

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.224 of 2023 (O & M)
Date of Decision: 11.05.2023

Sonia Chandel resident of Samlehra Bagwara, Hamirpur,
Himachal Pradesh; presently residing at Flat No.5702,
GH-4A, Sector 20, Panchkula (Haryana)

Appellant

Versus

1. GLM Buyers Welfare Association, office at House
No.882, Sector-25, Panchkula-134118 (Haryana);
2. GLM Infratech Pvt. Ltd., 'Amazon- The Defence
County' Sector-30, District Panchkula-134118
(Haryana)

...Respondents

CORAM:

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

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

Argued by: Mr. Vipul Joshi, Advocate
for the appellant.

ORDER:

The present appeal has been preferred under
Section 44(2) of the Real Estate (Regulation and
Development) Act 2016 (further called as, 'the Act') by the

appellant/promoter against impugned order dated 09.02.2023 passed by the Haryana Real Estate Regulatory Authority, Gurugram (for short, 'the Authority') whereby the Complaint No.559 of 2018 has been disposed of. The appellant has filed the present appeal being aggrieved of the following directions of the impugned order:-

“8 (ii) Regarding the interest of non member allottees, association is directed to give publication in two newspapers with information that the project has been handed over to association for completion and they are requested to contact the association if they are interest in their respective units in the project. If association does not receive any response from these non member allottees within 30 days from the date of publication then association is at liberty to put their unit on sale. Association has to refund the paid amount by these non member allottees without any interest.”

2. It was submitted by Mr. Vipul Joshi, Advocate, learned counsel representing the appellant that the complaint was pending before the Authority since 2018 and number of directions have been passed by the Authority from time to time during the pendency of the said complaint. He stated that the Learned Authority vide its order dated 18.05.2022 has handed over the

project to the respondent-association for its completion in terms of Section 8 of the Act. It was further submitted that the notice issued by the respondent-Association, in the newspaper dated 10.04.2023, came to the notice of the appellant for the first time, wherein it was mentioned that the respondent-association had undertaken the work relating to completion of the four towers of the project in question. It was also mentioned in the said notice that the Authority *vide* its order dated 09.02.2023 had directed that all non-member allottees who were interested in their flats should contact the association office or on official e-mail-id within 30 days of publication of the notice. In case of no response allotments of the flats would be cancelled and same would be put on sale.

3. He contended that the appellant is apprehensive that in view of the said notice the flat allotted to the appellant-allottee may be cancelled and put on sale. He contended that the appellant-allottee has all the rights to sell the flat at her own discretion.

4. He further contended that the appellant was never made a party before the Authority in connection with the complaint in question. The impugned order directly affects that very ownership of the appellant regarding flat in question. The Authority did not issue

any notice to the appellant or took any steps to implead the respondent-Association so as to inform the appellant of the proceedings going on before it.

5. He further contended that the appellant has no privity with the respondent-association. The impugned order of the Authority gives an undue handle to the respondent-association to play with the investment made by the appellant for the said flat.

6. According to him, on the above said grounds the appeal is maintainable under Section 44(i) of the Act.

7. We have carefully gone through record of the case and the contentions raised by learned counsel for the appellant.

8. It is incomprehensible that the appellant was not aware of the complaint filed by the respondent-association against M/s Global Land Masters Infratech Pvt. Ltd. (for short, respondent-developer) which was pending before the Authority since 2018 wherein number of directions were issued from time to time. The appellant could easily have moved an application before the Authority for being impleaded as a party to the proceedings. She, however, kept silent throughout and, ultimately, the impugned order dated 09.02.2023 was passed.

9. The respondent-developer of the project was unable to complete the project and, therefore, the Authority vide its order dated 18.05.2022 handed over the project (four towers) to the respondent-association in terms of Section 8 of the Act and, therefore, the respondent-association has stepped into the shoes of the respondent-developer from the stage the project has been handed over to it. The allottees, who are part of the association are bearing the extra expenditure involved in completing the project. The allottees have also suffered on account of delay in possession and extra payment of installments to the respondent-developer. Some of the allottees including the present appellant has chosen not to be part of the association of the allottees. It is also well known that when the structure of the building is a multi-storey structure, it is not possible to complete the part structure and let the other part remain incomplete. Therefore, the allottees who were not responding or chose not to be a part of the association, were asked by the respondent association vide publication of a notice dated 10.04.2023 in the newspaper informing them to either participate or get the refund of the amount paid to the promoter as per the order dated 09.02.2023 of the Authority. As per the appellant, she has paid certain

amount to the respondent-developer, but has not paid any amount to the respondent association as yet. Since the appellant has not paid any amount to the respondent association he has no claim against the same. If certain allottees are not participating in completing the project which is in the interest of larger number of allottees, then the cause to get the dream house of the larger number of allottees cannot be allowed to be suffered. The appellant has still the chance and choice to participate in the process of completion of project but cannot be allowed to indulge in its self serving motive and put obstruction in the path of completion of the project undertaken by the respondent association who is working in the interest of larger section of allottees to complete the project. We feel that the appellant is unnecessarily trying to put obstacles in the construction of the project which has already suffered on account of the default of the respondent-developer and is needlessly involving the respondent association in litigation and therefore the present appeal deserved to be dismissed *in limine*. Normally, in a case of this nature, we would impose heavy costs, but we are refraining from doing so in view of the fact that appeal has been preferred by a private person whose financial position is not known.

Appeal No.224 of 2023

10. In view of the aforesaid discussion, the present appeal is not maintainable and the same is hereby dismissed. We are conscious of the fact that the present appeal is in the nature of first appeal, however, as we feel that *locus standi* of the appellant to file the appeal is doubtful and there is nothing to show that the same is maintainable, we do not find it a fit case for interference. Dismissed.

11. Copy of this order be sent to the appellant/learned counsel for the appellant and the Authority.

12. File be consigned to the record.

Announced:
May 11, 2023

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

Manoj Rana