

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No. 302 of 2021  
Date of Decision: 05.05.2022**

Ankur Maheshwari and Renu Maheshwari, Resident of 1132, Tower No. 9-A, GH-7, Crossings Republic Ghaziabad.

Appellants

Versus

M/s Revital Reality Pvt. Ltd., 1114, 11<sup>th</sup> floor, Hamkunt Chambers, 89, Nehru Place, New Delhi

Respondent

**CORAM:**

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

Chairman  
Member (Judicial)  
Member (Technical)

**Present:**

Shri Ankur Maheshwari, appellant in person.

Shri Bhriugu Dhama, Advocate, Id. counsel for the respondent. (joined through telephone)

**ORDER:**

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

1. The present appeal has been preferred against the order dated 07.04.2021 passed by the Id. Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram (hereinafter called the 'Ld. Authority') whereby, the Complaint No. 6772 of 2019 filed by the appellants was disposed of with the following directions:-

- (i) To refund the amount of Rs. 7,48,799/- minus Rs. 25,000/- to the complainants within a period of 90 days and failing which it would be liable to pay interest @ 9.30% p.a. from that upto the date of actual realization.

2. The appellants have filed the complaint before the Ld. Adjudicating Officer, wherein in para no. 14, the appellants have mentioned that after issue of notice dated 15.04.2019 by the complainant to the respondent to refund the deposited amount of Rs. 7,48,799/- along with interest, the respondent is not ready to refund the money as per their mail dated 11.05.2019 as such order may be passed to return the complaints money amounting to Rs. 7,48,799/- deposited with interest at such rate as may be prescribed in this behalf including compensation in the matter as provided under the Act. So, in the complaint the appellants have claimed the relief of refund along with other reliefs as mentioned in the complaint.

3. In the impugned order, the ld. Adjudicating Officer has granted the relief of refund of the amount deposited by the appellants minus 25,000/- within a period of 90 days and failing which the interest @ 9.30 p.a. was awarded.

4. The complaint filed by the appellants was contested by the respondent by filing the detailed reply.

5. We have heard Shri. Sushil Kumar Maheshwari, the Authorized Representative of the appellants and Shri Bhrigu Dhama, Advocate, ld. counsel for the respondent. They have also filed the written arguments. We have meticulously examined the record of the case.

6. In the complaint filed by the appellants, the appellants have claimed various reliefs including the refund of the amount along with interest. Ld. Adjudicating Officer has granted the relief of refund along with interest but other relief sought by the appellants was not granted. Hence, the appellants have preferred this appeal.

7. As already mentioned the basic relief sought in the complaint filed by the appellants was the refund of the amount and in the impugned order also the ld. Adjudicating Officer has granted the relief of refund.

8. The Hon'ble Apex Court in case of **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP & others 2021 SCC Online SC 1044**

has laid down as under:-

*“86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like ‘refund’, ‘interest’, ‘penalty’ and ‘compensation’, a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. if the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016.”*

9. In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court when the complaint is for refund of the amount, and interest on the refund amount, or directing the payment of interest for delayed delivery of possession or penalty and interest thereon, it is the regulatory authority which has power to examine and determine the outcome of the complaint.

10. Thus, in view of the aforesaid authoritative pronouncement of the Hon'ble Apex Court, the Adjudicating Officer had no jurisdiction to entertain and decide the complaint filed by the appellants. Thus, the impugned order passed by the Adjudicating Officer is without jurisdiction and is unsustainable in the eye of law.

12. Consequently, the present appeal is hereby allowed and the impugned order dated 07.04.2021 is hereby set aside. The case is remitted to the Id. Authority for fresh decision of the complaint in accordance with law.

13. The parties shall be at liberty to raise all the issues before the Id. Authority during the fresh trial of the complaint.

14. The parties are directed to appear before the Id. Authority on 31.05.2022.

15. Copy of this order be sent to Id. Authority, the parties and the Id. counsel for the parties.

File be consigned to the records.

Announced:  
May 05, 2022

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

*rajni*

Ankur Maheshwari & Another  
Vs.  
Revital Reality Pvt. Ltd.

Appeal No. 302 of 2020

Present: Shri Ankur Kumar Maheshwari, appellant in person.

Shri Brigu Dhami, Advocate, ld. counsel for the respondent.(joined through telephone)

Shri Sushil Kumar Maheshwari, ld. Authorised Representative has filed the written response on written submissions of the respondent. The same are taken on record.

Arguments were heard.

Vide our detailed order, the present appeal is hereby allowed and the impugned order dated 07.04.2021 is hereby set aside. The case is remitted to the ld. Authority for fresh decision of the complaint in accordance with law.

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)

05.05.2022  
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