

RPS Infrastructure Ltd.  
Vs.  
Rajender Prasad Singal & Anr.  
Appeal No.226 of 2021

Present: Ms. Manpreet Khurana, Advocate, Ld.. counsel for the appellant.

Sh. Varun Singla-respondent No.2 in person.

The present appeal has been preferred by the appellant/promoter against the interim order dated 03.11.2020 passed in Complaint No.RERA/PKL/717/2019.

During the pendency of the appeal, the respondent has moved an application for non-compliance of provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development), Act 2016 (in short the Act).

It is evident from our order dated 17.01.2022 that the Ld. Authority was directed to quantify the amount, which is required to be deposited by the appellant/promoter to comply with the provisions of Section 43(5) of the Act. On the last date of hearing, we have received the report from the Ld. Authority, which was accompanied with the copy of order dated 17.02.2022 passed by the Ld. Authority, which shows that the appellant has been held liable to pay a sum of Rs.15,20,479/- to the respondent/allottee within 90 days from the date of uploading of the order. So, the appellant/promoter was required to deposit the aforesaid amount to comply with the provisions of Section 43(5) of the Act.

At the same time, respondent No.2, who is present in person before this Tribunal, has stated that the main complaint filed by them was disposed of by the Ld. Authority vide order dated 17.02.2022.

Ld. counsel for the appellant has very fairly stated that the complaint filed by the respondents has been finally disposed of

with the aforesaid order. Thus, during the pendency of the present appeal, the main complaint filed by the respondents/allottees has already been disposed of vide order dated 17.02.2022 and the interim orders passed by the Ld. Authority have been merged in the final order dated 17.02.2022.

It is settled principle of law that when the main case is disposed of, the appeal against the interim order becomes infructuous. The appellant has to challenge the final order.

Thus, in view of our aforesaid discussion, the present appeal is hereby dismissed being infructuous. The appellant/promoter shall be at liberty to prefer the appeal against the final order dated 17.02.2022, if it so desires. It is needless to mention that the appellant/promoter shall be entitled to assail all the interim orders passed by the Ld. Authority along with the final order in the said complaint. The appellant shall also be liable to comply with the provisions of Section 43(5) of the Act, if it chooses to file the fresh appeal against the final order.

Dismissed being infructuous, as discussed above.

Copy of this order be conveyed to parties/Ld. counsel for the parties and the Ld. Authority.

File be consigned to the record.

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

16.05.2022

GVT