

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

**Complaint no. : 1590 of 2019**

**Date of decision : 15.09.2021**

**ALBERT VIJAY SINGH**  
R/O : Flat No. 216, Jalvayu Tower  
Sector-56, Gurugram

**Complainant**

**Versus**

**PRERNA INFRASTRUCTURE PVT. LTD.**  
C7A, 2<sup>nd</sup> Floor, Omaxe City Mall,  
Sohna Road, Gurugram

**Respondent**

**APPEARANCE:**

For Complainant:

For Respondent:

Gaurav Madan (Adv)

Prashant Sheoran (Adv)

**ORDER**

1. This is a complaint filed by Albert Vijay Singh (also called as buyer) under section 31 of The Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 29 of



The Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) against respondent/developer.

2. As per complainant, on 28.02.2014, he booked a unit in respondent's upcoming project situated at sector-68 Gurugram. He (complainant) made payment of Rs 50,000 as booking amount for a unit admeasuring 1000 sq. ft. for a basic sale consideration of Rs 57,50,000.
3. As respondent did not give any information regarding commencement and completion of construction of project, he (complainant) visited the office of respondent to see the title deed of the land on which said project is to be constructed and sanction plan of the project. The respondent failed to give any information with respect to the said project and threatened the complainant with dire consequences. The respondent does not have license and sanctions for the said project.
4. He (complainant) has paid Rs 12,44,811 i.e 22 % of total consideration but respondent failed to execute the buyer's agreement and failed to give any information about the commencement and progress of construction work of the project. In such circumstances, he (complainant) had no other option, except to cancel the booking. He approached broker of respondent and cancelled booking of unit through him (broker) vide NOC dated 15.01.2015. Citing all this, the complainant has sought refund of amount paid by him along





with interest at prescribed rate and Rs 1,00,000 towards cost of litigation.

5. The particulars of the project, in tabular form are reproduced as under:

S.No.	Heads	Information
<b>PROJECT DETAILS</b>		
1.	Project name	Micasa
2.	Project Location	Sector 68, Gurugram
<b>UNIT DETAILS</b>		
1.	Unit no.	No allotment
2.	Unit measuring	1000 sq. ft.
3.	Date of Booking	28.02.2014
4.	Date of Allotment Letter	No Allotment
5.	Date of Buyer's Agreement	Not Executed
<b>PAYMENT DETAILS</b>		
6.	Basic sale consideration	Rs 57,50,000.
7.	Amount paid by the complainant	Rs 12,44,811
8.	Payment Plan	Construction Linked

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5. The respondent contested the complaint by filing a reply dated 20.05.2019. It is averred that two projects were being developed by it (respondent) i.e. Coban Residences in sector - 99 A , Gurugram and Micasa in sector- 68 Gurugram. The complainant had initially booked a flat in project Coban Residences. Licenses from DTCP for the said project was received on 12.03.2013 and building plans were approved on 25.07.2013. The complainant later transferred said booking to another project i.e. Micasa as described above on 15.08.2015 (Annexure R 4). At the time of accepting the transfer request of complainant, the license and building plans for the said project i.e. Micasa had already been obtained by the respondent. No new booking amount was charged from the complainant, for transfer of their booking from Coban Residences to Micasa. The allotment of any specific unit in the project is still awaited and the same was to be allotted through formal allotment letter. It (respondent) is ready to give possession of the unit, subject to payment of due installments and charges by the complainant.
6. In the year 2016, complainant had approached District consumer forum and the said complaint was withdrawn by him. The complainant has concealed this fact from this forum.
7. The money which has been paid by the complainant was towards the booking in project at sector 99 A and no money

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has been paid after transfer of booking i.e towards the booking in project Micassa in sector 68. The complainant never visited the office of respondent to know about the progress of project at sector-68.

8. Contending all this respondent, prayed for dismissal of complaint.

9. As described above, according to respondent, complainant applied for change of his unit from Coban Residencies Sector 99-A to other project that is Micasa in Sector 68, Gurugram. A document (R-4) has been put on file. If the same is taken as true, complainant applied for substitution of allotment of flat. There is correction in the date on said application. Same is either 15.08.2014 or 15.08.2015. According to respondent, said application was allowed and the amount already paid by the complainant for earlier unit in Sector 99-A was adjusted in another project situated in Sector 68. A copy of application for registration of allotment of the flat has also been put on file. Several columns including name of project are blank. Respondent did not dispute genuineness of this document. It appears that respondent procured these documents from complainant having blank columns, apparently to be filled later on.

10. Whatsoever it may be, even according to respondent and as described above, application of complainant for substitution of

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allotment of flat dated 15.08.2014 or 15.08.2015 was allowed and amount paid by the complainants for earlier unit was adjusted in later project i.e. situated in Sector 68. Even as per respondent, building plans for the project in Sector 68 were sanctioned on 28.04.2015, vide memo No. 6699. Copy of which is annexure R-8. The complainant claims to have sought cancellation of his unit in project located in Sector 68 by letter dated 15.01.2015 sent in this regard by him (complainant) through M/s Investors Clinic Infratech Pvt. Ltd. Copy of same is on the record as Annexure III. Receipt of which is not denied by the respondent. It can be presumed that said letter was received by the respondent on any day in January 2015. Even building plans of project in Sector 68 had not been sanctioned till that date. The complainant has thus requested for cancellation of his unit and refund of the amount before building plans were sanctioned, meaning thereby that project had not started even. In that event, it was not proper for respondent to deny cancellation or even to deduct any amount as penalty. Admittedly, No BBA has been executed between the parties.

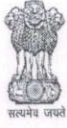
11. In these circumstances, the respondent had no right to retain the amount received from the complainant. The latter is well within his right to demand for refund. Complaint, in hands, is thus allowed. Respondent is directed to refund the amount of

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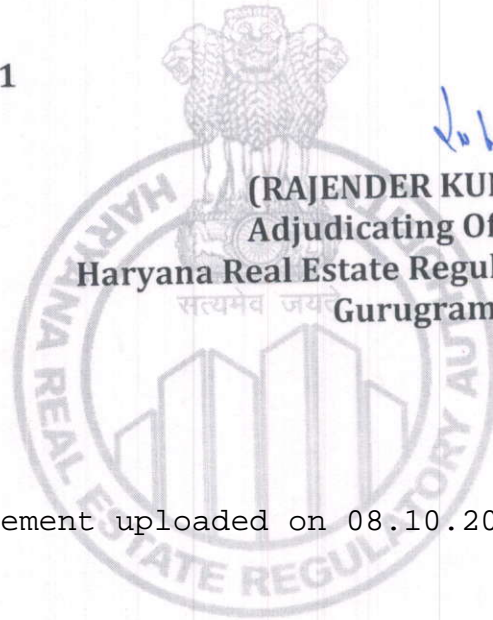




Rs 12,44,811 to the complainant as received from him till date, within 90 days from today alongwith interest @ 9.3% *P.A.* from the date of receipt of each payment till realization. Respondent to pay cost of litigation Rs.50,000/-to complainant.

File be consigned to the Registry.

15.09.2021



*(Signature)*  
**(RAJENDER KUMAR)**  
**Adjudicating Officer**  
**Haryana Real Estate Regulatory Authority**  
**Gurugram**

Judgement uploaded on 08.10.2021.

**HARERA**  
**GURUGRAM**