

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 386 of 2025

Date of Decision: September 08, 2026

Gaurav Kumar aged 40 years S/o Kedar Singh, R/o H. No. 1510, 17C HUDA, Gurugram, Haryana-122001.

...Appellant-allottee

Versus

M/s Pareena Infrastructure Private Limited having Regd. Office at Flat No. 2, Palm Apartments, Plot No. 13B, Sector-6, Dwarka, New Delhi-110075.

...Respondent-promoter

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Appellant in person with
Mr. Arun Sharma, Advocate with
Mr. Gurjeet Singh, Advocate,
Mr. Deepanshu Rana, Advocate.

Mr. Kamaljeet Dahiya, Advocate with
Mr. Vivek K. Sharma, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 09.04.2025 passed by the Authority at Gurugram. Operative part thereof reads as under:

“H. Directions of the Authority:

16. 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/promoter is directed to refund the paid-up amount of Rs.57,21,877/- after deducting 10% of the sale consideration of Rs.1,05,08,775/- being earnest money along with an interest @11.10% p.a. (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 06.03.2024 till its realization.

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.

17. The complaints stand disposed of.

18. Files be consigned to the registry.”

2. Factual matrix of the case is that the respondent-promoter launched a project, namely, "Coban Residences", in Sector-99A, Gurugram, wherein a unit bearing no. 703 on 7th floor in Tower T-6, measuring 1550 sq. ft., was allotted to the appellant-allottee. Builder-Buyer Agreement was executed between the parties on 17.04.2014. Total sale consideration of the unit was Rs.1,05,08,775/-, out of which, the appellant-allottee paid Rs.57,21,877/-. As per agreement, due date of possession was 01.10.2018. Occupation Certificate was granted to the project on 13.12.2022, more than four years after the due date of possession. Thereafter, respondent-promoter issued an offer of possession on 14.12.2022, subject to payment of outstanding dues. The respondent-promoter issued a demand letter dated 07.07.2023, which remained unpaid, leading to cancellation of the allotment vide letter dated 06.03.2024. Consequently, the appellant-allottee approached the Authority seeking revocation of cancellation, restoration of the unit and delay possession charges.

3. The respondent-promoter contended before the Authority that despite the offer of possession on 14.12.2022 and reminder dated 07.07.2023 for payment of outstanding dues, no payment was received from the appellant-allottee, which compelled the respondent-promoter to cancel the allotment strictly in accordance with the terms and conditions of the agreement.

4. After considering rival contentions of the parties, the Authority disposed of the complaint vide the impugned order, operative part whereof has been reproduced in para 1 of this order.

5. Aggrieved by the impugned order, the appellant-allottee has preferred the instant appeal before this Tribunal, contending that the Authority erred in holding the cancellation to be valid, as the project itself had been inordinately delayed. The appellant-allottee further contended that the Authority erred in granting the refund instead of directing the respondent

to hand over possession of the unit along with delay-possession charges (DPC).

6. We have heard the learned counsel for the parties and carefully examined the record of the case.

7. Admittedly, the due date of possession was 01.10.2018 and the Occupation Certificate to the project was granted only on 13.12.2022 i.e., after a delay of more than four years. Offer of possession dated 14.12.2022 was issued, calling upon the appellant-allottee to clear the outstanding dues and take possession. However, the appellant-allottee failed to make the required payment, despite a reminder dated 07.07.2023 granting him a further opportunity to clear the dues. This non-compliance resulted in the cancellation of the allotment on 06.03.2024. The cancellation was, therefore, a consequence of the appellant-allottee's own default after a valid offer of possession and due opportunity. In these circumstances, cancellation of allotment is valid and the appellant-allottee's prayer for restoration of the unit and possession along with delay-possession charges is untenable.

8. However, after cancellation, the respondent-promoter cannot be permitted to retain any part of the amount paid by the appellant-allottee. Further, the direction of the Authority, permitting deduction of 10% of the sale consideration is unsustainable, particularly when the promoter itself failed to adhere to the agreed schedule.

9. In view of the above, the impugned order is modified to the extent that the respondent-promoter shall refund the entire paid-up amount of Rs.57,21,877/- without making any deduction. Further, the Tribunal finds it appropriate to award interest on the refundable amount from the date of cancellation (06.03.2024) till realization.

10. 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.

11. The appeal is disposed of in the aforesaid terms.

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

13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

September 08,2026/mk