

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

Subject: -

Appeal No. 116 of 2021

Dhiraj Gurvinder Singh, House No.1083, Phase-9, SAS
Nagar, Mohali, Punjab-160062.

....Appellant

Versus

1. M/s ATS Infrabuild Pvt Ltd., ATS Casa Espana Street,
Sector-121, NH 21, SAS Nagar, Mohali (Punjab)-160055.
2. ATS Infrabuild Private Limited, 711/92, Deepali, Nehru
Palace, New Delhi, Delhi-110019.

....Respondents

Memo No. R.E.A.T./2022/ 253

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 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 31th
day of May, 2022.

Shanesh Kumar

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



Date of filing: 10/11/2021/396

Date of Receipt by Post: 14

Registration No. 116 of 2021

Signature: [Signature]

Registrar: [Signature]

**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
AT CHANDIGARH**

Appeal.NO. 116 OF 2021

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Mohali, Punjab-160062.

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2. ATS Infrabuild Private Limited, 711/92, Deepali, Nehru Palace, New Delhi, Delhi-110019.

...Respondents

Appeal under Section 44 of Real Estate Regulation and development Act 2016 for seeking modification of order dated: 21.05.2021 passed by the Ld. Real Estate Regulatory Authority, Punjab, in Complaint No.GC1166 of 2019.



Respectfully Showeth:

1. Particulars of the Appellant:

- (i) Name of the appellant: Dhiraj Gurvinder Singh,

(3)

**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL,
PUNJAB, AT CHANDIGARH**

Appeal No. 116 of 2021

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SAS Nagar, Mohali, Punjab-160062.

....Appellant

Versus

1. M/s ATS Infrabuild Pvt Ltd., ATS Casa Espana Street, Sector-121, NH 21, SAS Nagar, Mohali (Punjab)-160055.
2. ATS Infrabuild Private Limited, 711/92, Deepali, Nehru Palace, New Delhi, Delhi-110019.

....Respondents

Present: Mr. Gaurav Gupta, Advocate for the appellant.
Mr. Harsh Bungar for the respondents.

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

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JUDGMENT: (Justice Mahesh Grover (Retd.))

1. The appellant has impugned order dated 21.05.2021 passed by the Real Estate Regulatory Authority, Punjab (hereinafter referred to as the Authority).

The complainant, aggrieved of the action of the respondents in not handing over the possession in



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time, filed a complaint before the Authority and prayed for relief in terms of Section 18(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter known as the Act) besides other reliefs that were set out in the complaint.

3. The Authority accepted the complaint and passed certain directions in Para 9 but the grievance is limited to clause 9(i) of the impugned order which is extracted here below.

“i. As provided in Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules 2017, the respondent shall pay interest w.e.f. 20.12.2017 in Dhiraj Gurvinder Singh’s case and w.e.f. 13.08.2018 in Rohit Shrinidhar’s case (by which dates the possession was to be delivered), till 24.07.2019 i.e. the date by which the complainants were required to take possession after receipt of occupation certificate, as per State Bank of India’s highest marginal cost of lending rate (as of today) plus 2% and this amount shall be paid within sixty days from this order.”

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It is contended by the learned counsel for the appellant that the interest was awarded to him with effect from 20.12.2017 till 24.07.2019 on the



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presumption that the offer of possession was made by the respondents on this date i.e. 24.07.2019, whereas the record of the Court proceedings would indicate that offer of possession was made to the appellant during the Court proceedings before the Authority on 24.02.2021. Reference has been made to Annexure A-5 i.e. the order passed by the Authority on this date and which notices the respondents' stand of handing over copy of the order of offer of possession to the counsel for the complainant.

5. It is thus contended that there can be no escape from the conclusion that the offer of possession was given only on 24.02.2021 and therefore the interest ought to have continued from December, 2017 till such date i.e. 24.02.2021.
6. There is no meaningful rebuttal to this argument, leaving us with no option but to accept the plea of the appellant particularly when it is supported by an order dated 24.02.2021, on record as Annexure A-5, which carries a presumption of truth being an extract of court proceeding.



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7. The appeal is therefore accepted and the impugned order is modified to the extent that in Clause ⁹(i) of _{Mr} Para 9 the interest awarded to the appellant shall commence from ~~20.12.2017~~ _{Mr} and extinguish on 24.02.2021.
8. With the aforesaid modification, the appeal stands disposed of with no other alteration in the impugned order.
9. The possession of the dwelling unit shall be handed over to the appellant within a period of one month from today positively.
10. Disposed of. File be consigned to record room and a copy of this be communicated to the parties as well as to the Real Estate Regulatory Authority, Punjab.

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)

May 12, 2022

AN



Certified To Be True Copy
Dhanendra
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

31/05/2022