

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.254 of 2024

Date of Decision: March 13, 2026

Rajender Chaudhary, G-4, Block G, Lajpat Nagar-1, Delhi -
110 024

Appellant

Versus

M/s. Pareena Infrastructure Private Limited, Regd. Office at C-1,
2nd Floor, Omaxe City Centre, Sohna Road, Gurugram – 122 103.

Respondent

CORAM:

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

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

Present : Appellant-Rajender Chaudhary in person.

Mr. Kamal Jeet Dahiya, Advocate,
for the respondent.

ORDER:

VIRENDER PARSHAD, MEMBER (JUDICIAL)

The challenge in this appeal is to order dated 22.12.2022 passed by the Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram (hereinafter to be referred as 'Authority') in Complaint No. 4892 of 2022 titled as Rajender Chaudhary vs. M/s. Pareena Infrastructure Private Limited.

2. Brief admitted facts gathered from the record relevant for the disposal of this appeal are that the complainant-appellant Rajender Chaudhary and his wife Sushma Chaudhary (now deceased) got booked one Unit in the project, namely, "Coban Residences) floated by the respondent in Sector

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99-A, Gurugram. The Apartment Buyer Agreement was executed on 14.12.2013. The date of possession was calculated as 14.03.2019 in accordance with the agreement. Initially, the basic sale consideration was fixed Rs. 93,65,930/-, but as per the payment plan, it was enhanced to Rs. 1,18,02,284/-. It is also pertinent to mention here that the respondent revised the basic sale price of the said unit from Rs. 4896/- to Rs. 4690/- per sq. feet on the ground that the appellant-complainant would withdraw his complaints made to various higher Govt. offices, which were subsequently withdrawn on 13.02.2015. The appellant-complainant paid the amount of Rs. 1,06,20,290/-. However, the respondent within the stipulated period, failed to obtain the occupation certificate and deliver the possession to the appellant-complainant which forced him to knock at the door of HRERA, Gurugram vide complaint No. 1574 of 2019 and decided by the Adjudicating Officer vide his order dated 17.08.2021.

3. Before embarking upon the actual controversy involved in the matter, it is necessary to mention the brief chequered history of the case.

4. Feeling aggrieved against the aforesaid order, the respondent preferred an appeal before this Tribunal. Said appeal was decided by this Tribunal and the matter was remanded back to the Authority for adjudication. Thereafter, the Authority decided the matter on 31.05.2022 and held that the appellant was entitled for the refund of Rs.1,06,20,290/-. Against the said order, appeal was filed before this Tribunal. The said appeal was dismissed vide order dated 27.04.2023. Thereafter, the appellant-complainant filed rectification

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application against the order dated 15.07.2022 of the Authority, wherein the Authority passed again an order of refund completely based on facts and submissions made earlier before the Adjudicating Officer. The appellant-complainant then filed Execution Petition No. E/6069 of 2022 which was disposed of as the entire pre-deposit amount was disbursed to the appellant-complainant. Without any objection, the said execution petition was withdrawn by the appellant-complainant. Then the appellant-complainant filed another Execution Petition No. E/2472 of 2023 seeking further recovery of additional amount of Rs.2,08,007/-. Said execution petition was disposed of vide order dated 25.04.2024.

5. It is necessary to point out here candidly that the appellant-complainant filed another complaint No. 4892 of 2022 pleading therein that during the period of proceedings before the Authority, his wife died and he suffered mental agony and pain in the absence of his wife. They had booked the said apartment in the hope that they will live in the flat in the last days of their lives, but the respondent shattered all their dreams and failed to deliver possession of the unit well within time. Failure of the respondent in delivering the possession resulted into the untimely death of appellant-complainant's wife and in this backdrop, he seeks compensation to the tune of Rs.62,00,000/-.

6. The complaint was contested and after affording proper opportunity of hearing to the parties, the complaint was dismissed by the Adjudicating Officer vide his order dated 22.12.2022 on the basis of reasoning given in paras 9 and 10 of

the impugned order, which are reproduced below for ready reference :

“9. Even if wife of complainant died during this period of pendency of matter and the respondent did not make payment of decretal amount, there is no evidence to prove that the respondent was responsible for her death. As described above, by filing appeal the respondent challenged the order passed by this forum and again the order passed by the authority, as per law. The respondent has every right to exhaust its remedy by filing an appeal and thus same (respondent) cannot be held liable for the death of complainant’s wife.

10. So far compensation in the name of suffering mental agony by the complainant is concerned, same is part and parcel of earlier complaint. Complaint in hands based on same cause of action, is not maintainable. It is a principle of public policy that there should be end of litigation. When complaint has already been decided, No fresh case/complaint can be allowed on same cause of action.”

7. Initiating the arguments, appellant-complainant has contended that his wife died during the period of Covid-19. Due to the non-occupation of the unit in question well within time, he could not get his wife treated in a good hospital situated at Gurugram. He and his wife suffered for a period of more than ten years and could not avail the benefit of their invested hard earned life long earnings in the project of the respondent. No opportunity was given by the Adjudicating

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Officer to lead the evidence. In view of the matter, the impugned order dated 22.12.2022 passed by the Adjudicating Officer, is illegal and against the settled principles of natural justice and as such the appeal deserves to be accepted.

8. Replying to the above arguments, Shri Kamaljeet Dahiya, Advocate has contended that the appellant-complainant is a chronic litigant. At his instance, the rate per square feet of the unit was revised from Rs.4896/- to 4690/-. His wife died as a natural death and her death cannot be attributed to the respondent in any manner. The entire amount along with interest and other benefits has been paid to the appellant-complainant. The execution petition was closed by the Authority after conducting thorough proceedings. In fact, the appellant-complainant has turned greedy and wants to influence the proceedings emotionally due to the death of his wife which was otherwise the result of course of nature. With these submissions, he supplicated that the appeal deserves to be dismissed.

9. We have given our thoughtful consideration to the arguments of both the sides. We have also examined the record of the case in its length and breadth.

10. Admittedly, in Complaint No. 1574 of 2019 which was decided by the Authority on 31.05.2022, the appellant-complainant made the prayer that his deposited amount may be refunded with interest. In the said complaint, he also pleaded for the grant of compensation. The Authority issued the directions to the respondent to refund the amount of Rs.1,06,20,290/- received by the respondent to the appellant-allottee along with interest @ 9.50% per annum from the date

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of deposit till the date of recovery of the amount within 90 days from the date of the order as per Rule 16 of the Haryana Rules, 2017. Against the said order, appeal No. 553 of 2022 was instituted in which the findings recorded by the Authority were maintained in the appeal. In the execution proceedings, a total sum of Rs. 1,77,29,920/- was paid by the respondent which included Rs. 1,06,20,290/- paid by the appellant-complainant plus interest. Shri Kamaljeet Dahiya placed on record during the course of arguments details of the payment which are taken on record. Thus, the principal amount Rs. 1,06,20,290/- was paid by the appellant-complainant against which, he had received Rs. 1,77,29,920/-.

11. The appellant-complainant preferred another complaint seeking compensation to the tune of Rs.62,00,000/- on account of mental harassment, agony and due to the untimely death of his wife on account of the failure of the respondent to abide by the terms and conditions of the Builder Buyer's Agreement dated 14.12.2013. The learned Adjudicating Officer in his order held that so far compensation in the name of suffering mental agony etc. by the appellant-complainant is concerned, same is part and parcel of the earlier complaint. We have noticed that in the previous complaint, the appellant-complainant prayed for the compensation which was not considered by the Authority.

12. That apart, the grouse of the appellant-complainant is that his wife died due to the non-delivery of possession of the unit in question which resulted into mental agony and pain to him. He has not placed on record any medical document in order to establish that the death of his wife was attributed to

the non-delivery of the possession of the unit. Further, in our opinion the cruel hands of death can snatch away any life from this world at any point of time without giving any prior notice. That is why no one can fix the time of the death. Here in this case, it appears that the death of the wife of the appellant-complainant was result of natural course.

13. The case of the appellant-complainant can also be looked from another angle. Initially, the basic sale price was fixed Rs. 4896/- per sq. feet. Subsequently, the same was reduced to Rs. 4690/-. Thereafter, the appellant-complainant withdrew his complaints made to higher government offices. He was earlier allotted unit No. 1702 on 17th floor. Subsequently, on his request, he was allotted unit No. 504 on the 5th floor. This shows that the appellant-complainant under the garb of the complaints, dictated his own terms in respect of getting the reduced rates per sq. feet and get the unit allotted at 5th floor. The appellant-complainant, during the course of arguments, instead of raising any material legal issues, made an attempt to influence the proceedings emotionally. Of course, such type of approach of the appellant-complainant is not acceptable to the recognised principles of natural justice.

14. He was given due opportunity at all levels to express his grievances. His grievances were duly redressed. He had received Rs.1,77,29,920/- in total. He himself sought the refund of the deposited amount. No deduction was made by the Authority from the amount deposited by him. In the given situation, we are of the view that the appellant-complainant is abusing the process of law.

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15. In view of the findings recorded above, there is no merit in the appeal and the same is hereby dismissed with no order as to costs.

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

17. File be consigned to the records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

March 13, 2026
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