

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No.1445 of 2019  
Date of Decision: 29.09.2020**

Unisys Infosolutions Private Limited having its registered office at 1089, NHBC, Sector-13, Urban Estate, Karnal-134001 (Haryana) through its authorised director Mr. Sumeet Singh Manchanda.

Appellant

Versus

M/s Ultratech Township Developers Pvt. Ltd., Hotel New World, 120 Miles Stone, NH-1, GT Road, Karnal, Haryana (India) also at site office- New World Residency, Sector-32, Karnal-132001, Haryana (India) through its Director.

Respondent

**CORAM:**

Justice Darshan Singh (Retd.)  
Shri Inderjeet Mehta  
Shri Anil Kumar Gupta

Chairman  
Member (Judicial)  
Member (Technical)

Present: Sh. Manav Bajaj, Advocate, Ld. counsel for the appellant.  
Ms. Divya Kathuria, Advocate, ld. counsel for the respondent.

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

**ORDER:**

**JUSTICE DARSHAN SINGH (Retd.) CHAIRMAN:**

The present appeal has been preferred against the order dated 25.09.2019 passed by the Ld. Haryana Real Estate Regulatory Authority, Panchkula, in complaint no. 221 of 2019.

2. Ld. counsel for the appellant has basically challenged the impugned order passed by the Ld. Authority on the ground that the Ld. Authority has wrongly determined the amount due against the appellant. He contended that the accounts between the parties were settled and only a sum of Rs. 9,50,653/- was due against the appellant including interest. He has drawn our attention to page no. 65 of the paper book

where it is mentioned that the cheque of Rs. 9,50,653/- was accepted with interest. He further contended that the said amount was paid by the appellant vide cheque dated 07.09.2017 and after that nothing except 5% of the basic sale price i.e. 3,77,690/- was due against the appellant. He contended that the demand notices dated 22.10.2019 and 02.11.2019 have been wrongly issued.

3. On the other hand, Ld. counsel for the respondent/promoter contended that a sum of Rs. 9,50,653/- was the principal amount which was due. In addition to that the respondent/promoter was entitled to recover the interest on delayed payment as per the order of the Ld. Authority. She further contended that the endorsement relied upon by the appellant is not signed by any authorised person of the respondent/promoter and cannot bind the respondent.

4. We have duly considered the aforesaid contentions. The main dispute in the present case is regarding the settlement of accounts. The appellant has raised the plea that the amount was settled by parties on 05.09.2017 and the lump sum of Rs. 9,50,653/- was found to be due as on 05.09.2017. Besides, the appellant was required to pay 5% of the basic sale price i.e. Rs. 3,77,619/- at the time of handing over the possession.

5. Ld. counsel for the appellant has also drawn our attention to page no. 65 of the paper book wherein the endorsement under the cheque no. 006529 dated 07.09.2017 reads as under:

*“Ch. No. 006529 dated 07.09.2017*

*for Rs. 9,60,653/- with interest.”*

6. The Ld. Authority has very well dealt with these pleas raised by the Ld. counsel for the appellant in para no. 5 to 7 of the impugned order which read as under: -

*“5. The only issue requiring determination is regarding the actual amount due against the complainant. The complainant’s plea on this point is that the respondent after receiving from him an amount of Rs. 9,50,653/- on 07.09.2017 had told him that he would be liable to further pay only a sum equivalent to 5% of the total sale consideration of Rs. 3,77,690/- at the time of handing over the possession. In support of this contention, the complainant had relied on the writing which is appearing beneath the cheque vide which the aforementioned amount was paid by him. The writing endorsed on the cheque reads as under:-*

*Ch. No. 006529 dated 07.09.2017*

*For Rs.9,50,653/- with interest.”*

*The above endorsement is said to have been made by an official of the respondent company who had received the cheque and below the said writing are affixed the official’s initial and the seal of the respondent company. The respondent’s counsel without disputing the seal and the initials has argued that the words “with interest” are not in the hand of respondent’s official and the same have been rather added subsequently either by the complaint or someone else at his behest. The Authority finds merit in the contention because the words “with interest” do not appear to have been written at the time when the remaining words “Ch. No. 006529 dated 07.09.2017 for Rs. 9,50,653/-“ were*

scribed. The disputed endorsement had been scribed in two lines. The words written in the upper line are “ Ch. No. 006529 dated 07.09.2017” while the lower line contains the words “ for Rs. 9,50,653/- with interest”. Pertinent to notice is that the second line runs almost parallel to the first line except at the place where the words “with interest” exists. The pattern for the words “with interest” rather start gradually moving towards the upper line. As a result, the gap between the first and second line vis a vis words “with interest” is significantly narrower than the gap appearing above the words “Ch. NO. 006529 dated 07.09.2017”. In the face of such circumstances, it cannot be safely concluded that the words “with interest” were scribed by the person who had acknowledged the receipt of cheque of Rs. 9,50,653/-.

6. The above conclusion gets further fortified from the writing that appears below the seal and the initials of the official of the respondent company. Said writing reads as under:-

“\_\_\_\_\_ full and final amount withholding till date\_\_\_\_\_

\_\_\_\_\_ apart from 5% amount to be paid at the\_\_\_\_\_

\_\_\_\_\_time of actual possession at Flat No. 202\_\_\_\_\_

It was argued on behalf of the complainant that the above mentioned writing was also endorsed by the respondent’s official. The authority regrets its inability to accept the argument because such writing is altogether different from the writing of the

*person who had written the words “Ch. No. 006529 dated 07.09.2017 for Rs. 9,50,653/-“. Even otherwise, if the above referred three lines were also endorsed by the official of the respondent company then he must have put his initials below these lines and not in between the above referred two endorsements.*

*7. For the reasons discussed above, the Authority rejects the complainant’s plea on the point that the respondent after receiving cheque of Rs. 9,50,653/- had agreed to deliver him possession on receiving only 5% of the total sale consideration.”*

7. We do not find any error or illegality in the aforesaid observations of the Ld. Authority. The appellant could not reveal the identification of the employee of the respondent/promoter who had received the cheque and signed the endorsement below the cheque. It is also not known as to what was the designation of the said official and whether he was authorised by the respondent/company to settle the accounts and to waive of the interest which had become due on delayed payments of instalments. To prove all these facts, the burden was upon the appellant but he has miserably failed to discharge his burden. The Ld. Authority has discussed in detail with respect to the authenticity of the endorsement under the photocopy of the cheque available at page no. 65 of the paper book and we have no reasons to differ with.

8. The fact that there could be no lump sum settlement of payment of Rs. 9,50,653/- + 5% of the basic sale price is further substantiated from the fact that the basic sale price of the unit was 55,63,728/-, out of that the appellant/allottee had paid Rs. 42,35,385/-.

The remainder comes to Rs. 13,28,443/-. The 5% of the basic sale price was to be paid at the time of offering the possession. The 5% of the basic sale price comes to Rs. 3,77,690/-. The remaining amount comes to Rs. 9,50,653/-. It means no interest at all on delayed payment has been taken into consideration. Only the basic sale price has been mentioned in the endorsement at page no. 67. This fact is not disputed that as per the agreement between the parties, the respondent/promoter was entitled for interest on delayed payment and the statutory dues as per the basic terms and conditions available at page 57. The respondent/promoter was also entitled to receive the compounded interest not less than 24% per annum on the amount of delayed payment but the ld. Authority has directed the respondent/promoter to charge the interest on delayed payment only @ 9% per annum instead of rate of interest mentioned in the agreement.

9. It is further pertinent to mention that the Ld. Authority has given the liberty to the complainant to file the fresh complaint to challenge the inaccuracy and illegality of any amount reflected in the statement, which according to him was legally not chargeable. The respondent/promoter has issued the demand notice dated 02.11.2019 (Annexures A5-Colly at page no. 145 of the paper book). As per the statement of accounts attached with the said notice, a demand of Rs. 11,29,900/- has been raised. If the appellant feels that the said amount has been wrongly charged, the appellant can very well avail the remedy provided by the ld. Authority in the impugned order i.e. to file the fresh complaint to challenge these calculations.

10. With these observations, we do not find any merit in the present appeal and the same is hereby dismissed.

11. The copy of this order be communicated to learned counsel for the parties/parties and the learned Authority.

12. File be consigned to the records.

Announced:  
September 29<sup>th</sup>, 2020

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

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