

**BEFORE RAJENDER KUMAR, ADJUDICATING OFFICER,
HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM.**

Complaint No. :4652 of 2024

Date of Decision: 23.07.2026

1. Ms. Bina Devi Somani
2. Mr. Jugal Kishore Somani, both residents of A-245, Lower Ground Floor, Block-A, Shivalik Colony, Malviya Nagar, New Delhi.

..... Complainants.

Versus

1. M/s Pareena Infrastructure Pvt. Ltd. C7A 2nd Floor, Omaxe City Centre Mall, Sohna Road, Sector-49, Gurugram.
2. M/s Monex Infrastructure Private Ltd. Flat No.2, Palm Apartment, Plot No.13-B, Sector-6, Dwarka, New Delhi-110075.

..... Respondents.

APPEARANCE

For Complainants: Complainant (Mr. Jugal Somani) in person.
For Respondents: Mr. Prashant Sheoran, Advocate.

ORDER

This is a complaint filed by Ms. Bina Devi and Mr. Jugal Kishore (allottees) under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in brief "The Act of 2016") read with

Rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 against M/s Pareena Infrastructure Pvt. Ltd. & Anr. (promoters/developers).

2. Briefly stated, according to the complainants, on 20.01.2013 believing on representation and assurance of the respondent No.1, they booked a 3 BHK flat/apartment bearing No.602 in Tower T2 for size admeasuring 1997 sq. ft. in the project "Coban Residencies" Sector-99A, Gurugram being developed by the respondent No.1 and paid booking amount of Rs.8,50,000/-. The flat was purchased under the construction linked plan for a sale consideration of Rs.1,19,40,077/- i.e. Rs.4845 per sq. ft.

3. That on 14.03.2014, the respondent No.1 issued allotment letter for the aforementioned flat/apartment. A Builder Buyer's Agreement (BBA) was executed between them (complainants) and the respondent No.1 on 06.04.2014. On 11.02.2015, they (complainants) received a call from respondent No.1 for change in the payment plan with an additional cost, on which, they agreed and signed a pre-printed application form for modification in the payment plan. Accordingly, the respondents changed the BBA and issued a fresh BBA to them (complainants)


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and also increased the basic sale price from Rs.4845 sq. ft. to Rs. 5170 sq. ft. i.e. total sale consideration of Rs.1,23,53,456/-. Due date of handing over of possession was 11.02.2019. That as per demand-cum-tax invoice, they (complainants) have paid Rs.75,39,866/- i.e. 61% of the total sale consideration of the unit.

4. That since 2018, they (complainants) contacted the respondent No.1 to get possession of their unit, but all efforts went in vain and the respondent did not give possession of their flat/apartment. They (complainants) filed a complaint before the Authority seeking possession along with interest/DPC against the respondents. The Authority vide its order dated 08.03.2022 directed the respondent No.1 to pay interest at the prescribed rate of 9.30% per annum for every month of delay from the due date of possession i.e. 11.02.2019 till the offer of possession after obtaining occupation certificate plus two months or handing over of possession whichever is earlier.

5. That as direction for giving possession was not passed by the Authority, therefore they (complainants) filed a rectification application before it (Authority). The Authority vide its order dated 04.05.2023 has directed the respondent No.1 to handover the

actual physical possession of the unit within one month after adjustment of delayed possession charges.

6. That the respondent No.1 did not comply with the aforesaid order of the Authority. So, they (complainants) filed execution petition. The respondent No.1 offered the possession of the unit vide letter dated 23.12.2022 wherein illegal demand of Rs.58,06,215/- was raised along with an indemnity bond. They (complainants) vide email dated 05.01.2023 and various other emails disputed the illegal demands made by the respondent No.1 and sought corrected calculation after adjusting DPC and TPR and to give possession of the unit. Despite payment, the possession of the unit was handed over to them on 21.08.2024.

7. Citing facts as described above, the complainants have sought following reliefs: -

- i. to direct the respondents to pay compensation of Rs.26,60,000/- towards loss of rental income i.e. towards amount of loss caused due to result of the default;
- ii. to direct the respondents to pay compensation of Rs.20,00,000/- for offering possession without completing the basic necessities such as toilet, bedrooms and common amenities such as club house etc. in terms of the BBA and as result of continuance annoyance which shall be caused due to continuous construction in the impugned project even after handover of the possession;

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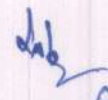
iii. to direct the respondents to pay Rs.20 lakhs as compensation towards mental harassment caused to the complainants in view of the inordinate delay in delivery of possession of the impugned unit;

iv. to direct the respondents to compensate the complainants with regard to the litigation cost of Rs.2,05,000/-

8. The respondent No.1 contested the claim of complainants by filing a written reply. It is averred that the Authority had directed the complainants to pay the outstanding dues after receiving offer of possession and adjustment of delayed possession charges. The complainants are liable to pay maintenance charges as per agreed terms. The complainants failed to pay the outstanding dues as per offer of possession and as per direction of the Authority. Therefore, allotment of complainants has already been cancelled by it (respondent No.1)

9. That the complainants, who gained unlawfully at its (respondent No.1) cost and they never approached or requested that they are ready to execute documents, as required in the offer of possession and also ready to deposit the amount as demanded in the offer of possession after adjustment of DPC.

10. Contending all this, the respondent No.1 prayed to dismiss the complaint.


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11. Both parties filed affidavits in support of their claims. I have heard learned counsels appearing on behalf of both of parties and perused the record on file.

12. At the outset, it is pointed out by learned counsel for the respondents that respondent No.2 is an unnecessary party. No relief has been claimed by the complainants from respondent No.2. Admittedly, an agreement to sell (BBA) was entered between the complainants on one side and respondent No.1 on other side and it was respondent No.1 only, who collected sale consideration. Moreover, in complaint No.2124 of 2021 filed by the complainants they prayed for relief against respondent No.1 only. Considering all this, in my opinion, respondent No.2 is not a necessary party. The complaint against said respondent is dismissed.

13. Factual matrix as described above i.e. allotment of unit No.602 in Tower T2 admeasuring 1997 sq. ft. in the project "Coban Residencies" Sector-99, Gurugram, execution of BBA between the parties and payment of sale consideration as claimed by the complainants are not in dispute. Admittedly, the complainants approached the Authority through complaint No.2124 of 2021. Said complaint was allowed by the Authority vide order dated

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08.03.2022. Respondent No.1 has been directed to pay interest at the prescribed rate of 9.30% per annum for every month of delay from due date of possession i.e. 11.02.2019 till offer of possession of the subject flat after obtaining Occupation Certificate from the competent authority plus two months or handing over of possession, whichever is earlier.

14. It is contended by learned counsel for the complainants that despite said order of the Authority, the respondent did not handover possession of the unit in question, which constrained the complainants to approach the Authority again by filing an application seeking rectification in the order dated 08.03.2022 referred above. Through an order dated 04.05.2023, the Authority was pleased to direct respondent No.1 to handover physical possession of the subject unit to the complainants within one month subject to payment of outstanding dues, if any. The amount of DPC was to be adjusted. According to learned counsel, although the respondent claimed to have got Occupation Certificate and offered possession, but the unit was not ready to be occupied having so many deficiencies in it. Certain photographs stated to be clicked on 28.12.2022 have been put on the file. These photographs

are with copy of newspaper "Times of India" of that date. It is informed that the complainants after receiving offer of possession, wrote to the respondent on January 4, 2023 and pointed out eight deficiencies in the unit. Receipt of such notice through email is not disputed during deliberations.

15. The photographs relied upon by the complainants show that the unit in question as well as Club house etc. were not complete, having so many deficiencies. The order of the Authority dated 04.05.2023 referred above, is also evident that possession of unit was not handed over to the allottees/complainants at least till this date i.e. 04.05.2023. Although the Authority directed the respondent to handover physical possession of subject unit within one month.

16. In its order dated 08.03.2022, the Authority mentioned that due date of possession as calculated from the date of execution of agreement comes out to be 11.02.2019. Although as per Section 18(1) of Act of 2016, the allottees are entitled for DPC till possession is handed over, the Authority opted to direct the respondent to hand over possession from the due date of possession i.e. 11.02.2019 till offer of possession after obtaining

Occupation Certificate plus two months or handing over of possession, whichever is earlier.

17. As discussed earlier, it is well established that the possession was not handed over at least till 04.05.2023. All this is in violation of Section 18 (3) of the Act of 2016. The complainants are thus entitled for compensation.

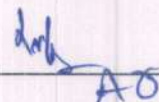
18. I do not find much weight in the contention of learned counsel for the respondent claiming that when the complainants have already been allowed DPC, same are not entitled for further compensation. At the cost of repetition, it is pointed out that the Authority allowed compensation till the date of offer of possession plus two months and not till the date possession is handed over. The complainants were deprived of compensation during this period.

19. The complainants have claimed compensation of Rs.26,60,000/- towards loss of rental income. No reliable evidence is adduced by the complainants to verify prevailing rent in the area. Moreover, when the Authority has already allowed interest at the rate of 9.30% per annum for every month of delay, I think it will serve interest of justice to allow compensation at the same rate as alleged by the Authority. Respondent No.1 is thus directed to pay

compensation in the form of interest at the rate 10.80% per annum from the date, the same has been paid by the respondent in compliance of the order of the Authority, till the date of handing over of possession. Highest marginal cost of lending interest rates of SBI at present are stated to be 8.80% per annum.

20. The complainants have further sought compensation of Rs.20 lakhs for offering possession without completing the basic necessities such as toilet, bedrooms and common amenities like Club house etc. Despite the fact that the respondents were able to procure Occupation Certificate from the competent Authority, it is well proved on the file that the unit in question was not ready to be occupied at least till 28.12.2022, but when the complainants have already been allowed compensation for not handing over possession in time and it is not plea of the complainants even that when the possession was received by them, all the deficiencies had not been removed. I do not find any reason to allow compensation on this count. Request in this regard is declined.

21. The complainants further prayed for Rs.20 lakhs as compensation towards mental harassment caused to them. Apparently, when the complainants did not get possession of their

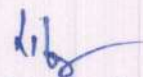
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dream unit, despite making payment of sale consideration, it caused mental harassment and agony to them. Rs.20 lakhs appear to be highly excessive. The complainants are allowed a sum of Rs. One lakh for mental agony and harassment, to be paid by the respondent No.1.

22. The complainants further requested for compensation of Rs.2,05,000/- towards legal costs incurred by them. No court fee is prescribed by the Authority to file a complaint, even then as the complainants were represented by a lawyer during proceedings of this case, same are allowed a sum of Rs.50,000/- as cost of litigation, to be paid by the respondent No.1.

23. This complaint stands disposed of accordingly. File be consigned to the record room.

Announced in open court today i.e. **on 23.07.2026.**



(Rajender Kumar)
Adjudicating Officer,
Haryana Real Estate Regulatory Authority,
Gurugram.