## BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

## Appeal No. 679 of 2024 Date of Decision: 28.11.2024

Piyush Buildwell India Limited Having registered office at Piyush Mahindra Mall, Lower Ground Floor, NIT, Faridabad, Haryana through its Authorised representative Amit Goel.

Appellant

Versus

Smt. Suman Devi resident of C-49, Sector 23, Noida, Uttar Pradesh

Respondent

CONAM.		
Justice Rajan Gupta		Chairman
Present:	Mr. Sanchit C	Garga, Advocate,

for the appellant.

## ORDER:

## Rajan Gupta, Chairman (Oral):

CODAM

Present appeal is directed against the order dated 03.10.2023 passed by the Authority at Panchkula<sup>1</sup> whereby the promoter (appellant herein) has been held liable to pay the amount of Rs.12,67,758/- to the allottee (respondent herein) along with interest @10.75% per annum for every month of delay from the due date of possession i.e. 09.01.2012 till the valid date of offer of possession i.e. 16.09.2017.

2. On filing of the appeal, an objection has been raised by the Registry that requisite pre-deposit as envisaged by proviso to Section 43 of the RERA Act<sup>2</sup> has not been made.

3. Learned counsel for the appellant has moved an application for wavier from making pre-deposit. As per him, the Income Tax Department has stopped the operation of the bank account of the appellant-company. Besides, Insolvency

<sup>&</sup>lt;sup>1</sup> Haryana Real Estate Regulatory Authority, Panchkula

<sup>&</sup>lt;sup>2</sup> Real Estate (Regulation and Development) Act, 2016

Proceedings are pending against it and the Directors of the appellant-company are also involved in criminal cases. It is not possible for the appellant-company to make the requisite pre-deposit. Thus, condition of pre-deposit be waived.

4. As per proviso to Section 43(5) of the RERA Act<sup>3</sup> where the promoter files an appeal with the Appellate Tribunal, it would not be entertained without the promoter having deposited the total amount to be paid to the allottee including interest and compensation imposed upon it. The mandate of the provision has been upheld in the judgment reported as M/s Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P, 2022(1) RCR (Civil) 367) (see para 122).

5. In view of above, the present appeal cannot be entertained, therefore, CM No.1380 of 2024 for waiver from making pre-deposit is dismissed. Consequently, the appeal does not survive and would meet the same fate.

6. No order needs to be passed in CM No.1377 of 2024 seeking condonation of delay as the appeal has been dismissed for lack of pre-deposit in light of aforesaid proviso.

7. File be consigned to the records.

Justice Rajan Gupta Chairman Haryana Real Estate Appellate Tribunal

28.11.2024 Manoj Rana

<sup>&</sup>lt;sup>3</sup> Real Estate (Regulation and Development) Act, 2016