

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 721 of 2023 (O&M)

Date of Decision: 23.05.2024

Elan Buildcon Private Limited, through its Authorized Signatory Mr. Gaurav Khandelwal Regd. Office at Elan Group, 15th Floor, Two Horizon Center, Golf Course Road, DLF Phase-5, Sector-43, Gurugram, Haryana-122002.

Appellant

Versus

Madhusudan Kumra R/o BXX-2951, Gurdev Nagar, Ludhiana.

Respondent

CORAM:

Justice Rajan Gupta

Chairman

Present: Mr. Varun Aryan Sharma, Advocate,
for the appellant.

ORDER:

Rajan Gupta, Chairman (Oral):

Present appeal is directed against order dated 23.08.2023 passed by the Authority. Operative part thereof reads as under:

“i. the respondent is directed to pay the arrears on amount of assured return on monthly basis as per terms and conditions for fixed amount of Rs. 42,391/- per month till the date of valid offer of possession plus two months after obtaining occupation certificate or the date of actual handing over of possession. Whichever is earlier, further, the company would pay a fixed amount of Rs.40 per sq. ft. per month after the completion of 36 months with a grace period of 6 months from 01.01.2018 i.e. w.e.f. July 2021 to the applicant till the time of offer of possession subject to timely payment.

ii. the respondent is also directed to pay the outstanding accrued assured return amount till date at the agreed rate within 90 days from the date of offer after adjustment of outstanding dues, if any, from the complainant and failing

which that amount would be payable with interest @8.75% p.a. till the date of actual realization.

iii. the respondent shall not charge anything from the complainants which is not the part of the agreement of sale.”

2. Learned counsel for the appellant submits that complete pre-deposit as envisaged by proviso to Section 43(5) of the 2016 Act, has been made by the appellant-company. However, on 04.04.2024 a settlement was arrived at between the appellant-promoter (M/s Elan Buildcon Pvt. Ltd.) and respondent (Madhusudan Kumra). He has produced a copy of the ‘Settlement Deed’. Same is taken on record.

3. In view of the developments in the interregnum, Mr. Sharma submits that he has instructions to withdraw this appeal.

4. In view of the prayer made by Mr. Sharma, present appeal is hereby dismissed as withdrawn.

5. The amount of Rs.11,43,143/- deposited by the appellant with this Tribunal at the time of filing of this appeal as pre-deposit in terms of proviso to Section 43(5) of the 2016 Act, along with interest accrued thereon, be remitted to the learned Authority for disbursement to the appellant-promoter, subject to tax liability, if any, as per law.

6. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

23.05.2024
Manoj Rana