

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.755 of 2022

Date of Decision: April 03,2025

Jagdev Singh Sidhu, Flat No. 244, Tower No. 5, HEWO-2,
Sector 56, Gurugram, Haryana

Appellant.

Versus

Suncity Projects, Suncity Business Tower, 2nd Floor, Golf
Course Road, Sector 54, Gurugram, Haryana

Respondent

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

CORAM:

Justice Rajan Gupta
Rakesh Manocha

Chairman
Member (Technical)
(Joined through VC)

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

Present appeal is directed against order dated 21.07.2022, passed by the Authority¹. The operative part thereof reads as under:

“21. 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 promoter as per the function entrusted to the authority under Section 34(f):

- i. The respondent/promoter is directed to refund the balance amount after retaining a sum of Rs.25,000/- out of Rs.1,19,000/-*

¹ Haryana Real Estate Regulatory Authority, Gurugram

within a period of 90 days along with interest on the balance amount from the date of cancellation till its actual payment.

- ii. The abovementioned amount be refunded to the complainant within a period of 90 days and failing which legal consequence would follow.*
- iii. The respondent is directed to revalidate the demand draft.*

22. The complaint stands disposed of.

23. File be consigned to registry.”

2. Learned counsel for the appellant has assailed the order passed by the Authority on the ground that procedure, as envisaged by “Affordable Housing Policy-2013” (hereinafter referred to as ‘the Policy’) of Government of Haryana had not been followed in letter and spirit. Thus, cancellation letter deserves to be set aside. Besides, cancellation has not been done in terms of various clauses of the allotment letter. Learned counsel has further contended that the Authority has erred in granting interest on the refundable amount from the date of cancellation and not from respective dates of payment to the promoter. As per him, the amount was retained during the said period by the promoter and interest accrued thereon.

3. Learned counsel for the respondent has refuted the aforesaid contentions. He has referred to certain admitted facts contained in paragraph No. 17 of the order. As per him, the promoter issued letters dated 21.07.2021 and 13.09.2021 raising demands from the allottee. Despite these letters, no response was received from the allottee. As a result, a public notice was given in the newspaper on 07.10.2021 granting 15

days' time to make payment. However, the allottee failed to comply, thus unit was cancelled on 24.10.2021. As per him, there is sufficient material on record to show that procedure was followed before issuance of cancellation letter.

4. We have heard learned counsel for the parties and given careful thought to the facts of the case.

5. It is evident that the appellant was allotted a unit in Suncity Avenue, Sector 76, Gurugram vide allotment letter dated 18.06.2021. An agreement was entered into between the parties on 29.06.2021. It was proposed that possession of the unit would be handed over within four years of the date of approval of building plan or grant of environment clearance. This would bring the due date of possession to 30.08.2023. Total sale consideration for the unit was Rs.24,03,114/-. Out of this, an amount of Rs.1,19,000/- was remitted by the allottee on 18.06.2021. Having failed to deposit balance payment, reminder notices dated 21.07.2021 and 13.09.2021 respectively were issued to the allottee. As no response was received, publication in the newspaper was made on 07.10.2021. Pursuant to this exercise, cancellation letter was issued on 24.10.2021.

6. From the perusal of documents and the material on record, it is evident that the procedure, as envisaged by the Policy was followed before deciding to cancel the allotment. The complainant thereafter preferred the instant complaint before the Authority seeking setting aside the cancellation letter dated 24.10.2021 and to direct the respondent to hand over possession of the unit. The Authority, after considering the rival

contentions and the documents on record, came to the conclusion that the allottee had failed to make payment after 18.06.2021; he did not respond pursuant to the notices issued to him on 21.07.2021 and 13.09.2021. Vide public notice dated 07.10.2021, 15 days were granted to make payment, however no response was received. The Authority, thus, came to the conclusion that there was no infirmity with the decision of the promoter to cancel the allotment.

7. Having given careful thought to the arguments advanced and the documents on record, we are of the considered view that there is no legal infirmity with the order passed by the Authority.

8. After having rejected the plea for quashing the cancellation letter, the Authority has directed refund of the amount of Rs.1,19,000/- along with admissible interest after retaining Rs.25,000/-.

9. On a query being put to Mr. Gupta regarding direction of retention of Rs.25,000/- in a case concerning 'Affordable Housing', he fairly submits that in the instant case, it has been decided to refund the entire amount to the appellant. Admittedly, till date no payment has been made to the allottee despite direction given by the Authority.

10. The appeal is disposed of with a direction that the entire amount deposited by the appellant shall be refunded to him along with admissible interest from the date of cancellation till actual date of payment. Needful shall be done within 90 days of uploading of this order on the web portal, failing which penal provisions contained in Section 64 of the Real Estate

(Regulation and Development) Act, 2016 shall come into play and the respondent shall be liable to pay Rs.2,000/- per day as penalty to the allottee till continuance of default.

11. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(Joined through VC)

April 03,2025
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