

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

**Complaint no.** : 6157 of 2024  
**Date of complaint** : 18.12.2024  
**Date of order** : 23.12.2025

Naveen Garg

**Resident of:** Flat no. A-2, 1402, Uniworld City,  
Sector-30, Gurugram-122001, Haryana.

**Complainant**

Versus

M/s Pareena Infrastructures Private Limited  
**Regd. Office at:** C7A, 2<sup>nd</sup> Floor, Omaxe City Centre  
Mall, Sohna Road, Sector-49, Gurugram, Haryana.

**Respondent**

**CORAM:**

Shri Arun Kumar  
Shri Phool Singh Saini

**Chairman  
Member**

**APPEARANCE:**

Shri Sukhbir Yadav (Advocate)  
Shri Prashant Sheoran (AR)

**Complainant  
Respondent**

**ORDER**

1. The present complaint has been filed by the complainant/allottee 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 there under or to the allottee 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 complainant, 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, Gurugram
2.	Nature of the project	Residential Group Housing Complex
3.	Project Area	10.5875 acres
4.	DTCP license no.	10 of 2013 dated 12.03.2013 Valid up to 11.03.2029
5.	Name of licensee	M/s Monex Infrastructure Pvt. Ltd.
6.	RERA Registered/ not registered	<b>Registered</b> GGM/419/151/2020/35 of 2020 dated 16.10.2020 Valid up to 11.03.2024
	RERA Extension no.26 of 2024	RC/REP/HARERA/GGM/35 dated 11.12.2024 Valid up to 11.03.2025
	Further Extension u/s 7(3) of the Act, 2016	RC/REP/HARERA/GGM/35 of 2020/7(3)/655/2025/07 dated 28.03.2025 Valid up to 10.03.2029
7.	Unit no.	T-6/1701 on 17 <sup>th</sup> Floor, Tower-6 (As per page no.45 of the complaint)
8.	Unit area admeasuring	1550 sq. ft. (As per page no.45 of the complaint)
9.	Allotment letter	20.11.2013 (As per page no.41 of the complaint)
10.	Date of execution of flat buyer's agreement	27.12.2013 (As per page no.43 of the complaint)
11.	Possession clause	<b>3.1</b> That the developer shall, under normal conditions, subject to force majeure, <b>complete construction of tower/building in which the said flat is to be located with 4 years of the start of construction or execution of this agreement whichever is later...</b> <b>and</b>

		<p><i>5.1 In case within a period as provided hereinabove, further extended by a period of 6 (six) months if so required by the developer, if the developer is unable to complete construction of the said flat as provided ...</i></p> <p><b>[Emphasis Supplied]</b> (As per page no. 56 &amp; 59 of the complaint)</p>
12.	Date of start of construction (excavation)	<p>16.10.2014 (as mentioned in demand letter dated 05.02.2016 at page 22 of reply)</p>
13.	Due date of possession	<p><b>16.10.2018</b> (Note: Due date to be calculated 4 years from the date of start of construction i.e., 16.10.2014, being later, also as determined in earlier complaint bearing no. CR/2745/2021)</p>
14.	Total sale consideration	<p>Rs.98,67,850/- (As per Annexure-I of BBA i.e., summary of payments on page no. 66 of the complaint)</p>
15.	Amount paid by the complainant-allottee	<p>Rs.69,15,821/- (As mentioned in SoA dated 05.07.2021 at page no.86-90 of complaint)</p>
16.	Occupation certificate/ completion certificate	<p>13.12.2022 (As per page no.7 of reply in CR/5762/2023, also as confirmed by the counsel for the respondent during the proceedings.)</p>
17.	Offer of possession	<p><b>14.12.2022</b> (at page 5 of the complaint as apprised by the counsel of the respondent)</p>
18.	Credit note given by the respondent on account of TDS and Against Scheme	<p><b>Rs.6,42,176/-</b> [Rs.5,24,216/- against scheme + Rs.1,17,960/- against TDS] (as details mentioned in applicant ledger at page 56-59 of complaint)</p>

**B. Facts of the complaint:**

3. The complainant has made the following submissions: -

- I. That in January 2013, the complainant, received a marketing call from a real estate agent. The caller represented himself as an authorized agent of the respondent and marketed a residential project namely "Coban Residences" situated at Sector - 99A, Gurugram. The complainant visited the Gurugram office and project site of the respondent. The marketing staff of the respondent assured the complainant that possession of the flat would be handed over within 4 years of the booking.
- II. That believing in the representation and assurance of the respondent, the complainant booked a 2BHK Flat/Apartment/Unit bearing No.1701 in Tower T6 for a size measuring 1550 sq. ft. and paid the booking amount of Rs.7,50,000/- vide cheque no. 172918 drawn on Citi Bank dated 01.02.2013 and the respondent issued the payment receipt for the said transaction on 30.07.2013. The said flat/apartment/unit was purchased under the construction-linked plan for a sale consideration of Rs.93,81,565/-. That the respondent accepted the booking before the launch of the project, it is further pertinent to mention here that the respondent got the license for the project on 12.03.2013 vide license No. 10 of 2013, and the project was launched on 27.07.2013.
- III. That on 20.11.2013, the respondent issued a provisional allotment letter in favor of the complainant confirming the allotment of unit no. T6-1701 in Tower T6 for a size measuring 1550 sq. ft.
- IV. That on 27.12.2013, a pre-printed, unilateral, one-sided, arbitrary ex-facie builder buyer agreement was executed inter-se the respondent and the complainant. It is relevant to note here that according to the

possession clause of the said BBA i.e., clause No. 3.1, the builder/respondent has to give possession of the complainant's unit within 4 years of the start of construction or execution of this agreement whichever is later. It is pertinent to mention here that this Hon'ble Authority in CRN 2745 of 2021 titled "Naveen Garg Vs. Pareena Infrastructure Private Limited" has deemed 16.10.2018 as the due date of possession for the complainant's unit.

- V. That on 03.03.2017, the respondent issued a credit note to the complainant of Rs.8,687/-. Thereafter, on 31.03.2017, the respondent issued another credit note in favor of the complainant of Rs.35,164/-.
- VI. That in October 2017, the complainant requested the respondent to obtain HARERA registration for the project to facilitate loan disbursement. The respondent claimed that certain project documents, including licenses, had expired, and other approvals were pending. They assured the complainant that they would provide the necessary documents and obtain HARERA registration once they received the complete approvals. Notably, the project license had expired on 11.03.2017. On 16.10.2020, the Authority granted project registration, bearing Registration No. 35 of 2020.
- VII. Following the obtaining of HARERA registration, the respondent issued a demand letter dated 10.04.2021, seeking payment of Rs.31,08,685/-. This demand included an interest component of Rs.6,42,941/-. It is important to highlight here that the due date of possession for the complainant's unit was 16.10.2018. However, the respondent failed to deliver the unit on time. In a surprising turn of events, despite their own delay in delivering the unit, the respondent raised a demand for payment, including interest, from the complainant. The complainant contacted the CRM of the respondent,

requesting rectification of the demand by withdrawing the interest component and instead paying delayed possession interest from the due date of possession (16.10.2018) until the actual handing over of possession. However, the respondent refused to entertain this reasonable demand.

- VIII. That on 10.06.2021, the respondent sent a pre-cancellation letter to the complainant, demanding payment of Rs.31,49,629/- and threatening to cancel the unit if the payment was not made. Surprisingly, the respondent sent the pre-cancellation letter out of the blue, abusing its dominant position and taking undue advantage of the complainant's vulnerability. Furthermore, the respondent failed to provide the necessary documents for the housing loan and obtained HARERA registration only on 16.10.2020. Despite booking the unit eleven years ago, the respondent has still not fulfilled its obligations. It is germane to note here that the due date for possession was 27.12.2017, and the respondent's failure to deliver the unit on time makes them liable for delay possession charges, along with interest at the rate prescribed by the RERA 2016.
- IX. That as per the statement of account dated 05.07.2021, relied upon by the Hon'ble Authority in its order dated 08.03.2022 passed in CRN 2745 of 2021, in the case of "Naveen Garg versus Pareena Infrastructure Pvt Ltd." in favor of the complainant, the total sale consideration of the unit in question was Rs.93,81,565/-. Notably, the complainant had already paid a substantial amount of Rs.69,15,821/-, which accounts for approximately 73.7% of the total sale consideration. It is relevant to note here that this significant payment demonstrates the complainant's commitment to fulfilling his obligations.

- X. That on 05.07.2021, the complainant visited the project site and observed that the construction of Tower 6 was progressing at a slow pace. Moreover, there was a notable absence of essential infrastructure near Tower 6. It is crucial to note that the project comprises seven towers, with Towers 5 and 7, adjacent to Tower 6, still in the preliminary stages of construction.
- XI. Since 2017, the complainant has been consistently reaching out to the respondent's office bearers and sending emails to inquire about the status of the allotted unit and to request possession. Despite numerous visits and requests, the Respondent has failed to deliver possession of the flat.
- XII. That the complainant, being aggrieved by the respondent's actions and misconduct, approached the Authority and filed a complaint vide CRN 2745 of 2021 titled "Naveen Garg versus Pareena Infrastructure Pvt Ltd.". The complainant sought relief to obtain possession of his unit, along with delayed possession charges. The complainant also requested that the pre-cancellation letter sent by the respondent be set aside or cancelled. This Authority passed an order on the said complaint on 08.03.2022. The Authority gave the following directions to the respondent party:
- i. *The respondent is directed to pay interest at the prescribed rate of 9.30% p.a. for every month of delay from the due date of possession i.e., 16.10.2018 till the offer of possession of the subject flat after obtaining the occupation certificate from the competent authority plus two months or handing over of possession whichever is earlier.*
  - ii. *The respondent is directed to pay arrears of interest accrued within 90 days from the date of order and thereafter monthly payment of interest to be paid till the date of handing over of possession shall be paid on or before the 10<sup>th</sup> of each succeeding month.*
  - iii. *The complainant is also directed to pay outstanding dues, if any.*

- iv. *The rate of interest chargeable from the allottee by the promoter, in case of default, shall be charged at the prescribed rate i.e., 9.30% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e., the delayed possession charges as per section 2 (za) of the Act.*
- v. *The respondent shall not charge anything from the complainant which is not part of the builder-buyer agreement.*
- XIII. That the respondent failed to follow the directions of this Authority. As a result, the complainant filed an execution petition (No. 5085 of 2024) to ensure compliance with the order. It is worth noting that, until the execution petition was filed, the respondent still hadn't handed over possession of the complainant's unit. As a result, the complainant, being the decree-holder, calculated the delayed possession charges from the original due date of possession to date of judgment, and then from that date to the present on the amount paid by the complainant and as per the calculations, the decretal amount is Rs.31,70,894/- payable by the respondent. That without prejudice to the validity of the offer of possession, till 09.05.2023 the respondent was to pay Rs.7,05,150/- to the complainant after adjustment of balance sale consideration.
- XIV. That the complainant has repeatedly requested possession of his unit from the respondent but the respondent refused to comply. It is pertinent to note that the respondent issued a demand letter dated 03.03.2021, with a due date of 09.05.2023. However, this letter was only dispatched by the respondent on 21.07.2023, and received by the complainant on 24.07.2023. This raises serious questions about the respondent's intentions, as the demand letter's due date had already passed two months prior to its receipt. It appears to be a malicious attempt to delay possession, as fulfilling the demand by May, 2023 was impossible given the late delivery of the letter. Therefore, subsequent

to receiving the demand letter, the complainant sent an email on 20.08.2023 to the respondent specifically highlighting the objections and grievances regarding the unfair content and timing of the intimation of the demand letter. It is pertinent to mention here that the respondent demanded illegal and unreasonable demands under different heads i.e. labour cess, External electrification charges and advance maintenance charges, etc.

- XV. That the above-stated email dated 20.08.2023 sent by the complainant to the respondent remained unanswered, as the respondent failed to respond. Thereafter, the respondent out of the blue arbitrarily cancelled the unit of the complainant vide their email dated 14.05.2024 on account of non-payment of demand raised by the respondent in the offer of possession dated 14.12.2022 sent by them to the complainant as alleged.
- XVI. That if the complainant did not receive the alleged offer of possession, then how can the complainant make the payment against the demands raised by the respondent in the alleged offer of possession dated 14.12.2022? Furthermore, the respondent has not shared any communication whatsoever regarding the alleged offer of possession. Moreover, the complainant has expressed his willingness to settle any legitimate dues, but the respondent's intentions seem questionable, especially considering the suspiciously outdated demand letter dated 03.03.2021. The complainant's readiness to pay his dues is evident from the email dated 14.05.2024 which the complainant sent to the respondent. This email was a response to the respondent's email of the same date, which included a cancellation letter.
- XVII. That the respondent party has violated the directions of this Authority since this Authority has mentioned in para 35 of its order dated

08.03.2022 that "It is not justified to cancel the allotted unit at this stage". This Authority has also directed the respondent in the said para to provide a fresh demand notice clearly indicating the stage of construction (since the unit was booked under the construction-linked payment plan) and the pending demand on that date. Further mentioned that the promoter shall be entitled to claim delay payment charges if justified on the basis of the stage of construction and payment due. It's crucial to note that despite repeated requests, the respondent failed to provide a fresh demand notice and updated statement of account. Furthermore, the respondent cancelled the complainant's unit, disregarding the directions of this Authority.

- XVIII. That the respondent party has submitted objections to execution petition no. 5085 of 2024, which was filed by the complainant before the Adjudicating Officer. Interestingly, it was only through these objections that the complainant received the offer of possession, dated 14.12.2022, as per the annexures attached to the objections. It is pertinent to mention here that the said offer of possession is not a valid offer of possession dated 14.12.2022, is null and void, being legally invalid. This is because the notice was issued when the project was not yet ready for habitation. Furthermore, the notice of possession included multiple charges beyond the scope of the agreement. It was also conditional upon the complainant's acceptance of a pre-drafted indemnity cum undertaking and declarations. Additionally, the occupation certificate (OC) for the relevant tower is conditional, as it was granted for only half of the tower. It is also worth noting that the respondent has charged an unreasonable interest amount of Rs. 10,75,685/-. Moreover, the respondent's claim for maintenance

charges is incorrect, as these charges should be received by the maintenance agency, not the respondent.

XIX. That the cause of action for the present complaint arose in July 2023, when the respondent party sent a back-dated demand letter dated 03.03.2021 with a due date of payment of 09.05.2023 in July 2023. The cause of action again arose in May 2024, when the Respondent Party arbitrarily and in violation of the directions of this Hon'ble Authority cancelled the unit of the complainant vide a cancellation letter dated 14.05.2024. The cause of action is alive and continuing and will continue to subsist till such time as this Hon'ble Authority restrains the respondent by an order of injunction and/or passes the necessary orders.

XX. That the present complaint is not for seeking compensation, without prejudice, complainant reserves the right to file a complaint to Adjudicating Officer for compensation.

**C. Relief sought by the complainant:**

4. The complainant has sought following relief(s):

- I. To get an order in his favour to set aside the alleged cancellation letter dated 14.05.2024, since the said cancellation letter was sent without following the due process of law, in violation of the directions issued by this Authority in its order dated 08.03.2022 and, also, the delayed possession charges amount more than the demand raised by the respondent.
- II. To get an order in his favour by directing the respondent party to not create any third-party right in the unit of the complainant.
- III. To get an order in his favour by directing the respondent party to comply with the order dated 08.03.2022 and to get physical possession of the fully developed/constructed flat/apartment with all amenities.
- IV. The complainant is also entitled to any other relief to which he is found entitled by this Hon'ble Authority.

5. On the date of hearing, the Authority explained to the respondents/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 respondent:**

6. The respondent has contested the complaint on the following grounds:

- a. That the present complaint is not maintainable and barred by res-judicata. That earlier complainant had filed a complaint bearing no. 2745 of 2021 wherein certain directions were passed in favor of both parties and when the complainant failed to comply with said directions the unit of complainant was cancelled due to non-payment of outstanding amount and non-fulfilment of his obligations. Now the complainant filed present complaint claiming fulfilment of conditions of final order passed in 2745 of 2021.
- b. That the complaint filed by complainant is not maintainable in the eyes of law. It is submitted that respondent has already cancelled the allotment after complainant has failed to pay the balance sale consideration after receiving offer of possession as per direction passed in final order passed in 2745 of 2021. That complainant by way of present complaint is trying to change the order dated 08.03.2022, which is not permissible. That Hon'ble authority cannot change the order dated 08.03.2022. It is submitted that respondent had already complied order dated 08.03.2022 passed by Hon'ble RERA Authority. However, it is the complainant who failed to comply the same. That directions issued by Hon'ble authority while passing order dated 08.03.2022 are very important in order to adjudicate present complaint.

- c. That authority ordered that respondent was to pay delayed possession charges @ 9.30% on amount paid by complainant, till the offer of possession plus two months after obtaining occupation certificate and at the same time authority also directed the complainant to pay the outstanding dues and the rate of interest chargeable from complainant was also held to be 9.30%.
- d. That at the time of filing reply in the main complaint i.e., 2745 of 2021, the respondent specifically annexed a document i.e., demand letter (reminder up to completion of flooring & a pre cancellation letter) whereby an amount of Rs.31,49,429/- was due towards complainant/allotee and as per order passed by authority complainant never approached the respondent to pay the said amount after adjustment of DPC. That even at the time of passing of order the amount of DPC was much less than the amount due towards demand raised by respondent. That the order was passed on 08.03.2022 and as per said order due date of possession was held to be 16.10.2018, thus by simple calculation total DPC as on date of order comes to Rs.21,83,258/-. Thus, as on the date of passing order the complainant was liable to pay Rs.9,66,171/- to the respondent. Thus, after passing of order no amount was left to be paid to complainant. However, complainant never bother to pay the said amount to the respondent. It is further submitted that the authority also grants liberty to charge interest on the amount due and the DPC was liable to be calculated up to offer of possession plus 2 months.
- e. That the respondent obtained occupation certificate of the concerned tower on 13.12.2022 and immediately thereafter on 14.12.2022 sent an offer of possession to the complainant. That since authority never directed the to issue offer of possession after adjustment of dues, thus

the respondent issued said offer of possession showing total amount due on date of offer of possession. That as per offer of possession total amount due was Rs.45,59,137/- and as per order passed by authority the DPC was liable to be paid till 2 months from date of offer of possession after getting occupation certificate. Thus, total DPC after adding 2 months in offer of possession comes to Rs.27,87,484/- whereas total due against complainant as on date of offer of possession was Rs.45,59,137/-. Thus, even after passing of 2 months from date of offer of possession as amount of Rs.17,71,653/-. However, complainant never came forward to pay the said amount after adjustment of DPC. That respondent waited for some time and then again issued a reminder to the complainant showing all the previous dues plus dues against offer of possession wherein complainant was given time to pay the amount before 09.05.2023. That said offer of possession and its demands were as per agreed terms and condition of agreement.

- f. That complainant specifically knows that as per order, after adjustment of DPC it is the complainant who has to pay the balance sale consideration to the respondent. That since the complainant do not has capability to pay the balance sale consideration, the complainant approached the respondent in the month of July 2023 and requested to help the complainant in getting the unit sold. That complainant also sent an email in this regard to the official of respondent. That complainant himself admitted the fact that it is the complainant who is liable to pay amount to respondent. It is submitted that the complainant had total 2 units one was already cancelled due to non-payment and authority already passed directions to deduct the earnest money and refund the balance sale consideration. That in the

said matter was compromised recently and respondent refunded said amount to complainant. That said order specifically clarifies the fact that the complainant never had financial capacity to pay the balance sale consideration. That said order was passed on 14.12.2023 i.e., after 1 year since issuance of offer of possession qua unit in question. That complainant also applied a unit in the project of respondent in the name of her mother however same was also got cancelled due to non-payment. That said cancellation is under challenge. That complainant tried to get their unit sold but the respondent refused to do so. That complainant there after filed false and frivolous police complaint against the respondent levying baseless allegations, however in the said complaint, complainant admits that he approached the respondent to get their unit sold but respondent refused.

- g. That without prejudiced to the rights of respondent and cancellation letter issued by respondent and without admitting any of the pleadings of complainant. It is submitted that had the complainant was honest or bonafide, then he should have paid an amount after adjustment of alleged delayed possession charges to the respondent and then should have raised issues qua possession. It is submitted that in terms agreement if the allottee fails to pay amount as demanded in offer of possession or if fails to take possession within time prescribed in offer of possession, then the respondent has right to terminate the agreement. That clearly complainant neither did not came forward to take possession after payment of amount demanded by respondent or as already stated above did not paid any amount to show his bonafide. That present complaint has been filed by complainant to execute order dated 08.03.2022, wherein it was specifically mentioned that outstanding amount should be paid by complainant to respondent no

such amount was ever paid by complainant. It is submitted that respondent had already validly cancelled allotment of complainant and keeping in view of the same present complaint is not maintainable.

- h. That for better understanding of the present case, respondent request to summon main file and same may kindly be attached with present complaint till its decision. It is submitted that present complaint is not maintainable in view of above stated facts and circumstances as stated above.
- i. It is submitted that after issuance of offer of possession, another reminder was issued wherein the demand against offer of possession was also incorporated in the earlier letter dated 03.03.2021 and the due date was mentioned as 09.05.2023. It is further submitted that even if it is assumed that said demand letter was received by complainant after passing of due date, even otherwise after receiving of said demand complainant never paid the balance sale consideration after adjustment of delayed possession charges. It is submitted that the unit of the complainant was got cancelled approximately after waiting for a whole year, thus it is absolutely baseless to allege that when the complainant has received said demand the due date was already passed. That the complainant has a whole year since then to pay the balance amount, yet he failed to do so. It is submitted that complainant was ready to pay the balance amount to the respondent in August 2023, which in itself clarifies the effect that it is the complainant who has to pay the amount to the respondent and not the respondent as claimed in the present complaint.
7. All other averments made in the complaint were denied in toto.
8. 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 these undisputed documents and submission made by the parties.

**E. Jurisdiction of the Authority:**

9. The Authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

**E.I Territorial jurisdiction**

10. 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**

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

**Section 11**

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**(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.*

12. 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 complainant at a later stage.

**F. Findings on the objection w.r.t maintainability of complaint:**

13. In the present complaint, the complainant intends to continue with the project and is seeking direction to the respondent to set aside the alleged cancelation letter dated 14.05.2024 and to handover the possession immediately keeping the dispute of amount between allottee and builder pending and to pay delay possession charges. The complainant has submitted that a complaint bearing no. CR/2745/2021 was filed by him seeking handover of possession and payment of delay possession charges and vide order dated 08.03.2022, the said reliefs were granted in favour of the complainant. However, the respondent neither paid the amount as directed by the Authority nor adjusted the amount against any demand which remained pending at the time of possession. Meanwhile, the occupation certificate was received by the respondent on 13.12.2022 and offer of possession was made to the complainant on 14.12.2022. The respondent has offered possession with huge illegal demands which are neither part of builder buyer agreement nor even logical to ask for. Thus, the present complaint has been filed by the complainant.
14. The Authority observes that the complainant has previously filed a complaint bearing no. CR/2745/2021 against the subject unit before the Authority seeking possession along with payment of delay possession charges. Thereafter, vide order dated 08.03.2022, the respondents were directed to handover possession and to pay delay possession charges at the prescribed rate of interest @9.30% p.a. w.e.f. 16.10.2018 till offer of possession of the subject flat after obtaining OC from the competent authority plus 2 months or handing over of

possession, whichever is earlier. The respondent was further directed to not to charge anything from the complainant which is not part of the buyer's agreement. The Authority further observes that the complainant has also filed an execution petition bearing no. EX/5085/2024 and the same is still pending.

15. After considering the documents available on record as well as submissions made by the parties, the Authority is of the view that the present complaint is not maintainable before the Authority as is barred by the principle of res-judicata as the matter in issue between the parties has already been heard and decided by the Authority vide order dated 08.03.2022 in the former complaint bearing no. CR/2745/2021. Further, if any party fails to abide by the directions mentioned the said order, then the same shall be enforced by the executing authority as provided under Section 40 of the Act of 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, in such manner as may be prescribed. No doubt, one of the purposes behind the enactment of the Act was to protect the interest of consumers. However, this cannot be fetched to an extent that basic principles of jurisprudence are to be ignored. Therefore, subsequent complaint on same cause of action is barred by the principle of res-judicata as provided under Section 11 of the Code of Civil Procedure, 1908(CPC). Section 11 CPC is reproduced as under for ready reference:

***"11. Res judicata.—No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.***

**Explanation I.**—The expression “former suit” shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

**Explanation II.**—For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

**Explanation III.**—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

**Explanation IV.**—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

**Explanation V.**—Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

**Explanation VI.**—Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

**1[Explanation VII.**—The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

**Explanation VIII.** —An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.]”

16. The Authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) are, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the Authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the Act if such provision is based upon justice, equity and good conscience. Thus, in

view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable.

17. Complaint as well as applications, if any, stands disposed of, accordingly.
18. File be consigned to the registry.

  
**(Phool Singh Saini)**  
Member

  
**(Arun Kumar)**  
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

**Dated: 23.12.2025**



**HARERA**  
**GURUGRAM**