

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.204 of 2024

Date of Decision: 05.12.2024

Royal Blue City Developers Pvt. Ltd. having its registered office at 268, Village Islampur, Gurugram, District Gurugram, Haryana 122001, through its Authorized Representative (AR) Kuldeep Kumar, aged about 29 years, S/o Sh. Buddha, R/o # 624, Sanvat Khaga, Sevant, Fatehpur, Uttar Pradesh -212622

APPELLANT

VERSUS

1. Harish Arora, resident of # 98, Street No. 4, Dhawar Colony, Ferozepur City, Ferozepur, Punjab-152002, Correspondence Address: # K-3/33, DLF Phase 2, Gurugram 122002, Haryana.
2. Royal Infra Buildtech Pvt. Ltd. having its registered office at 243/8A, Jacobpura, Near Sadar Bazar, Gurugram 122001.

...Respondents.

CORAM:

Justice Rajan Gupta

Chairman

Present : Mr. Arvind Kumar Sharma, Advocate,
for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 14.12.2023 passed by the Authority¹ at Gurugram. Operative part thereof reads as under:

“27. Hence, the authority hereby passes this order and issues the following directions under Section 37 of the Act to ensure compliance of obligations cast upon the

¹ Haryana Real Estate Regulatory Authority, Gurugram

promoter as per the function entrusted to the authority under section 34(f):-

i) the respondents/promoters are directed to refund the amount i.e., Rs.15,51,000/- received by them from the complaint along with interest at the rate of 10.75% p.a. as prescribed under rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the amount.

ii) A period of 90 days is given to the respondents to comply with the directions given in this order and failing which legal consequences would follow.”

2. At the time of filing of this appeal, no pre-deposit in terms of proviso to Section 43(5) of the RERA Act² has been made. As a result, an objection was raised by the Registry in this regard.

3. On 03.09.2024, the matter came up for hearing and following order was passed:

“As per report from the Registry, no pre-deposit in terms of proviso to Section 43(5) of the RERA Act has been made.

Learned counsel for the appellant submits that he intends to move an appropriate application within a week from today to ensure that pre-deposit condition is complied with in letter and spirit. In case, such application is moved within three days from today, same shall be entertained by the Registry.

List on 23.10.2024.”

4. Today, an application (CM No.1231 of 2024) has been filed by the appellant-promoter (Royal Blue City Developers Pvt. Ltd) with a prayer that it may be allowed to deposit 30% of the amount to be refunded as pre-deposit.

5. Plain reading of Section 43(5) of the RERA Act would show that any person, who is aggrieved by an order passed by the

² Real Estate (Regulation and Development) Act, 2016

Authority, is required to deposit the entire amount as pre-deposit unless such amount is in nature of the penalty.

6. A perusal of the direction given by the Authority shows that it has directed the promoter to refund the paid up amount to the complainant along with interest @10.75% per annum. The direction has been passed under the relevant provision of the RERA Act.

7. Perusal of the impugned order shows that the same does not relate to penalty. The application (CM No.1231 of 2024) for deposit of 30% amount of the pre-deposit is misconceived, same is hereby dismissed. The appeal also meets the same fate.

8. The amount, if any, deposited by the appellant as part of pre-deposit in terms of proviso to Section 43(5) of the RERA Act be remitted to the Authority for disbursement to the appellant-promoter, along with interest accrued thereon, subject to tax liability, if any, according to law.

9. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

05.12.2024
Manoj Rana