

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 68 of 2023
Date of Decision: 08.07.2024

Ocus Skyscrapers Realty Private Limited having registered office at 6th floor, Ocus Technopolis Building Golf Course Road, Sector-54, Gurugram, Haryana-122001.

Appellant/Promoter

Versus

1. Rajender Amarnath, Resident of F-3/2, 2nd floor, DLF City, Phase-I, Gurugram-122002.
2. Sharda Amarnath, Resident of F-3/2, 2nd floor, DLF City, Phase-I, Gurugram-122002.

Respondents/allottees

CORAM:

Justice Rajan Gupta Chairman

Present: Mr. Yashvir Singh Balhara, Advocate
for the appellant.

Mr. Nihit Nagpal, Advocate,
for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

This appeal is directed against the order dated 24.11.2022 passed by the Authority¹ in Complaint No.632 of 2018.

2. On 06.05.2024 when the case was taken up for hearing, following order was passed:-

“Present appeal is directed against order dated 24.11.2022 passed by the Authority at Gurugram. Operative part thereof reads as under:

“i. The respondent-promoter is directed to refund the paid-up amount after deducting 10% of the sale consideration of the unit being earnest money as per regulation Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder)Regulation, 2018 with interest @ 10.35% p.a. on the refundable from the date of cancellation i.e., 02.06.2018 (in CR/632/2018) and date of surrender i.e, 02.07.2018 (in CR/633/2018), 22.12.2017 (in CR/621/2020) respectively till the actual date of refund of the amount.

¹ Haryana Real Estate Regulatory Authority, Gurugram

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2. A period of 90 days is given to the respondent to comply with the directions given in this order and failing which legal consequences would follow.”

2. During the course of hearing, the parties desired to explore the possibility of amicable settlement, as a result of which order dated 05.02.2024 was passed, same reads as under:

“Learned counsel for the parties submit that only monetary issue is involved in this case. They shall hold a meeting to explore the possibility of amicable settlement.

This Tribunal shall be apprised of the progress on the next date of hearing, failing which, case shall be heard on merits.

Adjourned to 06.05.2024.

Photocopy of this order be placed in file of Appeal No. 68 of 2023.”

3. Today, when the case has been taken up for hearing, Mr. Verma submits that he has sought instructions from the appellant (M/s Ocus Skyscrapers Reality Private Ltd.). Appellant-company is ready to remit a lump sum amount of Rs.10,50,000/- to the respondent-allottees in lieu of full and final settlement of all their claims. A demand draft of Rs.10,50,000/- shall be brought before this Tribunal on the next date of hearing. In such eventuality, the amount deposited with this Tribunal by way of pre-deposit in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 may be returned to appellant-promoter along with interest accrued thereon.

4. Mr. Nagpal, learned counsel for the respondents submits that the aforesaid proposal is acceptable to him. In case, a demand draft of Rs.10,50,000/- is handed over to him on the next date of hearing, he would have no objection if amount of pre-deposit is refunded to the appellant-promoter.

5. Learned counsel for the parties submit that they shall file short affidavit in light of aforesaid statement within a week from today.

6. List on 31.05.2024.”

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3. Pursuant to the aforesaid order, the parties filed their respective affidavits. Appellant filed affidavit of Gourav Kapoor, its authorised representative and on behalf of respondents, affidavit of Mrs. Sharda Amarnath, one of the allottees was filed. Consequently, on 31.05.2024 following order was passed:-

“Pursuant to the order dated 06.05.2024, parties seek to file their respective affidavits. Same are taken on record.

However, Mr. Balhara submits that due to certain reasons demand draft could not be brought today. He submits that he shall remit the demand draft at the earliest in any case not later than two weeks from today.

List on 08.07.2024.”

4. Today, this Bench has been informed that an amount of Rs.10,50,000/- has been remitted to the respondent-allottees by way of two Demand Drafts of Rs.5,25,000/- each, photocopies whereof have been placed on record as Mark – ‘A’.

5. In view of above, Mr. Yashvir Singh Balhara, submits that the matter has been settled finally between the parties. He may be allowed to withdraw the present appeal. He further submits that the amount of pre-deposit be refunded to the appellant along with interest accrued thereon.

6. Mr. Nihit Nagpal, counsel for the respondents states that he is fully satisfied with the settlement so arrived between the parties and has no objection if the amount of pre-deposit is refunded to the appellant/promoter. He, however, has handed over all the original documents to the appellant-promoter. He has referred to affidavit of Mrs. Sharda Amarnath (appellant no.1), the contents of which read as under:-

“1. That I am the Respondent No.1 in the present case and familiar with the facts and circumstances of the present case and hence

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I am competent to swear on the present Affidavit.

2. *That I along with my son Mr. Karan Amarnath booked unit bearing no.707, 7th Floor, Ocus 24K, Sector 68, Gurugram, Haryana being developed by the Appellant.*
3. *The present appeal filed by the Appellnt is pending before this Hon'ble Tribunal and is next listed on May 31, 2024.*
4. *That in view of the order dated May 06, 2024, we the Respondents agree to settle the resent dispute on receipt of Rs.10,50,000/- by way of Demand Draft from the Appellant a directed in the order dated May 06, 2024."*

7. In view of above, prayer of the appellant is accepted.

8. The appeal is hereby dismissed as withdrawn.

9. As the matter has been disposed of the basis of settlement arrived at between the parties, the amount of Rs.14,66,430/- deposited by the appellant/promoter with this Tribunal as pre-deposit in terms of proviso to Section 43(5) of the RERA 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.

10. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

08.07.2024

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