

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 466 of 2022
Date of Decision: 01.02.2024

Emaar India Limited (Formerly known as Emaar MGF Land Limited)
registered office at 306-308, 3rd Floor, Square One, C-2 District Centre,
Saket, New Delhi-110 017.

Appellant-Promoter.

Versus

1. Mr. Kurian John
2. Mrs. Simmi Kurian

Both residents of H.No. 161, Sector-5, Part 6, Gurugram,
Haryana.

Respondent-allottees

CORAM:

**Justice Rajan Gupta
Shri Anil Kumar Gupta,**

**Chairman
Member (Technical)**

Present: Ms. Tanika Goyal, Advocate,
for the appellant.

Mr. Nitin Kant Setia, Advocate,
for the respondents.

ORDER:

Rajan Gupta, Chairman (Oral):

On the last date of hearing, the following order was
passed in this case:-

“Admittedly, possession has already been handed over to the respondent-allottees. Conveyance deed has also been executed in favour of the respondent-allottees. The only question now survives in this appeal is regarding Delay Possession Charges (DPC).

Learned counsel for the appellant submits that she has clear instructions from the appellant-promoter in this regard. She shall bring a demand draft of Rs.38,00,000/- in favour of one of the respondent-allottees on the next date of hearing in lieu

of full and final settlement of all the claims of the respondent-allottees. The demand draft can be given to the respondent-allottees without entering into technical issues. In such eventuality, amount of pre deposit in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 along with interest accrued thereon may be refunded to the appellant-promoter.

Learned counsel for the respondent-allottees submits that he has sought instructions from the respondent-allottees, they are agreeable to this proposal. He further submits that in case the matter is settled by way of amicable settlement in aforesaid terms, they would not raise any other claim pertaining to this matter.

Both counsel have made statements before this Tribunal, which are taken on record as Mark-‘A’ & Mark-‘B’.

Needless to observe that the matter is likely to be disposed of in view of the settlement arrived at between the parties, it would not operate as a precedent.

To come up on 01.02.2024.”

2. Today, Ms. Tanika Goyal, counsel representing the promoter, in light of the aforesaid order has handed over two Demand Drafts bearing nos. 340828 & 340829 dated 17.01.2024 total amounting to Rs.38,00,000/- (Rs.19,00,000/- each), to one of the respondent-allottees (Mr. Kurian John), who is present in Court. Photocopy thereof duly signed and received by Mr. Kurian John, is sought to be placed on record. Same is taken on record as Mark-‘C’.

3. Learned counsel for both the parties submit that in view of the statements recorded on the last date of hearing (Mark-‘A’ & Mark-‘B’) and Demand Drafts handed over today (Mark-‘C’). The lis between the parties has come to an end and the statements should be treated as full and final settlement of all rival claims between the parties.

4. In view of above situation, learned counsel for the appellant-promoter submits that she may be allowed to withdraw the instant appeal. However, the amount deposited at the time of filing of this appeal in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 may be refunded to the appellant-promoter along with interest accrued thereon.

5. Learned counsel for the respondent-allottees has no objection to this.

6. In view of the above, the appeal is dismissed as withdrawn.

7. As the matter has been decided on the basis of settlement arrived at between the parties, the amount of Rs.42,45,556/- deposited by the appellant-promoter with this Tribunal as pre-deposit in terms of proviso to Section 43(5) of the Act, along with interest accrued thereon, be remitted to the learned Authority for disbursement to the appellant-promoter, subject to tax liability, if any, according to law.

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

9. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)

01.02.2024
Rajni