

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.780 of 2024 (O&M)
Date of Decision: 08.12.2025

Sana Realtors Pvt. Ltd. registered office at H-69, UGF, Outer Circle, Connaught Place, New Delhi 110001.

Appellant.

Versus

Haryana Real Estate Regulatory Authority, Panchkula, Mini Secretariat, New Office Block, (2nd and 3rd Floor), Sector 1, Panchkula, Haryana 134114.

Respondent

CORAM:

Justice Rajan Gupta
Dr. Virender Parshad
Shri Dinesh Singh Chauhan

Chairman
Member (Judicial)
Member (Technical)

Present: Mr. Shubhnit Hans, Advocate and
Mr. Jasprit Singh, Advocate,
for the appellant.

Respondent *ex parte*.

Mr. Arnav Sharma, *Amicus Curiae*.

O R D E R:

RAJAN GUPTA, CHAIRMAN (ORAL):

CM No.1859 of 2024:

This is an application seeking condonation of 221 days' delay in filing of the appeal. Same is supported by an affidavit of Mr. Rishabh Nagpal, Authorised Representative of the appellant-company.

2. Learned Amicus Curiae has opposed the prayer for condonation of delay.

3. On perusal of the application, this Bench is satisfied that sufficient grounds are made out for condoning the delay. Besides, pre-deposit has been made along with appeal by the appellant-promoter.

4. In view of above, application (CM No.1859 of 2024) is allowed. Delay of 221 days' in filing the appeal is hereby condoned.

MAIN APPEAL:

Appeal be registered.

2. Issue notice of the appeal.

3. Mr. Arnav Sharma, *Amicus Curiae* accepts notice of the appeal.

4. Present appeal is directed against order dated 24.01.2024 passed by the Authority at Panchkula¹. Paras 2 and 3 thereof read as under:

"2. When this matter was last heard on 26.09.2023 the promoter was directed not to sell any unsold inventory or create any third party rights in the project till extension is granted. The promoter was further directed to submit the above said information/documents before the next date of hearing or show cause as to why penalty upto 5% of the estimated cost of the project be not imposed upon him under Section 61 read with Section 63 of RERA Act, for contravention of the provisions of the Act and not complying with the orders of the Authority.

3. Today Adv, Shubhnit Hans appeared and requested for some more time to file reply. Declining the request of the counsel, the Authority confirms that a penalty of Rs 5 Lacs is imposed u/s 61 of the Act which may extend upto 5% of the

¹ Haryana Real Estate Regulatory Authority at Panchkula

estimated cost of the project if the orders of the Authority are not complied with and the said amount is not deposited before the next date of hearing. The office is directed to send a copy of this order to the respondent via mail and registered post.”

5. Learned counsel for the appellant has assailed the impugned order on the ground that there is no enabling provision under the RERA Act² relating to QPRs (Quarterly Progress Reports). As per him, neither any circular nor any regulation has been issued by the Authority empowering it to impose a penalty of this nature. The Authority, which acts as a regulator, has been established for the regulation and promotion of the real estate sector to ensure efficient and transparent sale of property and an adjudicatory mechanism for overseeing such sales/transfers. Penal impositions would increase the cost of the project and hinder real estate development in the State.

6. Learned counsel for the appellant has emphasized that opportunity of hearing was not afforded to the appellant before passing the impugned order. He has referred to the averments made in the grounds of appeal supported by an affidavit of the authorized representative of the appellant-company. He further submits that impugned order is cryptic in nature.

7. Learned *Amicus Curiae*, who is assisting in the matter, submits that the order has been rightly passed by the Authority. He, however, concedes that the project in question is complete in all respect but the completion

² Real Estate (Regulation and Development) Act, 2016

certificate has not been received as yet. Besides, there is nothing on record to show that the appellant created any inventory prior to grant of RERA registration.

8. During the course of hearing reliance was placed by the appellant on the judgment dated 19.09.2025 passed by Hon'ble Karnataka High Court in CWP No.3379 of 2024 titled as "*Sharada Achar v. State of Karnataka and another*".

9. Mr. Hans, learned counsel for the appellant submitted that the matter may be remanded to the Authority below to consider the entire issue afresh in light of the issues raised before this Bench and the judgment in *Sharada Achar's* case (*supra*). He has referred to relevant para, which reads as under:

"18. The Authority to impose a pecuniary burden on any citizen however big or small, cannot presumed nor can it be by implication; it must spring directly from the legislation and if the legislature has chosen to delegate such power, the delegation must be express, unambiguous and circumscribed within the boundaries of the legislative policy. Tested on the anvil of these principles, the impugned Circular, whereby a so-called delay fee has been sought to be imposed on promoters and developers stands exposed as utterly failing of statutory parentage. It finds no sustenance in the Act; it locates no foundation in the Rules; it is not the offspring of delegated legislation either. It is in fact a levy, conjured into existence by executive assertion, unsupported by legislative warrant."

10. Learned *Amicus Curiae* submits that he has no objection if the matter is remanded to the Authority below for fresh adjudication.

11. In view of the above, we refrain from making any observation on merits or the issue whether opportunity of hearing was denied to the appellant before impugned order was passed as record pertaining to the case is not before us. However, whenever a quasi judicial order is passed, opportunity of hearing needs to be granted to the affected person.

12. It needs to be pointed out here that notice of the present appeal was duly issued to the Authority at Panchkula. Despite repeated attempts, it has failed to appear on several dates. As a result thereof, it was proceeded *ex parte* by the Tribunal vide order dated 01.07.2025.

13. In view of the foregoing discussion, while remitting the matter to the Authority, we feel that fresh order should be passed after considering the version of the appellant and ratio of law laid down in *Sharada Achar's* case (*supra*). The Authority shall endeavour to conclude the proceedings at the earliest, in any case, not later than four months from the date of uploading of this order. Impugned order is, thus, set aside and the appeal is allowed in these terms.

14. Appellant is directed to appear before the Authority on 09.01.2026.

15. The amount of pre-deposit made by the appellant-company with this Tribunal at the time of filing of this appeal along with interest accrued thereon be remitted to the Authority, to be disbursed subject to final outcome of the matter. Needless to observe tax liability, if any, would apply.

16. Copy of this order be sent to appellant, its counsel and the Authority below.

17. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

08.12.2025
Manoj Rana