

Neo Developers Pvt. Ltd. V/s Mrs. Shilpa Mahajan
Appeal No. 106 /2019

Present: Ms. Palak Dev, Advocate, ld. counsel for the appellant.

Sh. Neeraj Mahajan, husband of the respondent, in person.

The appellant promoter was directed to deposit the requisite amount i.e. whole of the amount payable to the allottee to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called "the Act") on or before 10.11.2019 vide our order dated 17.09.2019. As per the report of the office, no amount has been deposited by the appellant in compliance of our aforementioned order.

Ld. counsel for the appellant has sought one day's extension to deposit the said amount on the ground that the draft sent by the appellant/promoter are to be received by her during the course of the day.

We have duly considered this plea. The present appeal was filed by the appellant/promoter on 28.10.2018. More than ten months have already passed. On the last date of hearing i.e 17.09.2019, direction was given to the appellant to deposit whole of the amount payable to the respondent/allottee to comply with the provisions of proviso to Section 43(5) of the Act. Even on that day, we had granted three weeks' time to the appellant to deposit the requisite amount on or before 10.10.2019. The said period has expired yesterday but even then no amount is deposited. Thus, sufficient time has already been granted to the appellant/promoter to deposit the requisite amount to comply with the provisions of proviso to Section 43(5) of the Act.

There is no dispute with the proposition of law that the provisions of proviso to Section 43(5) of the Act are mandatory and deposit of the requisite amount is a condition precedent for the entertainment of the appeal. Thus, as the appellant/promoter has not

complied with the mandatory provisions of proviso to Section 43(5) of the Act, the present appeal filed by the appellant/promoter cannot be entertained and consequently, the same is hereby dismissed.

File be consigned to the records.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
11.10.2019

Inderjeet Mehta
Member (Judicial)
11.10.2019

Anil Kumar Gupta
Member (Technical)
11.10.2019