

22.05.2024

Satwant Boparai Vs Omaxe Chandigarh Extension Developers Pvt. Ltd.

Present : Shri Jasdeep Singh, Advocate for the complainant
Shri Manish Gupta & Sh. Manjinder Singh, Advocates for the
respondent/promoter

Arguments of both the parties heard. However, perusal of interim order dated 06.11.2023 revealed that respondent had already deposited Rs.46,27,852/-before Hon'ble Real Estate Appellate Tribunal, Punjab vide Appeal No. 83 of 2022. Subsequently that Appeal was disposed off by the Learned Tribunal stating as under:

- i. *This is an application praying for release of the amount deposited by the appellant- Omaxe New Chandigarh Developers Pvt. Ltd. under Section 43(5) of the Real Estate Regulation (Regulation & Development) Act, 2016 at the time of filing of Appeal No. 83 of 2022.*
- ii. *The Appeal was disposed of without interference with the impugned order of the Authority by this Court on 15.11.2022.*
- iii. *The appellant (Developer) in appeal before us was aggrieved of the grant of relief by the Authority in terms of Section 18 of the Act on account of delayed possession.*
- iv. *Since we have affirmed this view of the Authority and the appeal now stands disposed of, the amount deposited by way of compliance of Section 43(5) of the Act at the time of preferring the appeal would necessarily have to be released to the present applicant. We order accordingly.*
- v. *Mr. Munish Gupta, Advocate has put in appearance during the course of hearing of the application to contend that in execution proceedings preferred by the present applicant, the amount claimed by her is far short of the amount deposited by the developer and in all probability it may be suggestive of the fact that due to a wrong calculation by the developer an excessive amount may have been deposited.*
- vi. *We would not like to comment upon this aspect of the matter for the present but still taking note of what has been stated before us by the learned counsel for the non-applicant and in order to safeguard the interest of both the parties direct as follows:-*

The amount along with interest accrued thereon deposited by the developer under Section 43(5) of the Act be released to the applicant forthwith in accordance with law and after proper verification.

The applicant shall furnish an undertaking to the Registrar of this Court that in case the Executing Court concludes

that the amount to be released to the applicant in execution proceedings as per her entitlement is less than what has been deposited by the developer before us under Section 43(5) then in that eventuality she would refund the balance amount to the developer

vii. With the aforesaid observations the application stands disposed of.

In view of the above directions, dated 21.12.2023, learned Counsel for the applicant submitted an application dated 09.01.2024 along with calculation sheet showing the amount of Rs.46,27,852/- @ 9.30% p.a. as interest on the amount of Rs.1,16,47,733/- deposited by the respondent (i.e. principal amount of Rs.90.60 lakhs and Rs.25,87,733/- in the form of external development charges and preferential location charges).

Since the learned Counsel for the respondent has admitted that the payment of Rs.46,27,852/- (which is the actual calculation @ 9.30% on the amount of Rs.1,16,47,733/- deposited by the complainant, no further proceedings are required in this execution application.

Today, when the matter was taken up, the learned Counsel for the respondent stated that he has no objection if the application filed by the complainant enclosing therein calculation sheet showing the interest as Rs.46,27,852/- is allowed and the amount deposited by the respondent before the Hon'ble Real Estate Appellate Tribunal, Punjab be released in favour of the complainant/deGREE holder.


Malwinder Singh Jaggi, IAS
Real Estate Regulatory Authority, Punjab