

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.54 OF 2022
Date of Decision: 24.08.2023

Puri construction Pvt. Ltd. registered office at 4-7B, Ground Floor, Tolstoy House, Tolstoy Marg, New Delhi.

Appellant

Versus

Permit Chand Jain resident of House No.535, Sector 14, Gurugram, Haryana.

Respondent

CORAM:

Justice Rajan Gupta
Shri Anil Kumar Gupta

Chairman
Member (Technical)

Present: Mr. Himanshu Juneja, Authorized Representative for the appellant.

Mr. Rishab Jain, Advocate,
for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

The present appeal is directed against order dated 29.11.2022 passed by the passed by the Haryana Real Estate Regulatory Authority, Panchkula (hereinafter referred to as 'the Authority'). On the very first date of hearing, Mr. Juneja, learned

Authorized Representative of the appellant-company had pointed out that in its proceeding dated 27.01.2021, the Authority at Pachkula had adjourned the matter sine die. It was taken up on suddenly 29.06.2022 wherein a tentative view was formed by the then Members of the Authority. This view was later confirmed by the Authority in its order dated 29.11.2022.

2. Aggrieved by said order, he preferred the instant appeal. According to him, there is no procedure known to law in the Real Estate (Regulation and Development) Act, 2016 (for short, the Act of 2016) which permits forming of a tentative view by the Authority, in any case, such a view could not have been confirmed without affording him an opportunity of hearing. On a query being put to learned counsel for the respondent whether any tentative view formed by any quasi judicial body can be incorporated in an order, his answer is also in the negative.

3. Nevertheless, we have heard learned counsel for the parties on merits. During the course of hearing, an effort was also made to explore the possibility of amicable settlement between the parties.

4. Admittedly, the booking amount of Rs.5,32,950/- was remitted by the allottee to the appellant way back in the year 2016. The stand of the Authorized Representative of the appellant is that the promoter is entitled to forfeit 10% of the total cost of the unit as per the terms and conditions, yet he is ready to refund

a reasonable amount (Rs.4,50,000/-) to the respondent/allottee, in case, same this is not treated as a precedent. This proposal is acceptable to learned counsel representing the respondent/allottee.

5. We, thus, disposed of this appeal in terms of the aforesaid settlement and assurance given by Mr. Juneja, learned Authorized Representative of the appellant-company that a demand draft for an amount to Rs.4,50,000/- shall be remitted to the respondent/allottee within two weeks from today. The respondent would share his bank account number with the appellant, in case, transfer has to be made by way of RTGS.

6. As the case has been disposed of on the basis of settlement, the amount of Rs.5,32,950/- deposited by the appellant-promoter with this Tribunal as pre-deposit to comply with the provisions of proviso to Section 43(5) of the Act of 2016, along with interest accrued thereon, be sent to the Ld. Authority for disbursement to the appellant-promoter, subject to tax liability, if any, according to law.

7. It is made clear that the aforesaid order has been passed in the peculiar facts and circumstances of the case, thus, it would not be treated as a precedent.

8. In view of the aforementioned detailed observations, it is necessary to observe that tentative views formed by the quasi-

judicial authorities functioning within the ambit of RERA may not be put in black and white as no such procedure is known to law.

9. Copy of this order be sent to the parties/learned counsel for the parties and the Authority, Panchkula.

10. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)

24.08.2023
Manoj Rana