

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

Subject: -

**APPEAL NO.258 OF 2020**

1. **AKHILESH KHANNA**
2. **ABHISHEK KHANNA SS/O SHRI D. KHANNA R/O HOUSE  
NO.3299, SECTOR 19-D, CHANDIGARH, UT, 160019.**

....Appellants

**VERSUS**

**CHIEF ADMINISTRATOR, GREATER MOHALI AREA  
DEVELOPMENT AUTHORITY, PUDA BHAWAN, SECTOR 62,  
SAS NAGAR (MOHALI), PUNJAB-160062**

....Respondent

Memo No. R.E.A.T./2022/51

To,

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

Whereas appeals 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 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 01<sup>st</sup> day of February, 2022.



*Shamunda Kumar*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

**IN THE REAL ESTATE APPELLATE TRIBUNAL  
PUNJAB, SAS NAGAR MOHALI.**

Appeal No. 258 of 2020

**Memo of Parties**

1. Akhilesh Khanna

2. Abhishek Khanna ss/o Shri D. Khanna R/o House  
no. 3299, Sector 19-D, Chandigarh, U.T. 160019.

..... Appellant

Versus

Chief Administrator, Greater Mohali Area Development  
Authority, PUJA Bhawan, Sector 62, SAS Nagar  
(Mohali), Punjab - 160062

..... Respondent



Place: SAS Nagar

Date: 10.11.2020

  
(D. Khanna)

Advocate

Counsel for the Appellant

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO.258 OF 2020

1. AKHILESH KHANNA
2. ABHISHEK KHANNA SS/O SHRI D. KHANNA R/O HOUSE NO.3299, SECTOR 19-D, CHANDIGARH, UT, 160019.

....Appellants

VERSUS

CHIEF ADMINISTRATOR, GREATER MOHALI AREA DEVELOPMENT AUTHORITY, PUDA BHAWAN, SECTOR 62, SAS NAGAR (MOHALI), PUNJAB-160062

....Respondent

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**Present: -** Mr. D. Khanna, Advocate for the appellants.  
Mr. Bhupinder Singh, Advocate for the respondent.

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The facts as noticed from the impugned order dated 08.10.2020 passed by the Chairperson, Real Estate Regulatory Authority, Punjab are that the appellants have purchased a commercial booth, which belonged to one Shri Vivek Goyal and his wife Ms. Ekta Goyal, who were holders of Letter of Intent No.25201 dated 06.06.2016 under the Land Pooling Policy adopted by the respondent, under which the land of the owners, whose lands, when acquired entitled them to a choice of getting a developed plot in lieu of the compensation.



The booth was initially allotted to the original land owner Shri Gurnam Singh from whom Shri Vivek Goyal and



Ms. Ekta Goyal, predecessors-in-interest of the appellants had purchased. The Letter of Intent was transferred in the name of present appellants on 27.03.2017 after he paid the entire market price i.e. Rs.30.00 lakhs to the original holders of the Letter of Intent. The transfer was allowed by the respondent as valid.

The complaint was made to the Authority that despite a lapse of four years after the issuance of Letter of Intent, the possession of the booth had not been handed over and as such the payment of interest was sought with effect from 27.03.2017, till the actual handing over of possession.

The Authority after hearing both the parties, denied the prayer of the appellants for interest for the period of delay by observing that under the Act, interest is paid on the amount paid in respect of the apartment/plot etc. But in the instant case no such amount has been paid and the developed booth was to be allotted in lieu of the land acquired from the original owner.

According to the Authority the essential ingredients for payment of interest were not fulfilled. The Authority, however,



conceded that the Letter of Intent for allotment of the booth had been issued by the respondent and it then went on to note that in a related case with regard to a residential plot in the same project, allotment letter had been issued on 15.06.2020, implying that development works were mostly complete. A direction was issued to the respondent to complete the delivery of possession of the booth in favour of the appellants within a period of 4 months from the date of issuance of the impugned order.

Learned counsel for the appellants contends that the reasoning of the Authority is unsustainable in law, since the Letter of Intent had been purchased upon payment of market price with the permission of the respondent, who would then be bound to deliver possession of the booths in accordance with the Letter of Intent. Failure to do so, would certainly invite the consequences of the Act and entitle the appellants to interest etc. Besides the booth has still not been handed over to the appellants.





As against this the learned counsel for the respondent contended that it was a Land Pooling Policy, where the original owner agreed to forsake his claim to compensation in lieu of developed plot or unit and thus the terms of engagement between the complainant and the respondent were distinct from those envisaged in the Act.

After hearing the learned counsel for the parties, we are of the opinion that the impugned order deserves to be set aside.

Clearly the appellants had paid the market price for the booth in question. The original owner who had forsaken his claim to compensation in lieu of a developed plot had sold his rights to one Shri Vivek Goyal and his wife Ms. Ekta Goyal, who were then issued the Letter of Intent by the respondent and the appellants are the predecessor-in-interest having validly acquired the rights when the transfer was affected in his favour with the approval of the respondent themselves. He thus steps into the shoes of the land owner, whose land is with



the respondent under an arrangement, where amount as compensation would not be paid to the owner, but he would be entitled to a constructed booth after development of the area. The element of consideration in this way passed on to the respondent.

The argument of the respondent as noticed in the foregoing paragraphs has to be repelled. Once the respondent acquires land to develop it and give constructed property on terms defined in Letter of Intent, it will come within the definition of a promoter as envisaged in Section 2(zk) of the Act regardless of the terms of acquisition. Hence if a period was prescribed by the respondents for delivery of possession then they would have no excuse to deny the allottee possession within that period. One cannot lose sight of the fact that the appellants had paid Rs.30 lakhs as a market price for the transfer in his favour. He thus steps into the shoes of a land owner while the status of the respondent as a promoter remains unaltered. If the respondent themselves had set out a period for





delivery of possession after completion of development works then such a benefit cannot be denied to the appellants and if delivery is hit by delay the consequences of the Act would be attracted.

Either the Authority holds that the Act is not applicable at all, in which eventuality both the parties would be liberated of the consequences of the Act. But once the provisions of the Act are attracted to entertain a complaint and particularly in view of the definition of a promoter as noticed above, then the delay if established would also entitle an incumbent to the benefits of the Act.

The appeal is therefore allowed and the appellants are held entitled to interest at State Bank of India highest Marginal Cost of Lending Rate plus two percent in terms of proviso to section 18(1) of the Act from 27.03.2017 till the actual handing over of possession.

*Sdr*  
JUSTICE MAHESH GROVER (RETD.)

CHAIRMAN

*Sdr*  
S.K. GARG, D & S. JUDGE (RETD.)  
MEMBER (JUDICIAL)

*Sdr*  
ER. ASHOK KUMAR GARG, C.E. (RETD.)  
MEMBER (ADMINISTRATIVE/ TECHNICAL)

