

Vibha Agarwal
V/s
M/s Alpha Corp Development Pvt. Ltd.
Appeal No.559 of 2019

Present: Shri Vikas Deep, Advocate, Ld. counsel for the appellant.
Shri Alok Jain, Advocate, Ld. counsel for the respondent. (in person)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

At the very outset, Shri Alok Jain, Ld. counsel for the respondent-promoter contended that the appellant-allottee has filed the complaint for grant of relief of refund along with interest @18% per annum. The appellant has also sought the loss of amount of housing opportunity which is in the shape of compensation. Thus, he contended that the Ld. Authority had no jurisdiction to deal with the complaint. He has also raised certain other objections regarding maintainability of the complaint alleging that the project was complete and even the possession was offered before the enforcement of the Real Estate (Regulation & Development) Act, 2016.

Faced with this situation, Ld. counsel for the appellant contended that as the appellant-allottee intends to withdraw from the project and wants refund of the amount deposited by him along with interest and compensation, so the present appeal may be allowed and the complaint may be transferred to the Ld. Adjudicating Officer, Panchkula for fresh decision of the case in accordance with law.

Shri Alok Jain, Ld. counsel for the respondent has no objection to this proposal. However, he stated that the respondent-promoter should be allowed to raise all the issues raised by it, before the Ld. Adjudicating Officer which should be considered in a judicious manner.

Thus, keeping in view the aforesaid statements at bar, the present appeal is hereby allowed. The impugned order dated 11th April, 2019 passed by the Ld. Authority is hereby set aside and the complaint filed by the appellant-allottee stands transferred to the Ld. Adjudicating Officer, Panchkula for adjudication in accordance with law. It is made clear that

the parties shall be at liberty to raise all the issues available to them before the Ld. Adjudicating Officer which shall be considered in a judicious manner. It is further made clear that the Ld. Adjudicating Officer will decide the matter afresh independently irrespective of the observations of the Ld. Authority in the impugned order.

Parties are directed to appear before the Ld. Adjudicating Officer, Panchkula, on 22nd September, 2020.

Copy of this order be communicated to the Ld. counsel for the parties/parties, Ld. Haryana Real Estate Regulatory Authority, Panchkula and the Ld. Adjudicating Officer.

File be consigned to the records.

Justice Darshan Singh (Retd.)
Chairman
Haryana Real Estate Appellate Tribunal,
Chandigarh

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

19.08.2020
Gaurav