

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No.243 of 2020  
Date of Decision: 12.05.2022**

Emaar MGF Land Limited, Registered Office: 306-308 Square one, C-2 District Centre, Saket, New Delhi-110017.

Appellant

Versus

1. Mrs. Urvashi Talwar, House No.1069, Sector 15-B, Chandigarh, India.
2. Mrs. Sonal Kumar, House No.1069, Sector 15-B, Chandigarh, India.

Respondents

**CORAM:**

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

Chairman  
Member (Judicial)  
Member (Technical)

**Argued by:** Shri Shekhar Verma, Advocate, learned counsel for the appellant.

Shri Amit Jhanji, learned Senior Advocate with Shri Shashank S. Sharma, Advocate, learned counsel for the respondents.

**ORDER:**

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

The present appeal has been preferred against the order dated 17.09.2019 passed by the Haryana Real Estate

Regulatory Authority, Gurugram (hereinafter called the 'Authority') in complaint No.1483 of 2019 filed by the respondents-allottees. The said complaint was disposed of by the learned Authority with the following directions:-

*“15. The Authority exercising its power under section 37 of the Real Estate (Regulation and Development) Act 2016 and as prescribed in proviso to Section 18(1)(b) of the Act read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules,2017 hereby directs the respondent to pay delayed possession charges at the prevalent prescribed rate of interest of 10.35% per annum with effect from the committed date of delivery of possession of the said villa/unit bearing MAR-MD-01B in “Marbella”, Sector 65-66, Gurugram, Haryana i.e. 27.01.2015 till the date of offer of possession letter dated 14.12.2018 after adjusting the delay penalty of Rs.10/- sq. ft. per month (Rs.30,35,283/-) for the period 27.01.2015 to 14.12.2018 given to the complainants in the offer of possession letter within a period of 90 days from this order.”*

2. In the complaint filed by the respondents-allottees, it was alleged that the appellant-promoter had failed to deliver the possession of the unit within the stipulated period as per the terms and conditions of the Buyer's Agreement dated

18.03.2011. It was also pleaded that the terms and conditions of the agreement were one sided. The respondents-allottees had sought the direction to the appellant-promoter to hand over the physical possession of the unit in habitable condition and to pay interest for delay in delivery of possession from 27.01.2015 along with pendent elite and future interest till the delivery of physical possession.

3. The proceedings against the appellant-promoter are mentioned to ex parte even though its counsel was very much present.

4. After hearing the arguments and appreciating the material on record, the complaint filed by the respondents-allottees was disposed of with the aforesaid directions.

5. Aggrieved with the aforesaid order dated 17.09.2019, the present appeal has been preferred by the appellant-promoter.

6. There is delay of 278 days in filing and 30 days in re-filing of the appeal. The appellant has moved the applications for condonation of the delay in filing and re-filing of the appeal.

7. In the application for condonation of delay in filing of the appeal, it has been pleaded that the impugned order was passed on 17.09.2019 and it was uploaded on 11.10.2019. After collecting the complete record for filing the appeal, internal discussions was held on 29.10.2019. Thereafter, time was consumed to arrange the funds with respect to the amount of pre-deposit as required under the provisions of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'). On 17.03.2020 the draft of pre-deposit was prepared but there was lockdown due to COVID-19 and the same was handed over to the counsel for the appellant on 01.06.2020. The Registry was closed due to COVID-19 from the month of March to mid August, 2020. Thus, it is pleaded that few days elapsed due to the unfortunate situation which should not be counted while determining the actual delay in filing of the present appeal. It is further pleaded that the Hon'ble Apex Court in Suo Moto Writ Petition (Civil) No.3/2020 has extended the period for limitation till further orders. It is further pleaded that the interest for the delayed period has been deposited after the date of filing the appeal, so, no prejudice is being caused to the respondents-allottees, rather,

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if the appeal is not heard on merits, it will cause great prejudice to the appellant.

8. With these pleas, it is pleaded that the delay in filing the present appeal may be condoned.

9. In the application for condonation of delay in re-filing of the appeal, it has been pleaded that the present appeal was checked by the Registry along with other 50 appeals and checking was spread over the month of October, 2020. Around October 08<sup>th</sup>, 2020, the clerk of the counsel for the appellant was informed with respect to the objections but the exact deficient amount was calculated by the Registry much later. The deficient amount in the appeal was noted down by the clerk of the counsel for the appellant on 12.11.2020. Thereafter, on 24.11.2020, draft of the deficient amount was prepared which was handed over to the counsel for the appellant on 26.11.2020. On 28.11.2020, the necessary corrections were made in the appeal and the deficient amount was deposited. The appellant company also underwent the process of the change of name. The fresh incorporation certificate was issued by the office of Registrar of Companies. Hence the application.

10. The application for condonation of delay in filing of the appeal has been contested by the respondents-allottees on the grounds *inter alia* that the counsel for the appellant was very much present before the learned Authority. So, it cannot be stated that outcome of the complaint came to its notice much later. The appellant consumed more than 1½ month to finalize the draft of the appeal which clearly shows that the appellant was not keen to file the appeal. It is settled law that the delay of each day has to be explained and justified with sufficient and cogent reasons. The appellant has made the vague averments in the application for condonation of delay. If the appellant was truly aggrieved against the order passed by the learned Authority, then the appellant could have filed the appeal within time. The appellant kept on sleeping over the issue which shows itself the non-seriousness. The limitation for filing the appeal had expired on 17.11.2019. The lockdown due to pandemic COVID-19 was imposed on 24.03.2020. It is further pleaded that mere deposit of the amount does not give any right to the appellant to file the appeal beyond the period of limitation. It is further pleaded that the averments made by the appellant in the application are malafide and against the settled law.

11. With these please, it was pleaded that the application may be dismissed with costs.

12. In the reply filed to the application for condonation of delay in filing of the appeal, it is pleaded that the appellant consumed 45 days to remove the objections which shows the non-seriousness of the appellant over the issue. The appellant was very much aware about the amount of pre-deposit, so intentionally the deficient amount was deposited. It is further pleaded that the legal maxim *vigilantibus non dormientibus jura subveniunt* which means that law assists those who are vigilant and not those who sleep over their rights, fully suits to the facts of the present case.

13. With these pleas, the appellant pleaded for dismissal of the application for condonation of delay in filing of the appeal.

14. We have heard Shri Shekhar Verma, Advocate, learned counsel for the appellant, Shri Amit Jhanji, learned Senior Advocate with Shri Shashank S. Sharma, Advocate, learned counsel for the respondents and also gone through the case file. Both the parties have also filed written arguments.

15. At the very outset, it is pertinent to mention that though initially only the notice on the application for

condonation of delay was issued, but learned counsel for both the parties have filed the written arguments and have also addressed the oral arguments touching the entire merits of the appeal. So, notice of the appeal shall be deemed to have been issued and accepted by the respondents.

16. Learned counsel for the appellant has primarily contended that the impugned order is null and void as the Administrative Officer-cum-Registrar, Haryana Real Estate Regulatory Authority, Gurugram, had no authority to entertain the complaint and to pass the impugned order even as per the resolution of the Authority dated 16.07.2019 with respect to delegation of powers vide Agenda Item No.29.9. He contended that once the order is null and void, the question of limitation pales into insignificance. He further contended that however in view of the facts pleaded in the application, there is sufficient cause for condonation of delay in filing and re-filing of the appeal.

17. He further contended that the impugned order is liable to be set aside as the same has been passed by incompetent person and subsequent ratification which too is defective, will not cure the legal infirmity. Hence, he prayed that the appeal should be allowed.



18. On the other hand, Shri Amit Jhanji, learned Senior Advocate, counsel for the respondents has pleaded that there is delay of 278 days in filing of the present appeal. The Hon'ble Apex Court has time and again held that delay should not be condoned in a mechanical manner and each day's delay should be explained by the appellant. He contended that however the appellant had failed to aver any justifiable cause for the aforesaid delay in filing the appeal. Thus, he contended that there is no 'sufficient cause' to condone the delay. To support his contentions, he relied upon cases **BASAWARAJ Vs. LAND ACQUISITION OFFICER (2013) 14 SUPREME COURT CASES 81** and **N. BALAKRISHNAN vs. M. KRISHNAMURTHY, (1998) 7 SUPREME COURT CASES 123.**

19. He further contended that Shri N.K. Goel (Retd. Additional District Judge) Administrative Officer (Petitions) cum Registrar of the Authority was delegated powers to hold or declare the appellant as ex parte vide resolution dated 16.07.2019. It is further pleaded that the notice in the complaint filed by the respondents-allottees was issued on 23.04.2019 to the appellant-promoter. In the notice itself it was mentioned that reply was to be filed within 21 days and if the reply was not received within the prescribed period, no further opportunity shall be given for the defence of the

appellant-promoter and proceedings will be taken as per law. He contended that in the absence of any order by the Authority to extend the said period of 21 days for filing the reply, the defence of the appellant shall be deemed to have been struck off due to non-filing of the reply within the stipulated period and the appellant-promoter (respondent in the complaint) was deemed to be proceeded against ex parte.

20. He further contended that the appellant had kept on delaying the proceedings of the complaint on the pretext of seeking time to file the Power of Attorney. Even on 13.08.2019, the time was sought to file the Vakalatnama and reply and the appellant-promoter was rightly proceeded against ex parte.

21. He further contended that as per Section 81 of the Act, the learned Authority was fully competent to delegate its functions to Shri N.K. Goel, the then Administrative Officer-cum-Registrar of the Authority, vide resolution dated 16.07.2019. To support his contentions, he relied upon case **Newtech Promoters and Developers Private Limited Vs. State of UP and Others, 2021 SCC OnLine SC 1044.**

22. He contended that the conjoint reading of Section 81 of the Act along with the ratio of law laid down in the aforesaid judgment by the Hon'ble Apex Court, the delegation

of judicial functions by the learned Authority was permissible as per law. Thus, he contended that the application moved by the appellant for condonation of delay as well as the present appeal is without any merits and deserves to be dismissed with heavy costs.

23. We have duly considered the aforesaid contentions.

24. The basic question for determination in this case is as to whether the impugned order has been passed by a duly authorised and competent person or not. If it is found that the impugned order has been passed by the incompetent person, then the plea of limitation will pale into insignificance and will be a strong cause for condonation of delay and to adjudicate the lis on merits. Reference has been made to case **Union of India and others Versus Lachhman Dass Sain Ditta Mall and others, AIR 2002 Himachal Pradesh 50.**

25. The impugned order has been passed by Shri N.K. Goel, Administrative Officer (Petitions)-cum-Registrar, Haryana Real Estate Regulatory Authority, Gurugram. In the order itself, it has been mentioned that he was authorised by the learned Authority vide Agenda Item No.29.2 dated 16.07.2019, under Section 81 of the Act. Resolution dated 16.07.2019

Agenda Item No.29.9 with respect to delegation of powers for execution of orders of the Authority is reproduced as under:-

**“HARYANA REAL ESTATE REGULATORY AUTHORITY**

**GURUGRAM**

**AGENDA OF THE MEETING**

**MEETING OF THE AUTHORITY: TWENTY NINTH MEETING DATED:**

**16.07.2019**

ITEM NO.	29.9
SUBJECT	Delegation of power for execution of orders of the authority
DETAILS	<p>Section 81 of Real Estate (Regulation &amp; Development) Act, 2016 empowers the authority to delegate its powers to any member or officers of the authority or to any other person.</p> <p><b>Section 81 status as under:</b></p> <p>“The Authority may, by general or special order in writing, delegate in any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 85), as it may deem necessary.”</p> <p>Here it is pertinent to note that delegation of certain powers is necessary from time to time to ensure smooth workflow in the organization and the compliance of obligations. For the purpose of execution of orders without any snag, the authority may delegate certain powers to the members, officers and officials of the authority, whenever deemed necessary.</p> <p>Hence, the authority in exercise of powers vested in it under Section 81 of the Real Estate (Regulation &amp; Development) Act, 2016 may resolve and</p>

	<p>delegate its powers to any members or officers of the Authority to any other person for execution of orders of the authority as may be required from time to time.</p> <p><b>NOW THEREFORE it is</b></p> <p><b>“RESOLVED THAT</b> Shri N.K. Goel (Retd. Additional District Judge) engaged as Administrative Officer (Petitions) cum Registrar in the Authority be and is hereby authorized from time to time to take appropriate steps in respect of execution of orders of the authority and to hear and decide the ex-parte cases which shall be and are hereby concurred by the authority as may deem appropriate, and to do and perform all such acts deeds matters and things, as may be necessary or expedient in this regarding and to exercise all the rights and powers which would vest in the authority in pursuance of such execution of order.”</p> <p>The matter is placed for consideration and approval.</p>
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**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

ITEM NO.	20.9
SUBJECT	Delegation of power for execution of orders of the authority
DECISION OF THE AUTHORITY	
APPROVED	

Sd/- Subhash Chander Kush Member, HARERA, GURUGRAM	Sd/- Samir Kumar Member, HARERA, GURUGRAM
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Dr. Krishna Kumar Khandelwal,  
Chairman, HARERA, GURUGRAM”

26. As per the aforesaid resolution passed by the learned Authority delegating its powers to Shri N.K. Goel, Administrative Officer (Petitions)-cum-Registrar, under Section 81 of the Act, he was only authorised to take appropriate steps in respect of execution of the orders of the Authority and to hear and decide the ex parte cases. Thus, as per the aforesaid resolution, Shri N.K. Goel, was authorised by the learned Authority under Section 81 of the Act to carry out two functions. Firstly, to take appropriate steps in respect of execution of the orders of the Authority, and secondly, to hear and decide the ex parte cases.

27. The second delegation of powers i.e. to hear and decide the ex parte cases is relevant for the purpose of this case. In our considered opinion, to hear and decide the ex parte cases means, the cases wherein the respondents have already been proceeded against ex parte by the Authority. Shri N.K. Goel, was not authorised to deal with any contested cases and to initiate the ex parte proceedings against the respondents. He was simply authorised to hear and decide the cases wherein the respondents were already proceeded against ex parte. But, the position in the case in hand is otherwise. Some of the interim orders passed by Shri N.K. Goel, can be referred with advantage:-

**Order dated 13.08.2019:**

<b>PROCEEDINGS OF THE DAY</b>	
Day and Date	Tuesday and 13.08.2019
Complaint No.	1483/2019 Case titled as Urvashi Talwar And Sonal Kumar Vs. Emaar MGF Land Ltd.
Complainant	Urvashi Talwar And Sonal Kumar
Represented through	Ms. Priyanka Agarwal representative along with Shri Kuldeep Kumar Kholi Advocate for the complainant
Respondent	Emaar MGF Land Limited
Respondent Represented through	Shri Ishaan Dang Advocate for the respondent.
Last date of hearing	<b>First hearing</b>
Proceeding Recorded by	Pawan Sharma
<p><b>Proceedings</b></p> <p>Memo of Appearance is filed by the respondent today.</p> <p>Respondent stands served with the notice of complaint on 27.04.2019 through speed post and at their given e-mail address coordination@emaarmgf.com and Coordination@emaar-india.com on 24.04.2019 respectively. The respondent was directed to file the reply to the complaint within 21 days. However, the respondent has failed to do so.</p> <p>Still request for adjournment on behalf of the</p>	

respondent so that vakalatnama/reply can be filed. There is no ground for further adjournment. Respondent is proceeded ex parte.

As requested on behalf of the respondent and not opposed on behalf of the complaint matter is now adjourned 19.08.2019 at 11:30 AM.

N.K.GOEL  
Administrative Officer  
(Petitions)-cum-Registrar  
13.08.2019

**Order dated 19.08.2019:**

<b>PROCEEDINGS OF THE DAY</b>	
Day and Date	Tuesday and 19.08.2019
Complaint No.	1483/2019 Case titled as Urvashi Talwar And Sonal Kumar Vs. Emaar MGF Land Ltd.
Complainant	Urvashi Talwar And Sonal Kumar
Represented through	Ms. Priyanka Agarwal advocate for the complainant
Respondent	Emaar MGF Land Limited
Respondent Represented through	Shri Ishaan Dang Advocate for the respondent.
Last date of hearing	13.08.2019
Proceeding Recorded by	Ms. Shalini



**Proceedings**

The respondent is ex-parte however Shri Ishaan Daang on behalf of respondent is present.

Vakalatnama and reply are filed. Copy given.

Reply has taken on record subject to all just exception.

Arguments are heard.

To come upon 23.08.2019 for orders.

N.K.GOEL  
Administrative Officer  
(Petitions)-cum-Registrar  
19.08.2019

**Order dated 26.08.2019:**

<b>PROCEEDINGS OF THE DAY</b>	
Day and Date	Tuesday and 26.08.2019
Complaint No.	1483/2019 Case titled as Urvashi Talwar And Sonal Kumar Vs. Emaar MGF Land Ltd.
Complainant	Urvashi Talwar And Sonal Kumar
Represented through	Ms. Priyanka Agarwal representative.
Respondent	Emaar MGF Land Limited
Respondent Represented through	Shri J.K. Dang, Advocate for the respondent.
Last date of hearing	19.08.2019
Proceeding Recorded by	Pawan Sharma

**Proceedings**

File has been taken up today as 23.08.2019 was declared an holiday on account of Janmashtmi and a notice to this effect has been issued on the website of the Authority.

Joint request for adjournment, since parties are negotiating for amicable settlement.

To come upon 13.09.2019.

N.K.GOEL  
(Former Additional District and Sessions Judge)  
Administrative Officer  
(Petitions)-cum-Registrar (Authorized by the resolution  
no.HARERA,GGM/Meeting/2019/Agenda  
29.2/Proceedings/16<sup>th</sup> July 2019)  
26.08.2019

**Order dated 13.09.2019:**

<b>PROCEEDINGS OF THE DAY</b>	
Day and Date	Friday and 13.09.2019
Complaint No.	1483/2019 Case titled as Urvashi Talwar And Sonal Kumar Vs. Emaar MGF Land Ltd.
Complainant	Urvashi Talwar And Sonal Kumar
Represented through	Ms. Priyanka Agarwal representative for the complainant.
Respondent	Emaar MGF Land Limited
Respondent Represented through	Shri Ishaan Dang, Advocate for the

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	respondent.
Last date of hearing	26.08.2019
Proceeding Recorded by	Pawan Sharma
<p><b>Proceedings</b></p> <p>Arguments are heard.</p> <p>To come upon 17.09.2019 for further orders.</p> <p style="text-align: center;">N.K.GOEL (Former Additional District and Sessions Judge) Administrative Officer (Petitions)-cum-Registrar (Authorized by the resolution no.HARERA,GGM/Meeting/2019/Agenda 29.2/Proceedings/16<sup>th</sup> July 2019) under section 81 Real Estate (Regulation and Development Act, 2016. 13.09.2019</p>	

28. The copy of the order dated 13.08.2019 shows that it was the **first hearing** of the complaint. On that day, the 'Memo of Appearance' was filed by Shri Ishaan Dang, Advocate, counsel for the respondent-promoter (appellant herein). It is further mentioned in this order that the request of the counsel for the respondent-promoter for adjournment to file the *Vakalatnama* and reply was not accepted and the respondent was proceeded against ex parte. This order shows that on the first hearing of the complaint, the complaint was put up before Shri N.K. Goel. On that day, Shri Ishaan Dang, Advocate had put in appearance on behalf of the respondent-

promoter. By that date, no ex parte proceedings had started against the respondent-promoter. Shri Ishaan Dang, Advocate had sought short date for filing *Vakalatnama*/reply but that request was declined and the respondent-promoter (appellant herein), was proceeded against ex parte. So, the ex parte proceedings against the appellant-promoter were initiated by Shri N.K. Goel himself.

29. Moreover, it is quite surprising that when the counsel for the respondent-promoter was very much present, how the respondent-promoter could have been proceeded against ex parte. At the most, the defence of the respondent-promoter (appellant herein) could have been struck off and in that situation, no ex parte proceedings could have been initiated/taken. But, it appears that just to assume the competency to deal with the complaint, the order dated 13.08.2019 was passed by Shri N.K. Goel to initiate the ex parte proceedings, that too under misconception as he was never authorised to order the ex parte proceedings.

30. Then, there is the order dated 19.08.2019. Even on that day Shri Ishaan Daang, Advocate was present on behalf of the appellant-promoter and even he filed *Vakalatnama* and reply to the complaint which were taken on record, however, subject to all just exceptions. Arguments were heard and case

was posted for orders on 23.08.2019. It means, arguments of both the parties were heard.

31. On 26.08.2019, the matter was adjourned for amicable settlement and then on 13.09.2019, again arguments were heard and the case was listed for orders on 17.09.2019. On all the dates, referred above counsel for the appellant-promoter was very much present and associated with the proceedings. Even in the reply filed by the respondents-allottees to the application for condonation of delay, it has been pleaded that the order dated 17.09.2019 i.e. the impugned order was passed in the presence of learned counsel appearing on behalf of the respondent whose presence is also marked. Mr. Ishaan Dang, Advocate had appeared on behalf of the respondent. Thus, we fail to understand that how the impugned order can be stated to be ex parte order when the counsel for the appellant-promoter (respondent in the complaint) was very much present before Shri N.K. Goel on all the dates throughout the proceedings. He had associated the proceedings and even addressed the arguments.

32. As already mentioned, Shri N.K. Goel was only authorised to hear and decide the cases wherein the ex parte proceedings were already initiated.

33. In view of the fact that Shri N.K. Goel has travelled beyond the delegation of powers to him by the learned Authority, so the ratio of law laid down by the Hon'ble Apex Court in **Newtech Promoters and Developers Private Limited Vs. State of UP and Others** (Supra) will not come to the aid of the respondents-allottees. Shri N.K. Goel has tried to give the shape of ex parte order to a contested order just to usurp the powers to hear and decide the complaint filed by the respondents-allottees. Consequently, in our considered opinion the impugned order passed by Shri N.K. Goel is completely beyond the delegation of powers to him vide resolution dated 16.07.2019.

34. The copy of the impugned order shows that the said order has been later on ratified. This ratification is signed only by Shri Samir Kumar, Member of the Authority and not by the other member and the Chairman. So, even the ratification is defective and will not validate the impugned order. Moreover, it is nowhere mentioned in the impugned order that such order shall be subject to ratification by the Authority. Moreover, it has not been shown to us how such ratification of judicial orders by an incompetent person is legally permissible.

35. Thus, taking from any angle, the impugned order is itself the null and void being beyond the scope of delegation of powers to Shri N.K. Goel, Administrative Officer (Petitions)-cum-Registrar of the Authority, which is a strong cause for condonation of delay.

36. Moreover, the court is required to take liberal view in the matter of condonation of delay. In case **Balkrishna Waman Zambare vs. Siddheshwar Shikshan Sanstha, Dongarsoni & Ors 2019(9) SCC 446**, there was delay of two years, ten months and fourteen days. The Hon'ble Apex Court condoned the delay by observing that the appellant will be subjected to great hardship if the delay is not condoned to enable the appellant to challenge the order of termination as his appointment as lab attendant and also his promotion as junior clerk were duly approved by the District Education Officer. In the instant case also, the appellant-promoter will suffer great hardship if the appellant is denied the opportunity of assailing the order passed by an incompetent person on merits just on technical grounds of limitation. The Hon'ble Apex Court in case **Ummer versus Pottengal Subida & Ors, 2018(2) R.C.R. (Civil) 232** has laid down as under:-

*“18. One cannot now dispute the legal proposition that the earlier view of this Court that the appellant was required to explain the delay of*

*each day till the date of filing the appeal has since been diluted by the later decisions of this Court and is, therefore, held as no longer good law.”*

In **Ummer**,s case (Supra) the delay of 554 days in filing the appeal was condoned.

37. Thus, keeping in view our aforesaid discussion, the applications moved by the applicant-appellant for condonation of delay in filing and re-filing of the present appeal are hereby allowed and the delay of 278 days in filing and 38 days in re-filing of the appeal is hereby condoned.

38. The impugned order dated 17.09.2019 passed by Shri N.K. Goel, the then learned Administrative Officer (Petitions)-cum-Registrar, Haryana Real Estate Regulatory Authority, Gurugram, was completely beyond the delegation of powers to him. So, the impugned order is beyond jurisdiction, null and void and is liable to be set aside.

39. Consequently, the present appeal is hereby allowed. The impugned order dated 17.09.2019 is hereby set aside.

40. The complaint is remitted to the learned Haryana Real Estate Regulatory Authority, Gurugram, for fresh trial/decision in accordance with law.

41. Parties are directed to appear before the learned Authority on 10.06.2022.



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42. The amount deposited by the appellant-promoter i.e. Rs.2,49,92,284/- with this Tribunal to comply with the provisions of Section 43(5) of the Act along with interest accrued thereon be sent to the learned Authority for disbursement to the appellant-promoter subject to tax liability, if any, as per law and rules

43. The copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority for compliance.

44. File be consigned to the record.

Announced:  
May 12, 2022

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)