

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No.203 of 2022  
Date of Decision: 17.04.2023**

Bright Buildtech Private Limited  
A Company registered under the Companies Act, 2013  
Having its registered office at:  
D-35, Anand Vihar, Delhi-110092.

Appellant

Versus

1. Mr. Paramveer Singh son of Shri Tosh Kumar, Resident of House No.552, Sector-10, Ground Floor, Gurugram-122001, Haryana.
2. Ms. Shashi Raghav w/o Mr. Paramveer Singh, Resident of House No.552, Sector-10, Ground Floor, Gurugram-122001, Haryana.

Respondents

**CORAM:**

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

**Present:** Shri Gunjan Rishi, Advocate for the appellant.

Shri Sanjay Verma, Advocate, for the respondents.

**ORDER:**

**INDERJEET MEHTA, MEMBER (JUDICIAL):**

Bright Buildtech Private Limited (appellant herein) has filed the present appeal against the order dated 22.09.2021 passed by learned Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram, whereby Complaint No.6681 of 2019, filed by respondents/allottees for refund of the amount was allowed. The operative part of the impugned order is reproduced as under:-

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“9. On the basis of above discussion, complaint in hands is allowed. The respondents are directed to refund amount received from complainants i.e. Rs.25,40,966/- to them (complainants) within 90 days from the date of this order alongwith interest @ 9.3% p.a. from the date when complainants asked for refund till realisation of amount. The respondents are burdened with cost of Rs.1,00,000/- towards litigation expenses etc. to be paid to the complainants.”

2. We have heard learned counsel for the parties and also have perused the case file.

3. Shri Gunjan Rishi, learned counsel for the appellant has contended that in view of the law laid down by the Hon'ble Apex Court in case ***Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc. 2022(1) R.C.R. (Civil) 357***, the learned Adjudicating Officer has no jurisdiction to entertain and adjudicate upon the complaint filed by the respondents-allottees for refund of the amount paid by them to the appellant/promoter.

4. Shri Sanjay Verma, learned counsel for the respondents/allottees could not repel the contentions raised by learned counsel for the appellant in view of the authoritative pronouncement of the Hon'ble Apex Court in ***Newtech Promoters'*** case (Supra).

5. We have duly considered the aforesaid contentions.

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6. Respondents/allottees have filed the complaint for refund of the amount deposited by them with the appellant/promoter as the appellant has failed to honour the terms and conditions of the allotment.

7. The legal position has been settled by the Hon'ble Apex Court in **Newtech Promoters'** case (Supra) with respect to the jurisdiction of the Adjudicating Officer vis-à-vis the Authority as under:-

*“86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like ‘refund’, ‘interest’, ‘penalty’ and ‘compensation’, a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective*

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*reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016.”*

8. As per the aforesaid ratio of law, it is the learned Authority which can deal with and determine the outcome of the complaint where the claim is for refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest. So, the impugned order dated 22.09.2021 passed by the learned Adjudicating Officer is beyond jurisdiction, null and void and is liable to be set aside.

9. Consequently, the present appeal is hereby allowed. The impugned order dated 22.09.2021 is hereby set aside. The complaint is remitted to the Haryana Real Estate Regulatory Authority, Gurugram, for decision afresh in accordance with law after affording opportunity of hearing to the parties. The learned Authority is directed to dispose of the complaint expeditiously preferably within a period of two months.

10. Parties are directed to appear before the learned Authority on 01.05.2023.

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11. The amount deposited by the appellant/promoter i.e. Rs.31,66,026/- with this Tribunal to comply with the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, along with interest accrued thereon, be sent to the learned Authority for disbursement to the appellant/promoter subject to tax liability, if any, as per law and rules.

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

13. File be consigned to the record.

Announced:  
April 17, 2023

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

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