

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
SAS NAGAR (MOHALI)

Subject: -

APPEAL NO. 70 OF 2019

MUKESH KUMAR VERMA, ADVOCATE AND OTHERS

VERSUS

M/S ROYALE MANSIONS & ORS

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
20th day of February, 2020.


REGISTRAR

REAL ESTATE APPELLATE
TRIBUNAL, PUNJAB

**REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
SAS NAGAR (MOHALI)**

Appeal No. 70 of 2019

1. Mukesh Kumar Verma, Advocate, Punjab and Haryana High Court, Chd, Room No. 3, New Complex/Office-cum-Resi: #E-401, Royale Mansions Luxury Apartments, Peer Muchhalla, (Adjoining Sector 20, Panchkula), Zirakpur, District Mohali (India).
2. Raman Kumar Sharma, Advocate, Chamber No. 56, Punjab and Haryana High Court, Chd, Office-cum-Resi: #E-201, Royale Mansions, Peermuchhalla, Zirakpur.
3. Vinay Kukkar, # D-302, Royale Mansion, Peermuchhalla, Zirakpur.

....Appellants

Versus

1. M/s Royale Mansions, Peer Muchhalla, (Adjoining Sector 20, Panchkula), Zirakpur, District Mohali.
2. Ashok Singla R/o Kothi No. 11, MS Enclave, Near Saint Soldier School Dhakoli (Zirakpur)- Present Partner M/s Royale Mansions.
3. Surinder Bansal R/o H.No. 1416, Sector 40 - B, Chandigarh (present partner M/s Royale Mansions).
4. Smt. Promila Singla W/o Sh. Ashok Singla R/o Kothi No. 11, MS Enclave, Near Saint Soldier School Dhakoli (Zirakpur)- Present partner M/s Royale Mansions.
5. Mohit Aggarwal R/o H.No. 20, Pocket B-8, Sector-19, Rohini, New Delhi- (Present Partner M/s Royale Mansions.)
6. The Real Estate Regulatory Authority, Punjab through its secretary First Floor, Block-B, Plot No. 3, Sector-18A, (Near Govt. Press UT), Madhya Marg, Chandigarh-160018.

....Respondents



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Present: Mr. Mukesh Verma, Advocate for the appellants.
Mr. Mohammad Sartaj, Assistant Legal Adviser for
the Real Estate Regulatory Authority, Punjab.

QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN

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JUDGMENT: (Mahesh Grover (J) (Retd): (oral)

The appellants are the allottees in possession of a dwelling unit in project being developed by the respondent No.1 (hereinafter known as the developer).

An application was moved by the appellants invoking Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter known as the Act) on 16.04.2018, stating before the Authority (RERA) that the developer had not got his project registered in terms of Section 3 of the Act.

During the pendency of this application the developer moved an online application for registration of the project on 17.10.2018. The application dated 16.04.2018 filed by the appellants was dismissed on 02.05.2018 by observing as follows: -

X X X X X X X X

- 3) *Thus in view of the totality of the above mentioned circumstances, I am of the view that the project, to which, this complaint pertains is not registered one. Therefore, this complaint is not*



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maintainable at this stage and the same is accordingly rejected. However, in the larger interest of justice, the complainant is given liberty to file fresh complaint, if so, advised in accordance with the law.

X X X X X X X X

Section 31 of the Act, is also reproduced herein below for ready reference: -

31 (1) *Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.*



The appellant did not impugn this order and ^{never} questioned _{'it'} its correctness.

The Authority then issued notice under Section 59 to the developer on 06.06.2018 and in response thereto the developer through an application dated 17.10.2018 prayed that his project be registered upon which the proposed proceedings under Section 59 were dropped by the Authority on 22.10.2018. The appellant

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/complainant then moved an application for recalling of this order, which was dismissed on 19.03.2019 by observing as follows: -

X X X X X X

The limited purpose of the notice U/s 59 of the Act was to ensure that the provisions of Section 3 of the Act are complied with by the respondent. Once, the respondent initiated the process of getting the project registered online, no useful purpose was to be achieved by continuing with the proceedings U/s 59 of the Act. Hence, the notice was filed and the matter was disposed off by way of an order dated 22.10.2018. Copy of which was provided to the respondent also.

Now the complainants in the case before Member (SG) have submitted an application for recall of the orders of this bench of Authority and further imposing penalty of Rs. 7.5 crores equivalent to 10% of the estimated project cost. The matter has been examined in the light of the facts of the case and the file submitted by the office. The application is hereby rejected being devoid of merits, as the order dated 22.10.2018 disposing off notice U/s 59 of the Act cannot be recalled, as necessary compliance had been duly made by the respondent by filing online application for registration of their project.

However, the complainant is free to file an application before the concerned Authority(ies) including the Real Estate Regulatory Authority, Punjab for non-compliance of provisions of the Act, if any, for which suitable action may



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be initiated as provided under the Act. The matter is accordingly disposed off. The complainant in this case may be informed accordingly.

It is against these orders that the appellants have now filed the present appeal.

During the course of hearing, the Court enquired of the appellants as to the real grievance to which the appellants argued that the whole project was illegal, in view of the clear violation of

Section 3 of the Act. The Court notices that there was some delay by the Authority in concluding the process of registration of the project.

Various objections were raised by the Authority, which were made good by the developer from time to time. As a consequence of which the formal registration of the project was considerably delayed.

Vide order dated 06.12.2019, this Court duly considered the status report filed by the Authority, which was silent regarding the time frame granted for removing the objections by the developer and the records were requisitioned.

Today a statement has been made by the learned counsel for respondent No.6/ Authority that the project now stand registered and bears No. "PBRERA-SAS79-PR0577."



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The appellants would, however question this as a conditional registration.

I have perused the letter of the Authority dated 31.01.2020 granting registration to the developer. It certainly does warrant certain documents mentioned in Annexure A to be submitted within a period of 2 months and also requiring the developer to pay the deficient registration fee if any, GST or any other taxes as applicable.

To my mind the concerns of the appellants have been duly addressed after the project has been registered, the appeal is therefore disposed of with a direction to the respondent No.6-Authority to ensure compliance by the developer. The entire documents as required by the Authority shall be submitted by the developer within the time frame granted with no further flexibility to the schedule provided in Annexure A. Likewise registration fee shall also be paid within the time stipulated in the letter dated 31.01.2020.

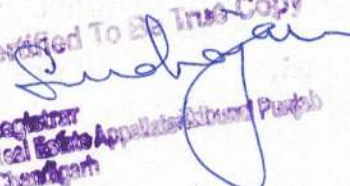
Sd/-

JUSTICE MAHESH GROVER (RETD.)

CHAIRMAN

February 10, 2020

AN

Certified To Be True Copy

 Registrar
 Real Estate Appellate Tribunal
 Chandigarh