

Privvy93 Owners Association
Vs.
Spaze Towers Pvt. Ltd. & Anr

Appeal No. 458 of 2019

Present: Shri Subhash Bhatt, Advocate alongwith Ms Manju Goyal, Advocate, Ld counsel for the appellant.

Shri Rajiv Anand, Advocate, Ld counsel for the respondent.

Ld counsel for the appellant has moved an application for withdrawal of the appellants on behalf of Lalit Goel, Mamta Goel, Daljit Singh, Monalisa Singh, Asha Jain, Lakahman Shrup Jain, Sanjeev Kumar Jain, Aruna Jain, Surjo Mukherjee, Manish Gautam, Archana Gupta and Manoj Kumar. Thus, in view of the application the appeal on their behalf is dismissed as withdrawn.

2. Reply to the interim relief filed by the Ld counsel for the respondent no.1

3. In the complaint filed by the appellant association of allottees, various grievances with respect to the alleged illegal and extra charges were raised. The Ld Authority vide impugned order dated 11.04.2019 has directed the appellant/allottees to agitate their grievances before the Adjudicating Officer. Ld counsel for the appellant has stated that the disputed charges were for the super area, club, fascade charges, maintenance charges, external electrification/ water/sewer and meter charges, PLC, EDC/IDC, labour cess and VAT and unilateral increase in transfer fee. Appellants have also raised to the disputes with respect to the permissive possession & offer of possession without completion, sale of open spaces, no approach road, non adherence to subvension agreements, green cover, swimming pool/amenities etc. The Ld Authority vide impugned order dated 11.04.2019 has directed the appellants to agitate their above grievances before the Adjudicating Officer.

4. We are of the view that all these disputes are to be taken care of by the Ld Authority and Adjudicating Officer had no jurisdiction to adjudicate upon these disputes. Reference can be made to section 71 of the Real Estate (Regulation & Development) Act, 2016. Thus, the Ld Authority has failed to exercise the jurisdiction vested in it to adjudicate upon the grievances/pleas raised by the appellant association and has wrongly directed the appellants to agitate their grievances before the Adjudicating Officer, which apparently has no jurisdiction to deal with the matters referred above.

5. So, the impugned order passed by the Ld Authority is set-aside to this extent and the case is remanded to the Ld Authority to adjudicate upon the aforementioned pleas raised by the appellant/allottees in accordance with law. As the complaint filed by the appellant association is already old it is expected that the Ld Authority will make every endeavour to dispose of the complaint expeditiously preferably within a period of two months from the date of appearance of the parties.

6. Appeal stands disposed of accordingly. The parties are directed to appear before the Ld Authority, Gurugram on 25.11.2019.

7. Copy of this order be sent for compliance to the Ld Haryana Real Estate Regulatory Authority.

8. File be consigned to records.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
15.11.2019

Anil Kumar Gupta
Member (Technical)
15.11.2019