

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
SAS NAGAR (MOHALI)

Subject: -

Application NO. 218 of 2020
In Appeal No. 220 of 2020 (O&M)

Punjab Urban Planning and Development Authority (PUDA), PUDA
Bhawan, Sector-62, SAS Nagar (Mohali)-160062.

....Appellant

Versus

1. Sanjiv Kumar, House No. 255 (GF), Sector-44/A, Chandigarh-160044.
2. Real Estate Regulatory Authority, First Floor, Plot No.3, Block-B, Madhya Marg, Sector-18/A, Chandigarh. 160018.

....Respondents

WITH

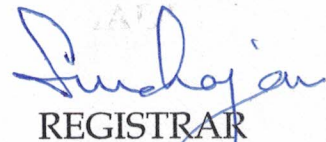
APPEAL NO. 221 OF 2020(O&M), APPEAL NO. 222 OF 2020(O&M), APPEAL NO. 223 OF 2020(O&M), APPEAL NO. 224 OF 2020(O&M), APPEAL NO. 225 OF 2020(O&M), APPEAL NO. 226 OF 2020(O&M), APPEAL NO. 227 OF 2020(O&M) & APPEAL NO. 228 OF 2020(O&M).

To,

REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1ST
FLOOR, BLOCK B, PLOT NO.3, MADHYA MARG,
SECTOR-18, CHANDIGARH-160018.

Whereas appeals titled and numbered as above were filed before the Real Estate Appellate Tribunal, Punjab. As required by Section 44 (4) of the Real Estate (Regulation and Development) Act, 2016, a certified copy of the order passed in ^{the} aforesaid appeals is being forwarded to you and the same may be uploaded on website.

Given under my hand and the seal of the Hon'ble Tribunal this
17th day of July, 2020.


REGISTRAR

REAL ESTATE APPELLATE
TRIBUNAL, PUNJAB

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
SAS NAGAR (MOHALI)
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Present: Mr. Balwinder Singh and Mr. Bhupender Singh,
Advocates for the applicant/appellant.

QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN
ER. ASHOK KUMAR GARG, C.E. (RETD.), MEMBER
(ADMINISTRATIVE/TECHNICAL)
SH. S.K GARG DISTRICT AND SESSIONS JUDGE (RETD.)

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JUDGMENT: (Mahesh Grover (J) (Retd)

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APPEAL NO. 220 OF 2019 (O & M)

1. These are appeals with applications to condone the delay of 64 days in filing the appeal.
2. Facts are being taken from Application No. 218 of 2020 in Appeal No. 220 of 2019.
3. A perusal of the application reveals a delay on account of procedures adopted by the office of the applicant/appellant. The impugned order was passed on 22.10.2019 and the copy was received in the applicant's office on 19.11.2019, where after, till the filing of the appeal, the file meandered through various channels resulting in the delay. The Hon'ble High Court in several matters has deprecated this practice of filing appeals beyond the period of limitation and ascribing them to procedures and various channels of decision making in the office.
4. Even the Hon'ble Supreme Court has held likewise in "Office of the Chief Post Master General & ors. Vs. Living Media India Ltd. And anr. 2012(2) SCT 269" and observed as under: -

" In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual



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explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay".



5. To the similar effect are the decisions of the Hon'ble High Court in LPA NO. 2235 of 2016 (O & M), LPA No. 314 of 2017 (O & M) & LPA No. 1754 of 2017 (O & M).

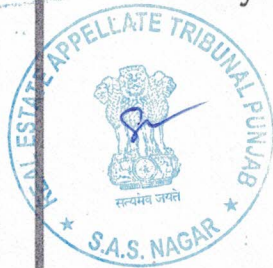
6. It has been clearly laid down that the State or its functionaries cannot be accorded any better treatment than the one meted to an ordinary litigant while dealing with issues of delay. There would thus hardly be any justification to condone the delay in

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the instant matters, which have been attributed to the procedures in the office.

7. Even though this Tribunal is empowered to hear the appeals beyond the period of 60 days to be computed after the appropriate government or the competent authority has received the order, yet if there are insufficient reasons or an unsatisfactory explanation for the delay caused, it is well within the purview of the Court's power to negate such an explanation and decline interference.

8. The provision of Section 44 Sub Clause 2 and the proviso there to are therefore abundantly clear in this regard and it would be apposite to reproduce the said provision herein below for ready reference: -



(2) Every appeal made under sub-section (1) shall be preferred within a period of sixty days from the date on which a copy of the direction or order or decision made by the Authority or the adjudicating officer is received by the appropriate Government or the competent authority or the aggrieved person and it shall be in such form and accompanied by such fee, as may be prescribed:

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Provided that the Appellate Tribunal may entertain any appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not filling it within that period.

9. It is also to be understood that delay in such like matters under the Act, are not to be taken lightly for it adversely impacts the rights of the allottees or homebuyers whose very struggle is to obtain a residential/dwelling unit within a reasonable time. In fact the entire scheme of the Act, only reflects the intention of the Legislature to curb delays on the part of the developer/builder in completion of projects and handing over possession to the prospective allottees/homebuyers.

10. It is in this backdrop that the issue of delays in filing appeal etc. under the Real Estate (Regulation and Development) Act, 2016 have to be seen and thus a more stringent approach by the Courts would be in order.

11. Mere issues of procedures cannot be accepted in routine particularly when the offices of the applicant/appellant or such like bodies are adequately possessed of sufficient means and men with legal acumen.



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12. We thus do not find any reason to entertain the appeals beyond the period of limitations, hence dismissed.

13. Since these appeals have been dismissed on the ground of limitation without issuing notice to the respondents, the amount deposited by the appellant in these appeals in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 has to be disbursed to the allottees after their due identification/verification. The allottees may be informed to collect demand drafts deposited in their favour after their identification by way of document i.e. (Aadhar Card/Pan Card/Passport/Driving License etc.)



sd/-
JUSTICE MAHESH GROVER (RETD.)

CHAIRMAN

sd/-
S.K. GARG, D & S JUDGE (RETD.)
MEMBER (JUDICIAL)

sd/-
ER. ASHOK KUMAR GARG, C.E. (RETD.)
MEMBER (ADMINISTRATIVE/ TECHNICAL)

10.07. 2020

AN

Certified To Be True Copy

Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh