

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**Appeal No.770 of 2022**

**Date of Decision: 05.12.2025**

Rajpal Singh Yadav, R/o.House No. 1018, Sector 15, Part-2,  
Gurugram, Haryana.

..... Appellant

Versus

Pareena Infrastructure Pvt. Ltd., Office: Flat No. 2, Palm Apartment,  
Plot No. 13 B, Sector 6, Dwarka, New Delhi-110075.

..... Respondent

**CORAM:**

**Justice Rajan Gupta**  
**Dr. Virender Parshad**  
**Shri Dinesh Singh Chauhan**

**Chairman**  
**Member (Judicial)**  
**Member (Technical)**

**Present:** Mr. Kunal Thapa, Advocate for the appellant-allottee.

Mr. Kamaljeet Dahiya, Advocate for the respondent-promoter.

**O R D E R:**

**RAJAN GUPTA, CHAIRMAN**

Present appeal has been preferred by the appellant-allottee against order dated 13.07.2022 passed by the Authority<sup>1</sup> at Gurugram. Operative part thereof reads as under:

*18. 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 respondent-promoters is directed to return the balance amount after deducting 10% of the sale consideration within 90 days from the date of this order along with interest @9.50% from the date of cancellation i.e., 04.08.2021 till its actual payment.*

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<sup>1</sup>Haryana Real Estate Regulatory Authority, Gurugram

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

*19. Complaint stands disposed of.*

*20. File be consigned to registry.”*

2. Factual matrix of the case is that the appellant-allottee had booked a unit in the project of the respondent-promoter namely “Coban Residences,” Sector 99A, Gurugram, in 2013, under a construction-linked payment plan for a total sale consideration of Rs.1,26,58,997/-. Builder-Buyer Agreement was executed between the parties on 14.01.2015. As per agreement, due date of possession was 01.10.2018. However, the construction was delayed and possession was not offered by the stipulated date. The Occupation Certificate for the project was granted only on 13.12.2022, after a delay of over four years.

3. Admittedly, an amount of Rs.31,21,363/- was paid by appellant-allottee out of total sale consideration of Rs.1,26,58,997/- upto 2015. The appellant, noticing lack of progress, stopped making further payments. The promoter issued reminders for outstanding instalments, which remained unpaid. Consequently, the promoter cancelled the allotment on 04.08.2021 on account of appellant’s default in payment.

4. Upon cancellation, the appellant approached the Authority on 13.07.2022 seeking refund of the amount paid along with interest. The Authority allowed refund after deduction of 10% of the total sale consideration, which is assailed in the present appeal.

5. Ld. Counsel for appellant-allottee contends that till due date of possession i.e., 01.10.2018, construction of the project had not made much headway. The appellant had paid a sum of Rs.31,21,363/- as reflected in the statement of account dated 15.12.2018. However, seeing no progress at the site, he repeatedly approached the promoter seeking clarification regarding status of the

project and the expected date of offer of possession; however, no response was forthcoming. Consequently, the appellant was constrained to approach the Authority seeking refund of the entire amount paid along with interest. He submitted that no occupation certificate was granted till the time of filing of the complaint. It is contended that the Authority's direction permitting deduction of 10% of the sale consideration is arbitrary and contrary to law and, therefore, liable to be set aside. It is further prayed that interest be granted from the respective dates of payment by the appellant-allottee.

6. On the other hand, ld. Counsel for respondent-promoter argues that the appellant's default in payment was substantial, compelling the promoter to cancel the allotment. Thus, according to him, deduction of 10% was justified.

7. There is no dispute that the due date for possession was 01.10.2018. On that date, the project was admittedly far from completion. Even by the date of cancellation, i.e., 04.08.2021, no offer of possession was made. The Occupation Certificate was issued to the project much later on 13.12.2022, i.e., more than a year after cancellation and nearly four years after due date of possession as per the agreement. In such a situation, appellant cannot be expected to continue paying instalments and wait for possession indefinitely when the promoter failed to perform its obligation of timely construction. Thus, appellant's default in payment cannot overshadow the promoter's prior and significant delay, which fundamentally frustrated the contractual timeline. In these circumstances, refund cannot be denied and the Authority's direction allowing deduction of 10% of the sale consideration is, therefore, unsustainable, particularly when the promoter itself failed to adhere to the agreed schedule. However, since the appellant - allottee had defaulted in payment leading to cancellation of the

allotment, the Tribunal finds it appropriate to award interest from the date of cancellation (04.08.2021) till realization.

8. In view of above, the impugned order is modified to the extent that the respondent-promoter shall refund the entire paid-up amount of Rs.31,21,363/- without any deduction. The promoter shall pay interest on the refundable amount at the prescribed rate, from the date of cancellation of the allotment, i.e., 04.08.2021 till the date of actual realization.

9. The respondent-promoter shall make the payment within 90 days from the date of uploading of this order, failing which, penal provisions under Section 64 of the Real Estate (Regulation and Development) Act, 2016 will come into play and the respondent-promoter shall be liable to pay Rs.5,000/- per day as penalty till realization.

10. The appeal is partly allowed in the aforesaid terms.

11. Copy of this order be sent to the parties/their counsel and the Authority.

12. File be consigned to records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad  
Member (Judicial)

Dinesh Singh Chauhan  
Member (Technical)

December 05, 2025  
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