

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 464 of 2022

Date of Decision: 03.05.2023

Vaibhav Kumar Bansal, Office No.1, 3rd Floor, 301/18,
Krishna Mansion, Civil Lines, Gurugram-122001.

Appellant

Versus

Agrante Reality Limited, 522, 524, DLF Tower-A, Jasola, New
Delhi-110020.

Respondent

CORAM:

Justice Rajan Gupta	Chairman
Shri Inderjeet Mehta,	Member (Judicial)
Shri Anil Kumar Gupta,	Member (Technical)

Argued by: None for the appellant.

Mr. Yashvir Singh Balhara, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN:

The present appeal has been preferred against the order dated 10.05.2022 passed by Haryana Real Estate Regulatory Authority, Panchkula, (hereinafter called 'the Authority'), in Complaint No.CR/669/2021/2389/2019 titled as "Vaibhav Kumar Bansal vs. Agrante Realty Limited". The operative part of the impugned order reads as under:-

Appeal No. 464 of 2022

“In view of aforesaid submissions, the authority observed that the complainant has surrendered his unit even before the “commencement” of the project. The respondent is directed to return the amount of the complainant as per section 5(iii) h of Policy. Both the parties are directed to appear before the authority on the next date of hearing to confirm compliance of the authority.

2. Direct the respondent to pay an amount of Rs.25,000/- towards cost of litigation. The complainant is claiming compensation in the above mentioned relief. For claiming compensation under sections 12, 14 and 18 and section 19 of the Act, the complainants may file a separate complaint before Adjudicating Officer under section 31 read with section 71 of the Act and rule 29 of the rules.”

2. It appears that the appellant had applied for allotment of flat under ‘Affordable Housing Policy’ of State of Haryana. However, before the draw of lots could be held, he chose to surrender the unit in question and to withdraw from the project. He, thus, filed the instant complaint before the authority on 14.06.2019. On 24.06.2019, draw of lots was held in which the appellant was successful.

3. In the complaint, the appellant, inter alia, sought refund of the amount of Rs.1,05,758/- deposited by him alongwith interest. The matter was decided by the authority on 10.05.2022. It held that the appellant was not entitled to

Appeal No. 464 of 2022

any interest in view of 'Affordable Housing Policy, 2013 notified by Government of Haryana vide Notification No.PF-27/48921 dated 19th August, 2013. However, the appellant was given liberty to approach the Adjudicating Officer and thus filed complaint under Section 31 read with sections 35, 36, 37 and 38 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), claiming compensation, if any.

4. The observations of the learned Authority to direct the respondent to return the amount to the appellant as per Section 5(iii)h of the policy is concerned, as the appellant had surrendered the unit before the commencement of the project, is correct to that extent. Also, there is nothing on the record that the policy contained any provision for grant of interest in case the allottee chose to back out from the project before the draw of lots. Even before the allotment, in the instant case, the appellant filed the complaint on 14.06.2019, whereas the draw of lot was held on 24.06.2019. Thus, the intent of the appellant to withdraw from the scheme is clear from the fact that he filed the complaint before the authority on 14.06.2019 itself before he received any communication regarding the allotment of the flat. However, the amount of refund admissible to the appellant should have been paid to him within 15 days of the allotment on 24.06.2019, as he had

Appeal No. 464 of 2022

opted to surrender the unit and filed the complaint for refund on 14.06.2019. The respondent, however, has not paid any amount to the appellant-allottee up till now. In view of the aforesaid circumstances, we allow interest on the amount of refund at the prescribed rate of interest i.e. 10.07% per annum (SBI highest MCLR+2%), with effect from 09.07.2019 till realisation.

5. Consequently, the order passed by the learned Authority stands modified and the appeal is partly allowed with the aforesaid observations. No order as to costs.

6. Copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority.

7. File be consigned to the record.

Announced:
May 03, 2023

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)