

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No.68 to 73 of 2021  
Date of Decision: 07.04.2022**

**(1) Appeal No.68 of 2021**

Neelam, H.No.535, Village & P.O. Kheri Jasaur (18), Tehsil Bahadurgarh, Haryana-124505.

Appellant

Versus

M/s HL Residency Private Limited, through its Managing Directors/Partners/Authorised representatives, B-12, Vishrantika Apartment, Plot No.5A, Sector-3, Dwarka, Delhi-110075.

Respondent

**(2) Appeal No.70 of 2021**

Girdhari Lal Sharda & Vandana Sharda, H.No.166, Sector-6, Bahadurgarh, Haryana-124507.

Appellants

Versus

M/s HL Residency Private Limited, through its Managing Directors/Partners/Authorised representatives, B-12, Vishrantika Apartment, Plot No.5A, Sector-3, Dwarka, Delhi-110075.

Respondent

**(3) Appeal No.71 of 2021**

Seema, H.No.502/20, Ashok Nagar, Bahadurgarh, Haryana-124507.

Appellant

Versus

## Appeal No.68 to 73 of 2021

M/s HL Residency Private Limited, through its Managing Directors/Partners/Authorised representatives, B-12, Vishrantika Apartment, Plot No.5A, Sector-3, Dwarka, Delhi-110075.

Respondent

**(4) Appeal No.72 of 2021**

Poonam Devi, Village Boria, P.O. Bajitpur, District Jhajjar, Haryana-124104.

Appellant

Versus

M/s HL Residency Private Limited, through its Managing Directors/Partners/Authorised representatives, B-12, Vishrantika Apartment, Plot No.5A, Sector-3, Dwarka, Delhi-110075.

Respondent

**(5) Appeal No.73 of 2021**

Suman, V.P.O. Madina Kauran (105), Rohtak, Haryana-124111.

Appellant

Versus

M/s HL Residency Private Limited, through its Managing Directors/Partners/Authorised representatives, B-12, Vishrantika Apartment, Plot No.5A, Sector-3, Dwarka, Delhi-110075.

Respondent

**CORAM:**

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

Chairman  
Member (Judicial)  
Member (Technical)

**Present:** Shri Naveen Single, Advocate, learned counsel for the appellant.

Shri Abhishek Jindal, Advocate, learned counsel for the respondents.

**ORDER:**

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

This order shall dispose of all the five appeals mentioned above as all these appeals have arisen out of the Composite order dated 03.11.2020 passed by learned Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called 'the Authority'), in the complaints filed by the appellants.

2. The complaints filed by the appellants have been disposed of as dismissed being pre-mature.

3. On perusal of the pleadings of the parties, the learned Authority had summed up that the appellants-complainants are claiming the following relief:-

- "i. Timely construction of his apartment as per terms mentioned in his Allotment letter cum Buyer Agreement, lay out plans.*
- ii. To stop illegal construction of 3<sup>rd</sup> floor in his building.*

*iii. To remove transformer installed near his apartment and restore the open/green area.”*

4. After reproducing the facts narrated by the respondent-promoter in the reply, the learned Authority has disposed of/dismitted the complaints being premature with the following observations:-

*“3. In view of statement given by respondent, the Authority observes that project is complete and respondent had already applied for the grant of Occupation Certificate. Further the respondent was under an obligation to hand over the possession of apartment latest by 07.12.2020. Said date for delivery of possession has not yet arrived, therefore, all captioned complaints are premature at this stage and liable to be dismissed. Therefore, all the captioned complaints are disposed of as dismissed with a liberty to file fresh complaint as on when a cause of action arises.”*

5. Heard.

6. Issue no.2 was to stop the illegal construction of 3<sup>rd</sup> floor in the building and issue no.3 was to remove transformer installed near the apartments of the complainants and to restore the open/green area. Qua these reliefs sought by the appellants-complainants, the complaints filed by them could not have been stated to be pre-mature. The learned Authority

was required to investigate as to whether the construction of 3<sup>rd</sup> floor was illegal or not, and whether the transformers have been installed in the open/green area or not. But, while disposing of the present complaints, the learned Authority has not adjudicated upon issue no.2 and 3. The complaints have been dismissed being premature simply on the ground that the respondent-promoter was under an obligation to hand over the possession latest by 07.12.2020 and the present complaints were filed prior to that date. So, only issue no.1 was touched in the impugned order. Issues No.2 and 3 were not considered at all. So, the impugned order cannot be sustained in the eyes of law.

7. Consequently, the present appeals are hereby allowed, the impugned order dated 03.11.2020 passed by the learned Authority is hereby set aside to the extent of issues/points no.(ii) and (iii) mentioned in para no.1 of the impugned order. All the five cases are remanded to the learned Authority for adjudicating issues/points no.(ii) and (iii) afresh in accordance with law after affording the reasonable opportunity of being heard to both the parties.

8. The parties are directed to appear before the learned Authority on 02.05.2022.

9. Copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority.

10. This original order be attached with Appeal No.68 of 2021 and certified copies be attached with the remaining four appeals.

11. File be consigned to the record.

Announced:  
April 07, 2022

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

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