

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 858 of 2024

Date of Decision: October 09,2026

M/s Yashvi Homes Pvt. Ltd., H. No. 291, Sector 17-C, Gurugram,
Haryana-122001

Appellant.

Versus

Haryana Real Estate Regulatory Authority, Gurugram,
F22J+PJ6, Guest House Old Railway Road, Civil Lines,
Gurugram, Haryana-122001

Respondent

CORAM:

Justice Rajan Gupta
Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Mr. Neeraj Goel, Advocate for
Mr. Kamal Jeet Dahiya, Advocate for the
appellant.

Mr. Dhruv Lamba, Advocate for the respondent.

O R D E R:

RAJAN GUPTA, CHAIRMAN:

Present appeal is directed against order dated
24.04.2024, uploaded on the website on 02.04.2024, passed
by the Secretary of the Authority¹. Operative part thereof reads
as under:

¹ Haryana Real Estate Regulatory Authority, Gurugram

“Sub: Order of the Authority regarding penalty of Rs.25 lakhs imposed on the promoter M/s Yashvi Homes Pvt. Ltd. for misleading advertisement of the project and misrepresentation of amenities in the advertisement.

It is intimated to you that the Authority had imposed a penalty of Rs.25 lakhs on you in the hearing dated 12.02.2024 on account of misleading advertisement of the project and misrepresentation of amenities in the advertisement. The detail order in this regard was issued on 02.04.2024 and was uploaded on the website of the Authority on the same day wherein you were directed to submit the penalty amounting to Rs.25 lakhs in the Authority within one week.”

2. Learned counsel for the appellant has assailed the impugned order by contending that the same is *non-est* as there can be no question of delegation of judicial powers to any subordinate authority or officer. There has to be an independent application of mind by the Authority having subject-matter jurisdiction while passing an order, judicial or quasi-judicial in nature. He has referred to the judgment of Hon’ble Supreme Court in **M/s Newtech Promoters and Developers Pvt. Ltd. State of UP²**, relevant paragraph whereof reads as under:

“118. In the instant case, by exercising the power under Section 81 of the Act, the authority, by a special order dated 5th December, 2018 has delegated its power to the single member of the authority to exercise and decide complaints under Section 31 of the act and that being permissible in law, cannot be said to be dehors the mandate of the Act. At the same time, the power to be exercised by

² 2022(1) RCR (Civil)367

the adjudicating officer who has been appointed by the authority in consultation with the appropriate Government under Section 71 of the Act, such powers are non-delegable to any of its members or officers in exercise of power under Section 81 of the Act.”

3. Perusal of the observations made in **M/s Newtech Promoter’s case** (supra) shows that the Act³ does not contemplate delegation of any judicial powers to any other official except a member of the Authority or the Adjudicating Officer, as the case may be. Otherwise also, delegation of judicial power is not in consonance with any law or the jurisprudence on the subject. Needless to observe that all these functions ought to be performed by the Authority in which this power is vested. It is, thus, inexplicable how quasi-judicial powers were exercised by the Secretary of the Authority. The impugned order, thus, appears to be *non-est* and is declared as such. The same is hereby set aside.

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

5. Parties are directed to appear before the Authority on 09.12.2026.

6. In view of the above, the appeal is allowed.

7. The amount of pre-deposit made by the promoter, along with interest accrued thereon, be remitted to the Authority at Gurugram for disbursement to the appellant, subject to tax liability, if any.

³ The Real Estate (Regulation and Development) Act, 2016

8. Copy of this order be sent to the appellant/its counsel and the Authority below.

9. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

October 09, 2026
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