

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

Subject: -

APPEAL NO. 127 OF 2021

Sanjeev Kumar Sharma, Residence of #403, A-1 Tower, World-1 Society, Sector-115, Kharar Road, SAS Nagar (Mohali), Punjab-140307.

...Appellant

Versus

1. M/s Reliant Infrastructure Pvt. Ltd. & Ors., having registered office at SCO 60 to 62, 3rd and 4th Floor, Sector-17C, Chandigarh-160017.
2. Harmit Singh Chawla, Office Address at SCO 60 to 62, 3rd and 4th Floor, Sector-17C, Chandigarh-160017.
3. Gurcharan Singh Bhatta Office Address at SCO 60 to 62, 3rd and 4th Floor, Sector-17C, Chandigarh-160017.
4. Ravi Kaushal Office Address at SCO 60 to 62, 3rd and 4th Floor, Sector-17C, Chandigarh-160017.

...Respondents

Memo No. R.E.A.T./2022/ 383

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 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 01st day of August, 2022.



Shamsher Singh
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL AT CHANDIGARH

APPEAL NO. 127 OF 2021

MEMO OF PARTIES

Sanjeev Kumar Sharma, Residence of #403, A-1 Tower, World-1 Society,
Sector 115, Kharar Road, SAS Nagar (Mohali), Punjab-140307.


... Appellant

Versus

1. M/s Reliant Infrastructure Pvt. Ltd. & Ors. , having registered office at SCO 60 to 62, 3rd and 4th Floor, Sector 17C, Chandigarh-160017
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4. Ravi Kaushal Office address at SCO 60 to 62, 3rd and 4th Floor, Sector 17C, Chandigarh-160017.

... Respondents

Chandigarh
Date: 17.12.2021


(HIMANSHU GUPTA & YASEEN SETHI)
P-1190/2016 P-2651/2017
ADVOCATES
COUNSELS FOR APPELLANT



BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

AT CHANDIGARH

APPEAL NO. 127 OF 2021

Sanjeev Kumar Sharma, Residence of #403, A-1 Tower, World-1 Society, Sector-115, Kharar Road, SAS Nagar (Mohali), Punjab-140307.

...Appellant

Versus

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4. Ravi Kaushal Office Address at SCO 60 to 62, 3rd and 4th Floor, Sector-17C, Chandigarh-160017.

...Respondents

Present: Mr. Himanshu Gupta, Advocate for the appellant.
Mr. Munish Gupta, Advocate for the respondent.

CORAM: **JUSTICE MAHESH GROVER (RETD.), CHAIRMAN**
SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER (JUDICIAL)
ER. ASHOK KUMAR GARG, CHIEF ENGINEER (RETD.), MEMBER (ADMN./ TECH.)
JUDGMENT: **(SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER (JUDICIAL))**



This appeal has been filed against order dated 08.09.2021 passed by the Real Estate Regulatory Authority, Punjab (hereinafter called as the Authority)

vide which complaint of Sh. Sanjeev Kumar Sharma for the following reliefs has been dismissed: -

- (i) To direct the respondents to offer immediate possession of the unit in question;
- (ii) To direct the respondents to refund the amount of Rs.1,00,000/- which has been illegally retained by them on the pretext of GST charges;
- (iii) To direct the financial audit of the respondent company by appointing financial auditor under Section 35 of the Act;
- (iv) To direct a thorough inspection of the project by appointing a local commissioner to verify the status and quality of construction;
- (v) To impose penalty on the respondent upto five percent of the estimated cost of the project in accordance with Sections 60 and 61 of the Act;
- (vi) To direct the respondents to pay a sum of Rs.10,00,000/- on account of the frustration, fraud, forgery and cheating meted out to the complainant by the respondents;
- (vii) To order revocation of the registration of the project under Section 7 of the Act for violation of relevant provisions of the Act and the Rules framed there under; and
- (viii) For grant of litigation expenses to the tune of Rs.2,10,000/-



2. It is an admitted fact that appellant-complainant booked one Showroom No.12 in the project, namely "Word One High Street" of the respondents for a sum of Rs.37,00,000/-. An agreement for the sale was executed

between the parties on 24.08.2018 and conveyance deed was executed on 14.03.2019.

3. The appellant has challenged the impugned judgment mainly on the ground that the demand of Rs.6,01,389/- after execution of the conveyance deed is illegal. According to the learned counsel for the appellant the respondents demanded an amount of Rs.6,01,389/- after the execution of the conveyance deed and under the garb of that demand they are not transferring the possession of Showroom No.12 to him. The appellant was made to pay Rs.1,00,000/- more than the sale consideration amount of Rs.37,00,000/-. A prayer has been made to direct the respondents to hand over the possession of showroom No. 12 to him immediately and also direct the respondents to refund the amount of Rs.1,00,000/- which has been illegally retained by them and further to grant him the interest of account of delayed possession.

4. We have considered the submission of the learned counsel but the same is found to be without any merit.

An agreement for sale was executed between the parties on 24.08.2018 and as per the terms and conditions of the agreement, the appellant was required to pay the amount towards EDC and taxes on account of GST etc.



over and above the sale consideration of Rs. 37,00,000/-

Clause 1.2(ii) is reproduced as :-

(ii) *The total price above is excluding EDC and Taxes (consisting of tax paid or payable by the Promoter by way of GST or any other similar taxes which may be levied, in connection with the construction of the Project payable by the promoter) up to the date of handing over the possession of the Showroom.*

5. In view of this provision it does not lie in the mouth of the appellant to say that he was not required to pay anything more than the sale consideration of Rs.37,00,000/-. Not only that, vide letter dated 14.03.2019 (Annexre-R-1/2), the date on which sale deed was executed, the appellant paid two post dated cheques of the amount of Rs.2,43,000/- and Rs.3,58,389/- to the respondents and it was agreed upon between the parties that the physical possession of Showroom No. 12 situated in World 1 High Street Project, Kharar-Landran Road, Mohali would be handed over after the clearances of these cheques. This letter is duly signed by the appellant. As per legal notice dated 30.05.2019 on behalf of the respondent these cheques bounced when presented in the bank. But thereafter the appellant paid an amount of Rs.1,00,000/- to the respondent and he also got waived off an amount of Rs.1,00,000/- from the



respondents and as per letter dated 20.06.2019 annexure R.1/5 written by the appellant himself, the parties agreed to exchange Showroom No. 12, regarding which conveyance deed was executed, with Showroom No. 14-A first floor. The appellant undertook to clear the balance amount of Rs.4,01,389/- in 10 equal installments for which he undertook to issue 9 new cheques of Rs.40,000/- each and one new cheque of Rs.41,389/- by the next day i.e. 21.06.2019. But despite the undertaking, the appellant did not pay any cheque nor cleared the aforesaid amount, as a result of which a show cause notice dated 12.03.2020 (Annexure R-1/6) was issued to the appellant asking him to clear the outstanding amount of Rs.4,01,389/-, otherwise allotment of showroom No. 14-A would be cancelled. Once the appellant has acknowledged the payment due to him towards the purchase of the showroom in question, thereafter, he was required to make payment of the same before taking possession of the showroom in question as per his undertaking in Annexure R-1/5.



A perusal of the zimni order dated 14.02.2022 passed by the Tribunal would show that the appellant was asked as to whether he is willing to pay the amount due to the respondents in terms of clause 1.2(ii) referred above, and

he answered in affirmative. But despite his positive response he did not pay the said amount. All these facts show that intention of the appellant was dishonest from the very beginning and it was not his intention to pay the amount referred above despite undertakings given by him at various levels. So, he has been rightly non-suited by the learned Authority.

7. Another contention of the learned counsel for the appellant that showroom in question is not complete as various works, the detail of which has been given in the complaint and rejoinder qua completion of showroom are still pending, is again without any merit as their own document belies the above contention. Annexure R-1/4 is the affidavit-cum-declaration, given by appellant and his wife Smt. Archana Sharma, to the effect that they are satisfied with regard to the layout of the project and the showroom and that they have checked the complete plans, quality of construction etc. Nothing has been pointed out in this affidavit regarding any deficiency of any work in the project or in the showroom in question.



8. Then, this complaint is also bad for mis-joinder and non-joinder of necessary parties. Respondents No. 2 and 3 have been impleaded in persons. There is no privity of contract between them and the complainant because

complainant has purchased the showroom in question from respondent No. 1 and not from them but they have been unnecessarily made party in this complaint. Furthermore, the conveyance deed dated 14.03.2019 has been executed in favour of appellant Shri Sanjeev Kumar Sharma and his wife Smt. Archana Sharma. But Smt. Archana Sharma has not filed this complaint, which shows that she has no grievance of any kind against the respondents. To succeed in this complaint, she was also a necessary party. So, in this view of the matter his complaint is bad for non-joinder and mis-joinder of necessary parties.

9. In view of the above discussion, we do not find any cogent reasons to interfere with the findings of the learned Authority. The appeal stands dismissed.

10. Files be consigned to record room and a copy of the order be communicated to the parties.



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)

July 21, 2022
DS

Certified To Be True Copy
Manendra Jais
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh
21/07/2022