

Landmark Apartments Pvt. Ltd.

Vs.

Raj Kumar Kansal

Appeal No.76 of 2020

Present: Shri Deepak Goel, Advocate for Shri Shubnit Hans, Advocate, Id. Counsel for the appellant.

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

Learned counsel for the appellant states that as per the instructions received from the appellant, the appellant is not in a position to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act').

2. As per the proviso to section 43(5) of the Act, if the appeal is preferred by the promoter, the said appeal can only be entertained if the appellant/promoter deposits whole of the amount payable to the allottee as adjudged by the learned Haryana Real Estate Regulatory Authority (for short 'the Authority') in the impugned order.

3. The present appeal was filed without deposit of the requisite amount as required under the proviso to section 43(5) of the Act. The appellant had moved an application for waiver of the condition of pre-deposit, but the said application was dismissed as withdrawn on the basis of the statement at bar made by learned counsel for the appellant, vide order dated 27.10.2020 and time was given to the appellant to deposit the requisite amount.

4. The appellant has already availed four opportunities for this purpose. Today, learned counsel for the appellant states that as per the instructions received by him from the appellant, the

appellant has is not in position to deposit the requisite amount. Thus, the appellant has failed to comply with the provisions of proviso to section 43(5) of the Act inspite of availing sufficient opportunities. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

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

Inderjeet Mehta
Member (Judicial)

January 21st, 2021
CL

Anil Kumar Gupta
Member (Technical)