

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

**Appeal No.88 of 2021
Date of Decision: 08.01.2024**

M/s Pivotal Infrastructure Private Limited, 704-705, JMD
Pacific Square, Sector-15, Part-II, Gurugram, Haryana.

Appellant

Versus

1. Twinkle Goyal, H.No.83, Shyam Colony, Gali No.2,
Behind Post Office, Ballabhgarh, Faridabad-121004.
2. Kamal Goyal, H.No.83, Shyam Colony, Gali No.2, Behind
Post Office, Ballabhgarh, Faridabad-121004.

Respondents

CORAM:

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

Present:

Mr.Abhimanu Jangra, Advocate
for the appellant.

None for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Complainants (respondents herein), who are the subsequent purchasers, filed complaint before the Authority at Panchkula seeking direction that allotment of the unit in question be transferred in their name. On 14.10.2015, their request was accepted. As per the promoter on 08.12.2017, offer of possession was made to the respondent/allottees. As per the Apartment Buyer's Agreement dated 15.09.2012, the final demand was raised on 30.12.2017. The appellant, however, calculated an

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amount of Rs. 7,49,323/- to be paid on account of delay in handing over the possession. The matter was finally disposed of by the Authority vide its order dated 23.12.2020 directing the appellant/promoter to hand over the possession of the apartment to the respondent/allottees after settling the statement of account as per the directions given in the order dated 23.12.2020. The respondents/allottees were also directed to remit the outstanding amount, if any, to the promoter.

2. Today, when the matter was taken up for hearing, at the outset, learned counsel for the appellant has apprised this Tribunal that a settlement had been arrived at between the parties, the terms whereof are as under:

- “1. That the parties have resolved all the issues amongst themselves and agreed for a full and final settlement whereby the party of the First part has raised a demand to clear the pending amount of Rs.7,49,323/- (Rupees Seven Lakh Forty Nine Thousand Three Hundred Twenty Three Only) against Party of the Second Part on account of outstanding dues of the total consideration amount of the allotted Unit and Party of the Second Part had also raised a demand of the pending amount of Rs.7,49,323/- (Rupees Seven Lakh Forty Nine Thousand Three Hundred Twenty Three Only) against Party of the First Part on account of*

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- interest for delay in handing over the possession of the Unit. That the Parties have arrived at an amicable settlement as the above stated claims set off against each other and as a result all the pending claims of both the Parties against each other stand resolved.*
2. *That the party of the First Part shall be obliged to execute the Conveyance deed in favour of the party of the Second Part and the party of the Second Part shall be obliged by the conditions and the obligations upon it as the owner of the flat henceforth.*
 3. *That on execution of the present agreement all past disputes between the parties come to rest and stand resolved and no party shall have any cause of action whether civil or criminal, personal, or otherwise of any sort against each other except the enforcement of the present Agreement.*
 4. *That having settled the entire amounts between the parties, the party of the first part shall withdraw the case bearing no.Appeal-88 of 2021 pending before Hon'ble Haryana Real Estate Appellate Tribunal. That the Parties do not have any grievances left against each other, therefore, in view of the same, both the Parties wish to close all the consequent proceedings arising out of case bearing no.Appeal-88 of 2021 pending before Hon'ble Haryana Real Estate Appellate Tribunal.*
 5. *That Party of the Second Part shall have no objection if the Demand Draft deposited by the First Party in the form of pre-deposit as*

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required u/s 43(5) Real Estate Act, 2016 in the Appeal-88 of 2021 pending before the Hon'ble Haryana Real Estate Appellate Tribunal is released to the Party of the First Part after the execution of this amicable settlement. That the Party of the Second Part undertakes to give her no objection in this regard before the Hon'ble Real Estate Appellate Tribunal."

3. The 'Settlement Agreement' is taken on record as mark-'A'.

4. The respondents/allottees, however, remain unrepresented. The terms of the agreement, thus, remain uncontroverted.

5. A perusal of the 'Settlement Agreement' shows that the same is signed by the Authorised Representative of the promoter as well as both the allottees. Same bears signatures of two witnesses as well. Under these circumstances, no lis survives in this appeal. Learned counsel for the appellant submits that he may be allowed to withdraw this appeal, however, the amount of pre-deposit in view of the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 be refunded to the appellant.

6. Ordered accordingly.

7. Appeal is disposed of as such.

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8. The amount of Rs.3,26,380/- deposited by the appellant/promoter with this Tribunal in view of proviso to Section 43(5) of the Act, along with interest accrued thereon, be sent to the learned Authority, for disbursement to the appellant/promoter, subject to tax liability, as per law and rules.

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

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)

08.01.2024
Rajni