

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.752 of 2023

Date of Decision: November 21, 2024

M/s SV Housing Private Limited, having its office, 303, 3rd floor, Laxmi Tower, C-1/3, Naniwala Bagh, Azadpur, Delhi-110033 through its authorized signatory.

Appellant.

Versus

Haryana Real Estate Regulatory Authority, Gurugram, New PWD Rest House, Civil Lines, Gurugram, Haryana through its Chairman

Respondent

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

**Chairman
Member(Technical)**

Present: Mr. Manoj Vashishtha, Advocate along with Mr. Avinash Singh, Advocate for the appellant.

Respondent ex-parte.

RAJAN GUPTA, J.

Challenge in the instant appeal is to the communication dated 19.10.2023 passed by the Administrative Officer (Admin), Haryana Real Estate Regulatory Authority, Gurugram whereby the application filed by the appellant for amendment of the registration certificate was rejected.

2. Notice in this appeal was issued on 20.03.2024.

3. Service was duly effected on respondent. As it chose not to appear, it was proceeded *ex parte*.

4. Learned counsel for the appellant contends that appellant sought RERA registration of its project way back in the year 2017 as per provisions of Section 4 of the Act¹. In para no.3 of the affidavit submitted by the appellant in this regard, it was declared that it would complete the project within a period of 4½ years.

¹ Real Estate (Regulation and Development) Act, 2016

Though, the Authority accepted the application for registration of the project (M/s S V. Housing Private Limited), it granted only a period of forty-one months i.e. 27.10.2017 to 30.03.2021 to complete the project. As per him, the time period for completion of the project was reduced by the Administrative Officer (Admin) in violation of the provisions of Section 5(3) of the Act. The appellant moved an application for amendment in registration certificate vide communication dated 19.04.2018. The application was rejected vide impugned communication. He submits that due to violation of the provisions of Section 5(3) of the Act and inordinate delay in taking a decision on communication dated 19.04.2018, entire proceedings are vitiated. As a consequence of same, grave prejudice has been caused to the appellant.

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 Administrative Officer (Admin) was justified in reducing the period of registration despite the statutory provisions contained in Section 5(3) of the Act; whether he was vested with any power to pass an order of this nature.

6. In the present case, a declaration was made by appellant-promoter in its affidavit cum undertaking dated 16.10.2017 stating the project would be completed within 4-1/2 years; however the said period was reduced by Authority and it granted only a period of forty-one months i.e. 27.10.2017 to 30.03.2021 to complete the project.

7. On perusal of provisions of the Act, the Tribunal is of the view that in view of Section 5(3) of the Act, it is clear and unambiguous that the entire issue needs to be considered in the light thereof.

8. Proviso to clause (b) of Section 5(1) of the Act provides for opportunity of hearing to the promoter before rejecting any application.

9. It is well-settled that principles of natural justice demand that a person needs to be afforded opportunity of hearing before an order is passed.

9. Further, it has been noticed that the impugned order has been passed by the Administrative Officer. There is nothing on record to show that the Administrative Officer 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, appears to be *non-est* and is declared as such. The same is set aside.

10. The matter is remitted to the Authority for decision afresh after affording opportunity of hearing.

11. Appeal is allowed in the aforesaid terms.

12. Copy of this order be communicated to the learned counsel for the parties, the Haryana Real Estate Regulatory Authority, Gurugram for compliance.

13. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

November 21, 2024
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