respondent in view of notification no. 9/3-2020 dated 26.05.2020, on account of outbreak of Covid-19 pandemic. Therefore, the due date of possession comes out to be 24.11.2021.
14. **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.

17. 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.
18. 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., 09.01.2026 is **8.80%**. Accordingly, the prescribed rate of interest will be marginal cost of lending rate +2% i.e., **10.80%**.
15. On consideration of documents available on record as well as submissions made by the parties, the Authority is satisfied that the respondents are in contravention of the provisions of the Act. By virtue of clause 13 of the agreement executed between the parties on 24.05.2018, the possession of the subject apartment was to be delivered by 24.11.2021. The occupation certificate was granted by the concerned authority on 03.01.2023 and thereafter, the possession of the subject flat was offered to the complainants vide letter dated 17.01.2023. Copies of the same have been placed on record. The Authority is of the considered view that there is delay on the part of the respondents to offer physical possession of the subject flat and it is failure on part of



the promoter to fulfil its obligations and responsibilities as per the buyer's agreement dated 24.05.2018 to hand over the possession within the stipulated period.

16. 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 was granted by the competent authority on 03.01.2023. The respondents offered the possession of the unit in question to the complainants only on 17.01.2023, so it can be said that the complainants came to know about the occupation certificate only upon the date of offer of possession. 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 complainants keeping in mind that even after intimation of possession practically they have 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.
20. 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 respondents/promoter is established. As such the complainants are entitled to delay possession charges at prescribed rate of interest i.e., 10.80% p.a. w.e.f. 24.11.2021 till offer of possession plus two months or actual handing over of possession, 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.

F. II Direct the respondent to refund amount on account of (discrepancy in flat area, unutilized portion of AMC, GST paid on EDC/IDC and ITC reduction of 1.25%), Provide two parallel parking spaces, Repair bathroom and kitchen sink, Maintain Garden area allocated to complainant.

21. The complainants have submitted that respondent has failed to comply with the terms of the buyer's agreement, as the unit delivered is smaller in size than promised without obtaining the complainant's consent or following due legal procedures. Therefore, the complainants are entitled to get refund of the amount at the prevailing market rate for the discrepancy in the flat area (421.18 sq. ft.) and balcony area (40 sq. ft.) along with interest at the prescribed rate. Further, the complainants are entitled to get to refund of the first-year maintenance charges of Rs.69,795/- paid in advance for the period June 2023 to June 2024 and refund of Rs.1,25,898/- being the GST amount erroneously paid on the EDC/IDC charges of Rs.10,21,333/- on May 14, 2024, as the same constitutes a duplicate payment. Furthermore, the complainants are entitled to get refund of Rs.1,73,295/-, representing an excess GST ITC reduction of 1.25% on a payment of Rs.1,38,63,621/- and is entitled to get two parallel parking spaces complete with proper demarcation.
22. After considering the above, the Authority observes that the financial liabilities between the allottee and the promoter come to an end after the execution of the conveyance deed except for the statutory rights under the Act of 2016. Moreover, relevant clauses pertaining to handing over of possession of unit along with specifications and amenities as per the buyer's agreement to the complainants was agreed between them vide clause 2.4 of the conveyance deed dated 17.07.2024 which is reproduced hereunder for ready reference:

2.4 The Promoter have handed over the vacant, physical and peaceful possession of the Apartment to the Buyer as per the specifications & amenities mentioned in Schedule VI hereto. On and from the date of execution of this

Conveyance Deed, the Buyer shall be liable to bear and pay the proportionate charges of all outgoings / charges in respect of the said Apartment as may be levied by the Association of Buyers or maintenance Agency, as the case may be, together with all rates, taxes, cesses, assessments, betterment charges, levies etc. payable to any Competent Authority.

23. The complainants took the possession of the unit along with two covered car parking as well as specifications and amenities as per the buyer's agreement and got the conveyance deed executed, without any demur, protest or claim. The complainants have neither raised any grievance at the time of taking over the possession or at the time of execution of the conveyance deed, nor reserved any right in the covenants of the conveyance deed, to claim any refund of decreased area charges or any other charges. Also, it is a matter of record that no allegation has been levelled by the complainants that conveyance deed has been got executed under coercion or by any unfair means. The complainants could have asked for the above claim before the conveyance deed got executed between the parties. Therefore, after execution of the conveyance deed, the complainants cannot dispute specifications & amenities and seek any refund of charges other than statutory benefits, if any pending. Once the conveyance deed is executed and accounts have been settled, no claims remain. So, no relief in this regard can be effectuated at this stage.

G. Directions of the authority

24. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):
- i. The respondents/promoter are directed to pay interest to the complainants against the paid-up amount at the prescribed rate i.e., 10.80% per annum for every month of delay from due date of

possession i.e., 24.11.2021 till offer of possession plus two months or actual handing over of possession, 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.

ii. A period of 90 days is given to the respondents/promoter to comply with the directions given in this order and failing which legal consequences would follow.

25. Complaint stands disposed of.

26. File be consigned to registry.



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 09.01.2026

HARERA
GURUGRAM