

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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Appeal No.582 OF 2022  
Date of Decision: 09.05.2023

1. Hari Kishan son of Late Shri Ram Chander Yadav, resident of Flat No.B-305, Sector 5, New Panvel (East), Navi Mumbai, Maharashtra 410206 present address: C-602, Neel Vardhan, CHS, Plot No.46, Sector 5, New Panvel (East) Mavi Mumbai 410206;
2. Om Parkash Yadav son of Surender Singh Yadav, resident of VPO Khatiwas, Tehsil and District Jhajjar, Haryana 124103 present address: R/o H.No.1045, Near Shiv Mandir, Sector 2, Bahadurgarh, District Jhajjar, Haryana 124507

Appellants

Versus

1. M/s Landmark Apartments Pvt. Ltd. registered office at A-8, Chitranjan Park, New Delhi second address Plot No.65, Sector 44, Gurugram, Haryana;
2. Sandeep Chillar, Director/CMD, M/s Landmark Apartments Pvt. Ltd. registered office at Plot No.65, Sector 44, Gurugram, Haryana;
3. Shri Dinesh Kumar, Director M/s Landmark Apartments Pvt. Ltd. registered office at Plot No.65, Sector 44, Gurugram, Haryana;

Respondents

**CORAM:**

**Justice Rajan Gupta  
Shri Inderjeet Mehta  
Shri Anil Kumar Gupta**

**Chairman  
Member (Judicial)  
Member (Technical)**

Present: Mr. Gaurav Deep Goel, Advocate,  
for the appellants.

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

**ORDER:****Rajan Gupta, Chairman (Oral):**

The appellants have posed to challenge the order dated 31.01.2019 in complaint No.951/2018 passed by the Haryana Real Estate Regulatory Authority, Gurugram (for short, the Authority). Operative part thereof reads as under:-

***“Decision and directions of the Authority:***

32. *Thus, the authority, exercising powers vested in it under Section 37 of the Real Estate (Regulation and Development) Act, 2016 hereby issue the following directions:*

a. *As per clause 4 of MoU, both the complainants and respondents are advised to settle their matter with respect to assured return.*

33. *The project is registerable and has not been registered by the promoters. The authority has decided to take suo-moto cognizance for not getting the project registered and for that separate proceeding will be initiated against the respondents under section 59 of the Act.*

34. *Order is pronounced.*

35. *Case file be consigned to the registry.*

(Samir Kumar)  
(Member)

Subhash Chander Kush)  
Member

*Date: 31.01.2019”*

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2. A perusal of the aforesaid order shows that the case has been disposed of with an advice to the complainants as well as respondents to settle their matter with respect to assured return.

3. It appears that an application for rectification of the said order was also filed, but was rejected on the ground that the same was outside the purview of the Authority.

4. A perusal of the impugned order shows that the matter has not been decided on merits. Neither plea raised by the complainants nor the stand taken by the respondents has been dealt with. The Authority has disposed of the matter merely with the advice to both the parties to settle their matter with respect to assured return.

5. We are of the considered view that the role of the Authority is not advisory in nature. It is adjudicatory body set up under the Real Estate (Regulation and Development) Act, 2016 (for short, the Act). On a complaint having been filed before it, it has to proceed as per law i.e. the Act and Rules framed thereunder. If the matter is decided finally by merely advising the parties to settle the matter, it would set a wrong precedent as it would relieve the Authority of responsibility to adjudicate upon the complaints.

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6. We, thus, feel that the order passed by the Authority is wholly unsustainable in the eyes of law. The order under challenge is hereby set aside. The matter is remitted to the Authority for decision afresh after affording opportunity of hearing to both the parties.

7. As the matter has been considerably delayed we expect the Authority to decide the matter expeditiously, in any case, not later than two months.

8. Parties to appear before the Authority on 30.05.2023.

9. Copy of this order be communicated to the parties/learned counsel for the parties and the Haryana Real Estate Regulatory Authority, Gurugram.

10. File be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

09.05.2023  
Manoj Rana