

Shalimar Estate V/s Kanta Sharma & another
Appeal No. 214 of 2019

Present: Sh. Nikhil Sabarwal , Advocate, ld. counsel for the appellant.

Sh. Keshav Gupta, Advocate, Ld. counsel for the respondent.

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

Ld. counsel for the respondent has sent the copy of the some documents through email. Copy thereof has already been sent to ld. counsel for the appellant.

We have granted an opportunity to the parties for amicable settlement. From the information received from ld. counsel for the parties, it appears that the amicable settlement between the parties is not possible as the appellant wants that the respondent/allottee should take over the possession and the respondent/allottee is insisting upon for refund of the amount. So, the amicable settlement of the matter is not possible.

Ld. counsel for the appellant stated that the complaint filed by the respondent/allottee was for refund and compensation for which the ld. Authority had got no jurisdiction.

Sh. Keshav Gupta, Advocate ld. counsel for the respondent has very fairly conceded that the matter may be sent to the ld. Adjudicating Officer, Panchkula for adjudication. He further stated that he will also have option to revise his claim for compensation, if the case is sent to the Adjudicating Officer.

Ld. counsel for the appellant has also pleaded for sending the case to the Adjudicating Officer for adjudication. He has stated that the other issues raised by him in the appeal i.e. with respect to the retrospective

operation of the Act may be kept open to be adjudicated upon by the ld. Adjudicating Officer at the appropriate stage.

Thus, in view of the proposal made by ld. counsel for the parties and without commenting anything on the merits of the case, the present appeal is hereby disposed of with a direction to the ld. Authority to transfer the complaint filed by the respondent/allottee to the Adjudicating Officer for disposal in accordance with law. All the other pleas raised in the present appeal are kept open and the appellant /promoter shall be at liberty to raise all the pleas raised in the present appeal before the ld. Adjudicating Officer. The Adjudicating Officer will decide those pleas judiciously and being un-influenced by the observations of the Ld. Authority in the impugned order. The respondent/allottee shall also be at liberty to press his claim for compensation before the ld. Adjudicating officer irrespective of the statement made by him before this Tribunal giving up that claim.

The parties are directed to appear before the ld. Adjudicating Officer on 03.09.2020. The copy of this order be sent to ld. counsel for the parties, Ld. Haryana Real Estate Authority, Panchkula and the Adjudicating Officer, Panchkula for compliance.

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)

13.08.2020
Rajni