

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

APPEAL NO. 16 OF 2021

M/S OMAXE NEW CHANDIGARH EXTENSION PVT. LTD
VERSUS
AMIT PAL SINGH & ANR.

Memo No. R.E.A.T./2021/ 363

dated:- 09/12/2021

To,

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

Whereas appeal titled and numbered as above was 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 aforesaid appeal 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
09th day of December, 2021.



Shamendra Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 16 of 2021

MEMO OF PARTIES

M/s Omaxe New Chandigarh Extension Pvt. Ltd., Omaxe City,
111th Milestone, Near Bad Ke Balaji Bus Stand, Jaipur Ajmer
Expressway, Jaipur, Rajasthan 302026,

At present : India Trade Tower, Ist Floor, Baddi-Kurali Road,
Mullanpur, District Mohali, through its Authorized Representative
namely Sh. Deepanjit Singh

...Appellant

Versus


1. Amit Pal Singh son of Sh. Prithvi Pal Singh;
2. Prithvi Pal Singh son of Sardar Saheb Singh;

Both residents of Flat No. 303/B, Saket Plaza, Jamal Road,
Pulwan, Patna, Bihar – 800001.

...Respondents/Complainants

Place: Chandigarh.
Dated: 07.04.2021




(MUNISH GUPTA)
P-515/2005
ADVOCATE
COUNSEL FOR APPELLANT

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH
APPEAL NO. 16 OF 2021

M/S OMAXE NEW CHANDIGARH EXTENSION PVT. LTD
VERSUS
AMIT PAL SINGH & ANR.

Present: - Mr. Maninder Kumar, Advocate for Mr. Munish Gupta, Advocate for the appellant.

This is an appeal directed against the order dated 08.10.2020, passed by the Chairperson, Real Estate Regulatory Authority, Punjab.

Learned counsel for the appellant contends that the prayer in the complaint was for grant of compensation, which has been dealt with, by the Chairperson, Real Estate Regulatory Authority, and Punjab and in view of the observations of the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC.", he would have no jurisdiction to do so.

We have heard learned counsel for the appellant.

The Hon'ble Supreme Court of India has held in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC.", Para No. 83 & 86 as below.

"83. So far as the single complaint is filed seeking a combination of reliefs, it is suffice to say, that after the rules have been framed, the aggrieved person has to file complaint in a separate format. If there is a violation of the provisions of Sections 12, 14, 18 and 19, the person aggrieved has to file a complaint as per form (M) or for



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Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

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compensation under form (N) as referred to under Rules 33(1) and 34(1) of the Rules. The procedure for inquiry is different in both the set of adjudication and as observed, there is no room for any inconsistency and the power of adjudication being delineated, still if composite application is filed, can be segregated at the appropriate stage.

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



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Real Estate Appellate Tribunal Punjab
Chandigarh

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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."

In view of the above observations, the Chairperson, Real Estate Regulatory Authority would have no jurisdiction to deal with the matters of compensation.

Having regard to the above, we deem it appropriate to dispose of the appeal with a liberty to the complainant to move an appropriate application in Form M seeking refund and Form N seeking compensation before the Competent Authority/ Adjudicating Officer.

In case, such applications are moved, the same shall be decided expeditiously by the Competent Authority/ Adjudicating Officer as the case may be in accordance with law.

We are of the opinion, that in order to ensure expeditious disposal of the matter, the parties should put in appearance before the Authority/Adjudicating Officer as the



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case may be. Which in turn shall pass appropriate orders either

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for allocating the proceedings to the appropriate Authority/Adjudicating Officer or for return of the complaint with a permission to the complainant to file appropriate proceedings in Form-M or Form-N as the case may be. The Authority in this manner would have the benefit of providing a time-frame for the entire process as both the parties would be before it and the necessity of affecting service etc. may not arise. The Authority/Adjudicating Officer shall then proceed to determine the matter in accordance with law.

Parties are directed to appear before the Real Estate Regulatory Authority on 13.12.2021.

The amount deposited under Section 43(5) of the Act by the appellant be refunded back to the appellant.

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)

November 30, 2021
AN



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[Signature]
Registrar
Real Estate Appellate Tribunal Punjab
Chd. 01-12-2021.