

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 425 of 2022
Date of Order: 13.07.2023

1. Amit Jindal son of Mr. Satpal Jindal, resident of Flat No. 803, Tower No. 7B, Suncity Parikarma, Sector 20, Panchkula.
2. Akhil Goel son of Mr. Anil Kumar Goel, resident of Flat No. 601, Tower No. 7A, Suncity Parikarma, Sector 20, Panchkula.
3. Sunny Jindal son of Mr. Raj Kumar Jindal, Resident of Flat No. 701, Tower No. 7B, Suncity Parikarma, Sector 20, Panchkula.
4. Anju Mittal wife of Mr. Shailendra Nath Mittal, Resident of Flat No. 1302, Tower No. 7B, Suncity Parikarma, Sector 20, Panchkula.
5. Vipin Sharma son of Mr. G.B. Sharma, resident of Flat No. 401, Tower no. 8B, Suncity Parikarma, Sector 20, Panchkula.
6. Joginder Paul Arora son of Mr. Sita Ram, Resident of Flat no. 703, Tower no. 9B, Suncity Parikarma, Sector 20, Panchkula.
7. Rajeev Khullar son of Mr. Gian Chand Khullar, Resident of Flat no. 1701, Tower no. 10A, Suncity Parikarma, Sector 20, Panchkula.
8. Jagdish Lal Vohra son of Mr. Jiwan Dass Vohra, Resident of Flat no. 402, Tower no. 10B, Suncity Parikarma, Sector 20, Panchkula.
9. Gaurav Bharti son of Mr. Techchand Bharti, Resident of Flat no. 703, Tower no. 10B, Suncity Parikarma, Sector 20, Panchkula.
10. Sudesh Gupta wife of Mr. Lalit Kumar Gupta, Resident of Flat no. 1002, Tower no. 10B, Suncity Parikarma, Sector 20, Panchkula.
11. Geetika wife of Mr. Bodhraj Thakur, Resident of Flat no. 1001, Tower no. 11A, Suncity Parikarma, Sector 20, Panchkula.
12. Jaswinder Kaur Chugh wife of Mr. Bhupinder Singh Chugh, Resident of Flat no. 1303, Tower no. 10B, Suncity Parikarma, Sector 20, Panchkula.

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13. Heeralal Gupta son of Mr. Kuldeep Parkash, Resident of Flat no. 901, Tower no. 11B, Suncity Parikarma, Sector 20, Panchkula.
14. Narayan Iyer son of Mr. Subramaniam, Resident of Flat no. 1302, Tower no. 11A, Suncity Parikarma, Sector 20, Panchkula.
15. Abhishek Garg son of Mr. Manish, Resident of Flat no. 1702, Tower no. 11A, Suncity Parikarma, Sector 20, Panchkula.

Appellants

Versus

1. M/s Suncity Projects Pvt. Ltd. through its Managing Director, Suncity Parikrama, Sector 20, Panchkula.
2. M/s Santur Developers Pvt. Ltd. through its Managing Director, Suncity Parikrama, Sector 20, Panchkula.
3. Directorate of Town and Country Planning Haryana, through its Director General, Sector 8, Chandigarh.
4. Parikrama Residents Welfare Association, through its administrator Mr. Jagdish Rai, Resident of House No. 24C, Parwati Enclave, Baltana, Sub Tehsil Zirakpur, Tehsil Derabassi (Pb.)

Respondents

CORAM:

Justice Rajan Gupta
Shri Inderjeet Mehta
Shri Anil Kumar Gupta

Chairman
Member (Judicial)
Member (Technical)

Present: Mr. Ajiteshwar Singh, Advocate,
for the appellants.

Ms. Navneet Kaur, Advocate,
for respondent nos. 1 & 2.

Mr. Krishan M Vohra, (Advocate,
for respondent no. 4.

ORDER:**RAJAN GUPTA, CHAIRMAN (Oral):**

Appellants have posed to challenge the order dated 30.11.2021 (Annexure A-1) passed by Haryana Real Estate Regulatory Authority, Panchkula for short 'the Authority', in Complaint No.679 of 2020 titled as "Col. Nagender Kumar Verma vs.

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Suncity Projects Pvt. Ltd.”. The operative part thereof reads as under:

“Authority observes that the relief claimed by present complainants can only be granted to duly constituted RWA through their executive body. This complaint is infructuous at present as said relief cannot be granted at this stge. It is presumed that the maintenance of the society alongwith other rights including IFMS amount shall be handed over by the promoter to the duly elected body after its due constitution. If RWA feels aggrieved in any manner by conduct of respondent-promoter said RWA may approach this Authority for enforcing obligation of promoter in accordance with principles of RERA Act. Further, if present complainants feels dissatisfied with workings of executive body of the RWA they may file a petition before Registrar of Societies for redressal of those grievances. Accordingly this complaint is dismissed as being premature.

Case is disposed. Order be uploaded on the website of the Authority and file be consigned to record room.”

2. Learned counsel for the appellants has vehemently contended that the proportionate percentage entitlement in the common areas i.e. both general and restricted as defined in the deed of declaration submitted by the respondent-promoter before the Authority is not in accordance with ‘The Haryana Apartment Ownership Act, 1983’ (hereinafter referred to as the ‘1983 Act’) and the Rules made thereunder. His contention is that this issue has not been taken into consideration by the Authority.

3. Learned counsel for the respondent-promoter, however, controverts the aforesaid contentions and submits that deed of

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declaration filed before the Authority is in consonance with 1983 Act and the Rules.

4. We have heard learned counsel for the parties and given careful consideration to the facts of the case.

5. It is not disputed that the complaint before the Authority was filed by some of the allottees in individual capacity while the project is having more than 1100 apartments and people are residing in the same. Admittedly, RWA has come into existence after passing of the impugned order by the Authority, which is representative of the allottees.

6. The grouse as raised by the appellants in the instant case can be raised before the representative body (RWA) as it relates to all the allottees and not the appellants alone. We, thus, do not deem it fit to delve further into the matter and interfere in the order passed by the Authority. However, we give liberty to the appellants to avail appropriate remedy by way of representation before the RWA or any competent Authority, as advised.

7. The appeal is thus disposed of.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

13.07.2023

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