

**BEFORE THE HARYANA REAL ESTATE  
APPELLATE TRIBUNAL**

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Date of Decision: 27.07.2023

Appeal No. 632/2021, 637 to 640/2021, & 263 to 270/2022

**Appeal No. 632 of 2021**

Rise Projects Pvt. Ltd. Appellant

Versus

Sandeep Prashar Respondent

**Appeal No. 637 of 2021**

Rise Projects Pvt. Ltd. Appellant

Versus

Sanjay Goel and Another Respondent

**Appeal No. 638 of 2021**

Rise Projects Pvt. Ltd. Appellant

Versus

Sanjay Goel and Another Respondent

**Appeal No. 639 of 2021**

Rise Projects Pvt. Ltd. Appellant

Versus

Sanjay Goel and Another Respondent

**Appeal No. 640 of 2021**

Rise Projects Pvt. Ltd. Appellant

Versus

Rajiv Nangia and Another Respondent

**Appeal No. 263 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Ankit Gaur Respondent

**Appeal No. 264 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Atul Sekasari Respondent

**Appeal No. 265 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Brij Bala Respondent

**Appeal No. 266 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Pratibha Rustagi Respondent

**Appeal No. 267 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Satish Kumar Rustagi Respondent

**Appeal No. 268 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Tuhina Singh Respondent

**Appeal No. 269 of 2022**

Rise Projects Pvt. Ltd. Appellant

Versus

Veena Ahuja Respondent

**Appeal No. 270 of 2022**

Rise Projects Pvt. Ltd. Appellant  
Versus  
Vinod Rustagi Respondent

**CORAM:**

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

**Present:** Mr. Venket Rao, Advocate, along with  
Mr. Amandeep Singh Talwar, Advocate,  
for the appellant.

None for respondents.

**ORDER:****Rajan Gupta, Chairman:**

This order shall dispose of an appeal no. 632 of 2021 and aforementioned connected appeals in which arguments were heard on 24.07.2023 and order was reserved.

2. The brief facts of the case are that certain persons booked different units with Rise Projects Pvt. Ltd. (appellant herein) pursuant to the advertisements/brochures issued by it. Thereafter, two different agreements of the same date are stated to have been executed between the parties. The Builder Buyer's Agreement which contemplated transfer of rights in the

unit is claimed to be in the nature of sale, casting various obligations on the promoter to complete and deliver the project. Another agreement is also stated to have been executed regarding assured periodical returns on investment. This agreement is purported to have been entered into between the parties assuring certain other benefits to the allottees. The promoter claims that both the agreements are of the same date and are distinct. We do not wish to delve into the factual aspect in detail regarding execution of agreements, if any, and date thereof at this stage.

3. It appears that when the Haryana Real Estate Regulatory Authority, Gururgram (for short 'the Authority') was on the verge of deciding the complaint on merits, an application was filed by the promoter raising objections regarding the jurisdictional aspect of the authority under the Real Estate (Regulation and Development) Act, 2016 (for short 'the Act'). It insisted that question of jurisdiction be decided in the first instance before proceeding further with the matter. The Authority proceeded to decide the matter of jurisdiction and rejected the contentions vide its order dated 06.10.2021. Operative part of this order reads as under:

*“12. The authority accordingly decides to reject the application filed by the respondent*

*challenging jurisdiction of this Authority. it will now proceed to decide the matter on merits furtherance of order dated 10.12.2020.*

*13. Adjourned to 21.12.2021 with a direction to both parties to submit their calculations of monthly assured returns along with arrears and interest accrued till 31.12.2020 as per Rule 15 of HRERA rules, 2017 in complaints listed at serial no. 12-21. The respondent is directed to file reply in complaints listed at serial no. 1-11 one week prior to the next date of hearing with an advance copy supplied to complainants.”*

4. Aggrieved with the aforesaid order, the promoter rushed to this Tribunal. It was contended on its behalf that two separate agreements dated 13.04.2014 were executed between the parties. The agreement with respect to assured return was a separate agreement. It was also contended that the issue of assured returns does not fall within the purview of the Act as the Authority was empowered only to entertain the complaint with respect to dispute of delivery of possession, refund of amount and such ancillary matters. It was also contended that the dispute with respect to ‘Assured Returns’ cannot be entertained by the Authority. On 22.02.2022, this Tribunal issued notice in the matter and directed that the

Authority may continue with the proceedings of the complaint but would not pronounce the final order. Thereafter, the matter was adjourned from time to time. Vide order dated 18.05.2023, this Tribunal sought a report from the Authority regarding the stage of the proceedings before it. The report was also sought, in view of the interim order, allowing the authority to continue with the proceedings and refraining it from passing the final order. A report was, thus, received. Same was ordered to be kept in sealed cover vide order dated 06.07.2023. The said report has been opened today during the hearing of the matter and resealed after going through it.

5. On perusal of the report, we find that the matter is at this stage of culmination. Thus, we do not deem it fit to interfere at this stage. We dismiss the appeal with liberty to the Authority to proceed further in the matter.

6. During the course of hearing, apprehension has been expressed before us that in the impugned order, certain observations have been made by the Authority and it may be swayed by it. We find no substance in this plea as the matter is already at the final stage. The Authority is, thus, expected to decide the same expeditiously, in any case, not later than two months.

7. The appeal, is accordingly dismissed with liberty as aforesaid.

8. Copy of this judgment be communicated to both the parties/counsel for the parties and the Haryana Real Estate Regulatory Authority, Gurugram.

9. File be consigned to the record.

Announced:

July 27,2023

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

Rajni