

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.436 of 2021

Date of Decision: December 24,2024

Experion Developers Pvt. Ltd., F-9, First Floor, Manish Plaza-I, Plot No. 7, MLU, Sector 10, Dwarka, New Delhi-110075

Appellant.

Versus

(1)Haryana Real Estate Regulatory Authority, new PWD Rest House, Civil Lines, Gurugram, Haryana

(2) Planning Executive, exercising powers of the Chairman, Haryana Real Estate Regulatory Authority,Gurugram

Respondents

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

**Chairman
Member(Technical)**

Present: Mr. Shekhar Verma, Advocate along with Mr. Yashveer Singh Balhara, Advocate for the appellant.

Mr. Sidhant Arora, Advocate for respondent No. 1.

RAJAN GUPTA, J.

Challenge in the instant appeal is to the order dated 19.11.2020 passed by Planning Executive¹, whereby the extension application filed by the appellant was returned and the appellant was directed to submit the occupation certificate till 20.02.2021.

The same reads as under:

“The promoter has submitted the extension application (REP V) on 12.11.2020 in the authority but after the scrutiny of the application it was found that since you had obtained the Extension Certificate vide extension no.02 of 2020 dated 20.1.2020 which was valid till 20.8.2020. Your validity of Extension Certificate has been expired and no Occupation Certificate is obtained by the promoter. Also, six months extension due to Covid 19 was granted to the promoter and their validity

¹ Planning Executive, exercising the powers of Chairman, Haryana Real Estate Regulatory Authority, Gurugram.

was extended till 20.02.2021. Therefore, you are directed to obtain the Occupation Certificate within the validity of Extension Certificate otherwise your Registration Certificate will be revoked. Your application is returned and directed you to submit the Occupation Certificate till 20.02.2021.”

2. Aggrieved, the appellant has preferred the present appeal.

3. Learned counsel for the appellant contended that though the Authority accepted the application for first extension of the project from 20.08.2019 to 20.8.2020, the order passed by the Planning Executive returning the application for second extension is illegal as the Planning Executive had no power to pass the impugned order. As a consequence of same, grave prejudice has been caused to the appellant.

4. Learned counsel for the respondents fairly conceded that the Planning Executive was not authorised to pass the impugned order.

5. After going through facts of the appeal and submissions made by learned counsel for the appellant, the question which arises before this Tribunal for adjudication is whether the Planning Officer was vested with any power to pass an order of this nature.

6. It has been noticed that the impugned order has been passed by the Planning Executive. There is nothing on record to show that the Planning Executive has been vested with powers to pass orders of the nature impugned in the instant case. It is, thus, inexplicable how quasi-judicial powers were exercised by the said officer. The impugned order, thus, is illegal. The same is set aside.

7. Besides, it is inexplicable how the Planning Executive has directed to get an Occupation Certificate. Such a direction is not in the domain of the Planning Executive. By couching the order in such a language as to facilitate grant of Occupation Certificate, the

Planning Executive has indulged in over-reach and literally given a direction to the Directorate of Town and Country Planning to grant Occupation Certificate to the appellant. However, order of this nature is not only unsustainable but is deceptive. While passing orders which are judicial or quasi-judicial in nature, the concerned authority has to exercise utmost caution and probity.

8. The matter is remitted to the Authority for decision afresh after affording opportunity of hearing. In the peculiar facts and circumstances of the case, it is necessary to grant liberty to DTCP to re-consider grant of Occupation Certificate to the appellant, if already granted on the basis of order passed by the Planning Executive which is *non-est*. Concerned office be informed accordingly.

9. Appeal is allowed in the aforesaid terms.

10. Chairman, HRERA, Gurugram shall be at liberty to initiate appropriate action against Planning Executive in view of observations made above.

11. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

December 24,2024/mk