

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.702 OF 2022
Date of Decision: 15.05.2023

Gagan Deep Singh Kohli, resident of H No.T-44, Ground
Floor, Rajori Garden, New Delhi 110027

Appellant

Versus

M/s Parsvnath Developers Ltd. registered office at
Parsvnath Tower, Near Shahdara Metro Station, Shahdara
Delhi, East Delhi 110032

Respondent

CORAM:

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

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

Present: Mr. Sushil Malhotra, Advocate,
for the appellant.

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

ORDER:

Rajan Gupta, Chairman (Oral):

The present appeal has posed a challenge to the
order dated 27.04.2022 passed in Complaint No.368 of
2021 by the Haryana Real Estate Regulatory Authority at
Panchkula (for short, the 'Authority').

2. Learned counsel for the appellant, at the
outset, has drawn our attention to the operative part of

the order contained in para No.4. The said order reads as under:-

“4. After hearing contentions of both parties and going through documents placed on record, it is observed that complainants have already taken possession of the plots and got conveyance deeds executed in their names on 08.04.2019. They should have pressed for the amount of delay interest at the time of execution of conveyance deeds. Although complainants had written letters to respondent seeking delay interest but all those letters were written before execution of conveyance deeds. These complaints have been filed nearly two years after execution of conveyance deeds. Execution of conveyance deed is equivalent to entering into a new agreement which inter alia signifies that both parties are satisfied with the considerations exchanged between them, and also that all other obligations have been duly discharged except the facts recorded in the conveyance deed. In present complaints, there is no mention of delay interest in the conveyance deeds and by omitting to do so, complainants cannot be allowed to seek delay compensation at this stage by approaching this Authority. As of today, contractual obligations between the parties stand discharged. Authority further observes that some act or incident must signify conclusion of contractual relationship between the parties. Handing over of lawful possession and execution of conveyance deed brings contractual

relationship to an end. Thereafter only certain statutory rights like rectification of defects or satisfactory maintenance etc. will survive. Permitting to reopen concluded contracts will not be in public interest. It will lead to endless litigation. Therefore, Authority reiterates its views already expressed in order dated 19.10.2021 and decides to dismiss the present complaints. Accordingly, these complaints are dismissed.”

3. On perusal of the aforesaid order, we find that the Authority has not taken into consideration law laid down on the issues raised by the parties. It appears that the judgment delivered by Hon’ble Supreme Court of India in case of *Wg. Cdr. Arifur Rahman Khan and Aleya Sultana and others v. DLF Southern Homes Pvt. Ltd. (now known as Begur OMR Pvt. Ltd.) and others (2020) 3 R.C.R. (Civil) 544* and judgment rendered by this Tribunal in *Appeal no.79 of 2022 titled as “Amit Gupta Vs. Athena Infrastructure Pvt. Ltd.”* have not been considered by the Authority.

4. Learned counsel for the appellant has prayed for setting aside the order and remand of the same to the Authority below.

5. We find substance in the pleas of the counsel for the appellant and intend to remit the case to the same authority for decision afresh.

6. Mr. Balhara, submits, that he has no objection to remand of the matter.

7. Under these circumstances, the order under challenge is hereby set aside. Matter is remitted to the same Authority for decision afresh as per law, after affording opportunity of hearing to both the parties and taking into account the judgment of the apex court in *Wg. Cdr. Arifur Rahman Khan's case (supra)* and the decision rendered by this Tribunal in *Amit Gupta's case (supra)*. The present appeal is allowed in these terms.

8. Parties to appear before the Authority on 02.06.2023.

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

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)

15.05.2023
Manoj Rana