

M/s Ansal Housing Ltd.
Vs.
Mrs. Witty Malhotra Banduni and Mr. Kapil Banduni

Appeal No. 522 of 2021

Present: Shri Surjeet Bhadu, Advocate, ld. counsel for the appellant.
Ms. Priyanka Aggarwal, Advocate, ld. counsel for the respondent.

{The Court proceedings conducted through VC}

Ms. Priyanka Aggarwal, Advocate has filed the memo of appearance on behalf of the Respondent.

We have heard ld. counsel for the parties.

There are two controversies involved in the present appeal. Firstly, with respect to the jurisdiction of the Adjudicating Officer to entertain the complaint. Secondly, the validity of the order striking off the defence of the appellant.

As far as the first controversy is concerned the ld. counsel for the respondent has very fairly stated that now the complaint has been transferred to the learned Authority for adjudication. So, this issue no more survives.

As far as the second issue regarding a striking off the defence of the appellant/promoter is concerned. The same is alleged to have been struck off due to non-compliance of the order dated 19.11.2019, whereby, it is alleged that the direction was given for production of certain documents. Ld. counsel for the appellant has contended that in the present case no such order dated 19.11.2019 was passed by the learned Authority.

Ms. Priyanka Aggarwal, Advocate ld. counsel for the respondent has also very fairly conceded that in fact no order dated 19.11.2019 was passed in this case and there may be some confusion while passing the impugned order. The appellant has attached the copy of

the order dated 19.11.2019 (Annexure A-6) but the said order has been passed in CR/2119/2018 titled as Mrs. Jyotsna Makan and Mr. Sandeep Makan V/s Ansal Housing & Construction Ltd. Moreover, ld. counsel for the respondent has very fairly conceded that no such order dated 19.11.2019 has been passed in the present case. Thus, the learned Adjudicating Officer was not justified to strike off the defence of the appellant due to non-compliance of the directions given vide order dated 19.11.2019 which was in fact never passed in the present case.

Consequently, the present appeal is hereby allowed and the impugned order striking the defence of the appellant is hereby set aside.

Copy of this order be conveyed to ld. counsel for the parties/parties as well as the learned Authority.

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)

02.03.2022
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