

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

Subject: -

**APPEAL NO. 156 OF 2022**

Punjab Urban Planning and Development Authority (PUDA), through  
Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

1. Shimla Devi
2. Rakesh Kumar
3. Ravi Kumar

All three R/o House No.119, Ward No.2, Near Railway Station,  
Tohana, District Fatehabad, Haryana-125120.

....Respondents

**APPEAL NO. 157 OF 2022**

Punjab Urban Planning and Development Authority (PUDA), through  
Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

Rakesh Kumar S/o Sh. Ram Kumar R/o Bakshi Dharamshala,  
Railway Road, Tohana, District Fatehabad, Haryana-125120  
(Incorrect name and incomplete address mentioned as Ramesh  
Kumar, R/o Bakshi Dharamshala, Railway Road, Fatehabad,  
Haryana-125120)

....Respondent

**APPEAL NO. 158 OF 2022**

Punjab Urban Planning and Development Authority (PUDA), through  
Estate Officer, BDA/PUDA, Bathinda.

...Appellant



Versus

Subhash Jindal R/o Krishna Jewellers, Main Bazaar, Jind, District  
Jind, Haryana-125120.

....Respondent

**APPEAL NO. 159 OF 2022**

Punjab Urban Planning and Development Authority (PUDA), through  
Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

Mukesh Kumar R/o Near Moti Ram Jaghadhar Marg, Old Anaj Mandi,  
Jind, Haryana-126102.

....Respondent

Memo No. R.E.A.T./2023/ 57

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup> 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 24<sup>th</sup>  
day of January, 2023.



*Shanendra Kumar*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

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BEFORE THE REAL ESTATE APPELLATE, TRIBUNAL, PUNJAB,  
SECTOR 17, CHANDIGARH-160017.

Appeal No. 156 of 2022

MEMO OF PARTIES

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda. ...Appellant

Versus


1. Shimla Devi
2. Rakesh Kumar
3. Ravi Kumar

All three residents of House No. 119, Ward No. 2, Near Railway  
Station, Tohana, District: Fatehabad, Haryana-125120.

...Respondents



Place: Chandigarh  
Date: 24.08.2022

  
(Bhupinder Singh, Balwinder Singh & Kunal Choksi)  
Advocates  
Counsel for the Appellant

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BEFORE THE REAL ESTATE APPELLATE, TRIBUNAL, PUNJAB,  
SECTOR 17, CHANDIGARH-160017.

Appeal No. 157 of 2022

MEMO OF PARTIES


Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda. ...Appellant

Versus

Rakesh Kumar, son of Sh. Ram Kumar, R/o Bakshi Dharamshala,  
Railway Road, Tohana, District: Fatehabad, Haryana-125120.  
(Incorrect name and Incomplete address mentioned as Ramesh  
Kumar, R/o Bakshi Dharamshala, Railway Road, Fatehabad,  
Haryana-125120.) ...Respondent



Place: Chandigarh  
Date: 24.08..2022

  
(Bhupinder Singh, Balwinder Singh & Kunal Choksi)  
Advocates  
Counsel for the Appellant

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BEFORE THE REAL ESTATE APPELLATE, TRIBUNAL, PUNJAB,  
SECTOR 17, CHANDIGARH-160017.

Appeal No. 158 of 2022

MEMO OF PARTIES

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda. ...Appellant


Versus

Subhash Jindal

...Respondent



Place: Chandigarh  
Date: 24.08.2022

  
(Bhupinder Singh, Balwinder Singh & Kunal Choksi)  
Advocates  
Counsel for the Appellant

BEFORE THE REAL ESTATE APPELLATE, TRIBUNAL, PUNJAB,  
SECTOR 17, CHANDIGARH-160017.

Appeal No. 159 of 2022

MEMO OF PARTIES

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda. ...Appellant

Versus

1. Mukesh Kumar, resident of Near Moti Ram Jaghadhar Marg,  
Old Anaj Mandi, Jind, Haryana-126102. ...Respondent



Place: Chandigarh  
Date: 24.08.2022

(Bhupinder Singh, Balwinder Singh & Kunal Choksi)  
Advocates  
Counsel for the Appellant

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

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**APPEAL NO. 156 OF 2022**

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

1. Shimla Devi
2. Rakesh Kumar
3. Ravi Kumar

All three R/o House No.119, Ward No.2, Near Railway Station,  
Tohana, District Fatehabad, Haryana-125120.

....Respondents



**APPEAL NO. 157 OF 2022**

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

Rakesh Kumar S/o Sh. Ram Kumar R/o Bakshi  
Dharamshala, Railway Road, Tohana, District Fatehabad,  
Haryana-125120 (Incorrect name and incomplete address  
mentioned as Ramesh Kumar, R/o Bakshi Dharamshala,  
Railway Road, Fatehabad, Haryana-125120)

....Respondent

Appeal No. 156 of 2022, Appeal No. 157 of 2022, Appeal No. 158  
of 2022 and Appeal No. 159 of 2022

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**APPEAL NO. 158 OF 2022**

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

Subhash Jindal R/o Krishna Jewellers, Main Bazaar, Jind,  
District Jind, Haryana-125120.

....Respondent

**APPEAL NO. 159 OF 2022**

Punjab Urban Planning and Development Authority (PUDA),  
through Estate Officer, BDA/PUDA, Bathinda.

...Appellant

Versus

Mukesh Kumar R/o Near Moti Ram Jaghadhar Marg, Old Anaj  
Mandi, Jind, Haryana-126102.

....Respondent



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**Present: -** Mr. Balwinder Singh and Mr. Bhupinder Singh,  
Advocates for the Developer.  
Ms. Manju Goyal, Advocate for the Allottees.

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



Appeal No. 156 of 2022, Appeal No. 157 of 2022, Appeal No. 158  
of 2022 and Appeal No. 159 of 2022

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1. This appeal by the developer is against the order passed by the Adjudicating Officer of Real Estate Regulatory Authority (hereinafter known as the Adjudicating Officer), while dealing with the issue of grant of compensation to the allottee for delay in possession. All the appeals i.e. Appeal No. 156 of 2022 (PUDA Vs. Shimla Devi and Others); Appeal No. 157 of 2022 (PUDA Vs. Rakesh Kumar); Appeal No. 158 of 2022 (PUDA Vs. Subhash Jindal); Appeal No. 159 of 2022 (PUDA Vs. Mukesh Kumar) can be disposed of by a common order as the reasoning of the Adjudicating Officer in the impugned orders in the respective appeals is identical as is also the relief granted. Facts are being taken from the Appeal No. 156 of 2022 (PUDA Vs. Shimla Devi and Others).



2. We don't have to elaborately set out the facts but to state briefly all the allottees aspired for a plot in the development scheme floated by the appellant and deposited the requisite amount pursuant to which they were given an allotment letter dated 25.08.2011, clause 4 of which envisaged delivery of possession after completion of development works within one year from the date of issuance of allotment letter i.e. on or before 24.08.2012. The allottee in the case of PUDA Vs. Shimla Devi and Others (Appeal No. 156 of 2022) deposited a

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of 2022 and Appeal No. 159 of 2022

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sum of Rs.20,72,500/- but the possession did not materialize eventually leading to a composite complaint in Form-M under Section 31 for grant of refund, interest and compensation. The issue raised for refund and interest has been separately dealt with by the Authority and is the subject matter of 4 other appeals. Insofar as the issue of compensation is concerned, the same has been dealt with by the Adjudicating Officer resulting in separate orders dated 18.04.2022 granting Rs.1,10,000/- as compensation to the allottees. Consequently the present proceedings before us are at the behest of the developer who is aggrieved of the compensation of Rs.1,10,000/- granted to the allottee i.e., (Rs.1,00,000/- on account of compensation for mental agony caused on account of delay in compensation and retention of the amount of more than Rs.20,00,000/- for a period of almost 7 years and Rs.10,000/- by way of litigation expenses). Similarly, In Appeal No.157 of 2022 (PUDA Vs. Rakesh Kumar) deposited a sum of Rs.20,57,690/- till 21.05.2015, In Appeal No. 158 of 2022 (PUDA Vs. Subhash Jindal) deposited a sum of Rs.22,10,754/- till 15.06.2015 and In Appeal No.159 of 2022 (PUDA Vs. Mukesh Kumar) deposited a sum of Rs.20,09,563/- till 15.06.2015.



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of 2022 and Appeal No. 159 of 2022

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3. Learned counsel for the appellant contends this amount is exorbitant and the order does not give any reason how such a figure has been arrived it.
4. We have perused the impugned order and notice that the Adjudicating Officer was alive to the provisions of Section 72 of the Act which we extract below for ready reference:-

**“72. Factors to be taken into account by the Adjudicating Officer:-** While adjudging the quantum of compensation or interest, as the case may be, under Section 71, the adjudicating officer shall have due regard to the following factors namely:-

- (a) the amount of disproportionate gain or unfair advantage wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused as a result of the default;
- (c) the repetitive nature of the default;
- (d) such other factors which the adjudicating officer considers necessary to the case in furtherance of justice”



5 The case in hand clearly falls under Section 72(d) where the Adjudicating Officer has addressed itself solely <sup>to</sup> ~~in~~ the factors which were ‘necessary to the case for furtherance of justice.’ Evidently, when the Adjudicating Officer considers this aspect, in exercise of the power vested in him under Section 72(d), there can be no strict and watertight parameters which can lay down the foundation for assessment of a fair amount. These have

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of 2022 and Appeal No. 159 of 2022

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to be seen and tested from case to case. Evidently, the matters that can form a basis for a just decision would have to be in the realm of discretion which if not perverse ought not to be interfered with by the Appellate Authority.

6. A perusal of the fact reveals that the amount of more than Rs.20,00,000/- remained with the Authority for almost 7 years without there being any tangible benefit to the allottee. This figure of Rs.1,00,000/- compensation in these circumstances cannot be termed to be perverse or excessive and neither can an award of Rs.10,000/- as litigation expenses be termed to be disproportionate, rather it is on the lesser side.
7. For the said reason we decline interference in the appeal but would also like to state that whenever an issue of compensation comes up before Adjudicating Officer he has to address himself to all the contingencies envisaged in Section 72 (a) to (d) and pass a speaking order and not to confine himself only to the factors under clause (d) as has been done in the present case. It was imperative for the Adjudicating Officer to evaluate the amount of disproportionate gain or an unfair advantage and whether quantifiable or not as a result of the default. In the instant case more than Rs.20,00,000/- was retained



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of 2022 and Appeal No. 159 of 2022

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by the developer for more than <sup>13</sup>9 years. Therefore the interest that they could have accrued was surely a disproportionate gain to the developer. However, we desist from making any further observation lest it prejudice the issue under Section 31 that has been raised separately.

8. We therefore dismiss the appeals with costs which are assessed as Rs.5,000/- and litigation expenses are enhanced to Rs.50,000/- in each case.

Files be consigned to the record room.



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)

December 22, 2022

DS

Certified To Be True Copy

*Manendra Kumar*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

24/01/2023