

M/s 1000 Trees Housing Pvt. Ltd. Vs. Abhishek Gupta & anr.

Appeal No.533 of 2019

Present: Shri Karan Kamal, Advocate for Shri Vivek Sethi,
Advocate, Id. Counsel for the appellant.
Shri Manoj Vashishtha, Advocate, Id. Counsel for the
respondents.

Vide our last order dated 17.10.2019 the appellant/promoter was directed to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act') and to deposit the requisite amount i.e. whole of the amount payable to the respondents/allottees, as imposed by the Haryana Real Estate Regulatory Authority, Gurugram vide impugned order, with the Tribunal on or before 04.11.2019. As per the report of the office, the appellant has deposited only the principal amount and interest has not been deposited. Even as per the calculation of interest filed by the appellant/promoter, the amount of interest payable by the appellant comes to Rs.26,54,632.12. So, only the part of the amount has been deposited by the appellant/promoter which is not a valid compliance of the provisions of proviso to section 43(5) of the Act.

It is settled principle of law that the provisions of proviso to section 43(5) of the Act are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to section 43(5) of the Act inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

The amount of Rs.58,14,613/- deposited by the appellant/promoter be remitted to the learned Real Estate

Regulatory Authority, Gurugram for disbursement to the respondents/allottees

as per law.

File be consigned to records.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
05.11.2019

Inderjeet Mehta
Member (Judicial)
05.11.2019

Anil Kumar Gupta
Member (Technical)
05.11.2019