

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

Subject: -

APPEAL NO. 118 OF 2021

Altus Space Builders Pvt. Ltd, SCF-22, 1st Floor, Phgase-10,
SAS Nagar Mohali, Punjab through Sh. Jaswinder Singh S/o
Sh. Naggar Singh Authorized signatory of M/s Altus Space
Builders Pvt. Ltd.

...Appellant

Versus

1. JBB Infrastructure Pvt. Ltd, 509, Ansal Bhawan, K.G. Marg,
Connaught Place, New Delhi (110001).
2. Sanjivini Infratech Pvt. Ltd, SCO-128, Sector-8, Chandigarh.

....Respondents

Memo No. R.E.A.T./2022/550

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 28th
day of October, 2022.



Thaneet Law

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
(CHANDIGARH)

Altus Space Builders Pvt. Ltd.Appellant

Versus

JBB Infrastructures Pvt. Ltd. and anotherRespondents

MEMO OF PARTIES

Altus Space Builders Pvt. Ltd., SCF-22, 1st floor, Phase-10, S.A.S. Nagar Mohali, Punjab through Sh. Jaswinder Singh son of Sh. Naggar Singh Authorized Signatory of M/s Altus Space Builders Pvt. Ltd..

.Appellant

Versus

- 1. JBB Infrastructures Pvt. Ltd., 509, Ansal Bhawan, K.G. Marg, Connaught Place, New Delhi-110001.
- 2. Sanjivini Infratech Pvt. Ltd., SCO-128, Sector-8, Chandigarh.

.Respondents

CHANDIGARH
DATED: 02.11.21

(RAMANDEEP SINGH PANDHER)
ADVOCATE
COUNSEL FOR THE APPELLANT



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

APPEAL NO. 118 OF 2021

Altus Space Builders Pvt. Ltd, SCF-22, 1st Floor, Phgase-10,
SAS Nagar Mohali, Punjab through Sh. Jaswinder Singh S/o
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Versus

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Connaught Place, New Delhi (110001).
2. Sanjivini Infratech Pvt. Ltd, SCO-128, Sector-8, Chandigarh.

....Respondents

Present: Mr. Amit Sharma, Advocate for the appellant.

**CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN
ER. ASHOK KUMAR GARG, CHIEF ENGINEER
(RETD.), MEMBER (ADMN./ TECH.)**

JUDGMENT: (JUSTICE MAHESH GROVER (RETD.), CHAIRMAN)

1. This appeal is directed against the order dated
08.09.2021 passed by the Real Estate Regulatory
Authority (hereinafter known as the Authority).
2. The appellant shall be referred to as the developer while
the respondent no. 1 shall be referred to as an allottee.
While answering the complaint under Section 31 of the
Real Estate (Regulation and Development) Act, 2016



(hereinafter referred to as the Act), initiated by the allottee with a grievance that there was delay in delivering of possession, the Authority answered his prayer in the following terms:-

“As a result of the above discussion, this complaint is partly accepted, and disposed off with the following direction:-

- i. *Respondent No. 1 is liable to pay interest @ 9.30% (today's highest SBI MCLR rate of 7.30% plus 2%), as prescribed in Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 on the amounts received by it with effect from 12.02.2017 till a valid offer of possession is made in respect of the 6 plots after obtaining completion certificate.*
- ii. *The complainant will be required to pay the balance amount as per the agreements before taking possession. Since as per the agreement the balance amount was to be paid at the time of possession, no interest is liable to be paid by the complainant till such valid offer of possession is made. Interest will be payable for any delay in payment after the offer of possession is validly made.*
- iii. *Respondent no.2 is directed to refund an amount of Rs.27,27,200/- to the complainant with interest @ 9.30% (today's highest SBI MCLR rate of 7.30%*



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plus 2%), as prescribed in Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 from the date of deposit till the date of refund.”

Aggrieved thereof the present appeal has been filed by the developer who has contended that there is an agreement in place between it and the allottee dated 12.08.2014 which envisages that in the event of any delay in handing over the plot by the developer to the allottee within the stipulated time, the allottee can seek refund of the money along with interest at the rate 9% per annum. It has been argued that in view of this the Authority could grant no other relief under the Act or otherwise except the one, ~~was~~ envisaged in the agreement that bound the parties.

3. That apart it has been argued that delay has been largely on account of the fact that the Government failed to complete the development works for which the external development charges had been deposited by the developer. It is therefore on account of the fault of the Government that the development works could not be completed. The appellant in order to show his bona fides has also been agitating this matter before Hon'ble High Court in CWP No. 22109 of 2020.

4. Lastly it has been argued that the appellant is willing to settle the matter with the allottee and has been doing so



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with regard to such grievances raised by similarly situated allottees who had filed proceedings before different fora i.e. Consumer Forum etc.

5. We have heard the learned counsel for the appellant at some length but are unable to persuade ourselves to accept his arguments and negate the impugned order.
6. Concededly, the possession of the plots have not been handed over to the allottees within the promised time even though, they had applied for it in the year 2010 and an agreement in this regard was executed on 28.12.2010 that stood subsequently revised to another agreement dated 12.08.2014 upon which reliance has been placed by the learned counsel for the appellant now. Evidently the allottees have not only been deprived of their investments but their desire to have a plot has also been frustrated for 12 long years and therefore it does not lie in the mouth of the appellant to now come up with a plea that the agreement dated 12.08.2014 be enforced as a substitution to the statutory relief granted by the Authority.
7. Once the default has been established beyond any pale of doubt the appellant cannot seek any refuge in the inaction of the Government or any other body. As a developer it is his bounden duty to ensure that what he promises to the allottees, he delivers.
8. There is thus absolutely no reason for us to deviate from the findings recorded by the Authority in this regard.
9. If an agreement was executed by the appellant in 2014 envisaging refund of money along with 9% interest then it was open to it to take recourse to the enforcement of



such an agreement voluntarily so as to show his bona fides and satisfy the grievance of the complainant. Rather he chose to force them to take recourse to legal remedies under the Act and has contested the same since 2018. Even before us almost more than a year has elapsed since filing of the appeal and if the appellant was serious about settling the claims of the allottees then the impugned order itself was a wake-up call for it to do so.

10. The appellant therefore lacks bona fides. We therefore do not find any reason to interfere with the impugned order which is in complete consonance with the provisions of the Act.
11. No ground to interfere, hence dismissed.

File be consigned to the record room.

Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

Sd/-
ER. ASHOK KUMAR GARG, C.E. (RETD.),
MEMBER (ADMINISTRATIVE/TECHNICAL)

October 17, 2022

DS



Certified To Be True Copy
T. Anand Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

28/10/2022