

Jindal Reality Private Ltd.
Vs.
Mrs. Nirmala Devi and Others

Appeal No. 177 of 2019

Present: Shri Drupad Sangwan, Advocate, Ld counsel for the appellant.

Shri Sudeep Singh, Advocate, Ld counsel for the respondent.

The present appeal has been preferred against the order dated 08.01.2019 passed by the Ld Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called the Authority). The only grievance raised by Ld counsel for the appellant at the time of arguments is that the Ld Authority has awarded the interest to the respondent/allottee at the rate of interest 10.45% per annum. But the appellant/promoter has been wrongly awarded the rate of interest on delayed payment at the rate of 9% per annum.

2. Section 19(7) of the Real Estate (Regulation & Development) Act, 2016 provides that the allottee shall be liable to pay interest, at such rate as may be prescribed, for any delay in payment towards any amount or charges to be paid under sub-section (6) to the promoter. Sub-section (6) deems with the payment of the dues to the promoter as per their agreement to sell. Thus, as per the provisions of section 19(7) the parity is required to be maintained in the grant of interest to the promoter and the allottee. Ld counsel for the respondent could not dispute this legal proposition.

3. Ld counsel for the appellant has also raised the contentions that the additional burden of GST has been wrongly ordered to be proportionate. But we do not find any substance in this plea as on the deem date of possession the GST was not even applicable. So, the Ld Authority has given the balance view on this issue. Thus, keeping in view of our aforesaid discussion, the present appeal is hereby partly

allowed. The impugned order dated 08.01.2019 passed by the Ld Authority is hereby modified to this extent that the appellant/promoter shall also be entitled to charge the interest at the rate of interest 10.45% per annum on the delayed payment. The fresh calculations shall be filed by the appellant/promoter within 15 days with the Ld Authority before whom the execution is stated to be pending. The amount deposited by the promoter with this Tribunal for compliance of the provision of proviso to section 43(5) of the Act be transferred to the Ld Authority being the Executing Authority for disbursement to the respondents/allottees in the pending execution in accordance with law.

4. Copy of this order be communicated to the Ld Haryana Real Estate Regulatory Authority, Panchkula.

5. File be consigned to records.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
26.11.2019

Inderjeet Mehta
Member (Judicial)
26.11.2019

Anil Kumar Gupta
Member (Technical)
26.11.2019