

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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Appeal No. 194 of 2022  
Date of Decision: 10.05.2023

M/s Hi Craze Fashions Pvt. Ltd. Registered office at 401,  
Kalika, Plot No. 12-A, Greater Bombay CHS Ltd.,  
Gulmohar Cross Road No. 4, J.V.P.D, Mumbai-400049.

Appellant

Versus

1. M/s Gupta Developers, Registered office at 2<sup>nd</sup> Floor,  
Suncity Business Tower Sector-54, Golf Course Road,  
Gurugram-122002, Haryana.

2. M/s Suncity Projects Pvt. Ltd., Registered office at  
LGF-10, Vasant Square Mall, Plot-A, Sector-B, Pocket-V,  
Community Centre, Vasant Kunj, New Delhi-110070.

Respondents

**CORAM:**

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

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

Present: Mr. Ambanshu Sahni, Advocate,  
for the appellant.

Mr. Himanshu Gupta, Advocate,  
for the respondent.

**ORDER:**

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

Complainant (Appellant herein) preferred the  
complaint No. CR/2429/2019 before the Authority at

Gurugram, seeking inter alia possession of the unit allotted to him in Trade Tower no. 118-A along with delay possession interest. The complaint filed by the complainant was dismissed by a short order in view of the statement made by counsel for the complainant that the possession of the allotted unit was taken by the appellant-allottee on 31.12.2011. The order dated 03.11.2020 is reproduced hereunder: -

*“The counsel for the complainant has submitted that this complaint is not maintainable in the eyes of law as the complainant has already taken possession of the allotted unit on 31.12.2011.*

*The complaint stands dismissed being not maintainable. File be consigned to the Registry.”*

2. The complainant was, however, aggrieved by the statement made by its counsel before the Authority. It, thus, filed the complaint against its counsel under the Advocates Act, 1961 wherein a notice dated 18.10.2021 was issued to the counsel under the said Act for alleged professional misconduct. Shortly, thereafter, he moved an application before the authority for rectification/review of order dated 03.11.2020 and to revive the complaint. This

plea was, however, rejected. Operative part of the order dated 05.01.2022 is reproduced hereunder: -

*“The applicant has prayed to the authority to review/modify/rectify the order dated 03.11.2020 and to revive the complaint. The authority has no power to review its order. The applicant has not prayed for rectification of any clerical error in the order.*

*Therefore in view of the above contentions submitted by the applicant the application may be rejected in view of the order dated 03.11.2020 as the complaint has been dismissed by the authority.*

*Submitted for appropriate orders please.”*

3. Learned counsel for the complainant has assailed the order. According to him, he had never authorised his counsel to make the statement before the Authority that he had taken possession of the allotted unit on 31.12.2011. Thus, the Authority ought to have interfered in the application for rectification moved by the appellant.

4. Learned counsel for the respondent has however, emphatically submitted that the completion certificate was granted to the respondent/promoter on 21.04.2014 and thus, the provisions of the Real Estate

(Regulation and Development) Act, 2016 (For Short 'The Act') are not applicable.

5. On due consideration of the matter, we feel that none of the issues raised before this Tribunal have been dealt with by the authority below. The question whether the provisions of the Act are applicable to the facts of the present case also remains to be decided as the factual aspect whether the completion certificate was granted to the respondent/promoter on 21.04.2014 needs adjudication.

6. Even otherwise, on perusal of the order dated 05.01.2022 also under challenge, learned counsel for the parties have also pointed out that same has been passed by legal officer and later rectified by the Authority.

7. We have perused the order. Prima facie there appears to be substance in the plea of the counsel for the parties. As per them, there is no procedure known to law under which judicial powers can be delegated to any other person by the Authority. On perusal of the order, it is not clear to this Tribunal, how power conferred in the Authority is delegated to the Legal Officer. It is also not on record whether the Legal Officer is in regular cadre or appointed on contract basis. In any case, delegation of judicial powers to any person, by the Authority cannot be countenanced. As we feel that this issue needs a relook by

the authority itself, we set aside the order in question and remit the matter to the Authority for decision afresh as per law, after affording opportunity of hearing to both the parties.

8. Order dated 03.11.2020 and order dated 05.01.2022 are hereby set aside.

9. Parties to appear before the Authority on 30.05.2023.

10. The appeal is disposed of as such.

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

12. File be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

10.05.2023  
*rajni*