

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

Subject: -

APPLICATION NO. 38 of 2023
APPLICATION NO. 39 of 2023
AND APPEAL NO. 01 OF 2023

M/s Janta Land Promoters Private Limited, Corporate Office
SCO No.39-42, Sector-82, S.A.S Nagar, Mohali-140306.

...Appellant

Versus

1. Mandeep Kaur Sodhi, House No. 613, Sarvhitkari Society,
Sector 48-A, Chandigarh, 160047.
2. Punjab Real Estate Regulatory Authority, Sector-18, Madhya
Marg, Chandigarh.

....Respondents

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

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1ST FLOOR,
BLOCK B, PLOT NO.3, MADHYA MARG, SECTOR-18,
CHANDIGARH-160018.**



Whereas applications and appeal 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 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 12th
day of April, 2023.

Shaminder Kaur
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL PUNJAB

RERA APPEAL NO. 01 of 2021
(Arising out of Complaint No. GC No. 5 of 2018)

MEMO OF PARTIES

M/s. Janta Land Promoters Private Limited, Corporate Office, SCO No. 39-42, Sector-82, S.A.S. Nagar, Mohali – 140306

...Appellant

VERSUS

1. Mandeep Kaur Sodhi, House No. 613, Sarvhitkari Society Sector-48-A, Chandigarh, 160047.

2. Punjab Real Estate Regulatory Authority, Sector-18, Madhya Marg, Chandigarh.

...Respondents



Dated: - 15.11.2022
Chandigarh

(Ranjit Singh Kalra) Advocate
VERSUS
Counsel for the Appellant

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPLICATION NO. ³⁸05 of 2023

APPLICATION NO. ³⁹06 of 2023

AND APPEAL NO.01 of 2023

M/S JANTA LAND PROMOTERS PVT. LTD.

VERSUS

MANDEEP KAUR SODHI & ANOTHER

Present: - None

We have perused the application seeking correction of our orders dated 06.03.2023, wherein, while dismissing the appeal preferred by the promoter we had ordered that the amount deposited by him under Section 43(5) of the Act be released. However due to inadvertence we had mentioned the amount to be released in favour of the appellants, whereas it ought to have been in favour of the respondent no.1 i.e. the present applicant/respondent.

Consequently, we direct that paragraph 6 of our orders dated 06.03.2023 be now read as below:-

"6. Since the appeal stands dismissed, the amount deposited in compliance of Section 43(5) of the Act be released to the respondent ^{No.1} upon proper verification in accordance with the law."

The office is directed to correct the order appropriately and upload the same on the website and also supply a copy to the parties at lis.

With the aforesaid modification the application stands disposed of.

^{Sd/-}
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

^{Sd/-}
S.K. GARG & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

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

March 27, 2023
DS

Certified To Be True Copy

^{Shamsher Kaur}
12-4-2023
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

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

APPEAL NO. 01 OF 2023

M/s Janta Land Promoters Private Limited, Corporate Office
SCO No.39-42, Sector-82, S.A.S Nagar, Mohali-140306.

...Appellant

Versus

1. Mandeep Kaur Sodhi, House No. 613, Sarvhitkari Society,
Sector 48-A, Chandigarh, 160047:
2. Punjab Real Estate Regulatory Authority, Sector-18, Madhya
Marg, Chandigarh.

....Respondents

Present: - Mr. Ranjit Singh Kalra, Advocate for the appellant.

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)

(ORAL)

1. The appellant has impugned the order dated 28.07.2022
of the Real Estate Regulatory Authority, Punjab
(hereinafter referred to as the Authority). Its conclusion is
contained in para 4 and 5, reading of which discloses,

Appeal No. 01 of 2023

2

that the Authority has virtually given effect to an order passed by us in earlier proceedings wherein the present appellant was also a party.

2. Para 4 and 5 of the impugned orders are extracted herebelow:-

"4. I have considered the rival contentions carefully. It is clear that the points at issue have already been settled by the orders of the Appellate Tribunal, Punjab. The award of interest from 16.9.2017 has been upheld in Appeal No. 65 of 2022. Further the Appellate Tribunal, Punjab has held that there could not be distinction between allottees who had paid the additional payment on account of the apparent increase in super area and those who had not, as had been held by the Authority. Accordingly all allottees were held entitled to refund of the amount deposited on this account along with interest.

5. This complaint is therefore accordingly accepted, and the following directions are issued:

- i. The respondent will pay interest at the prescribed rate (today's SBI highest MCLR rate plus 2%) from 16.9.2017 till 31.8.2018.
- ii. The amount already paid as compensation for delay in delivery of possession is entitled to be set off against the above amount.
- iii. A sum of Rs.1,63,800/- paid by the complainant for the increase in super area is to be refunded to the complainant along with interest at the prescribed rate (today's SBI highest MCLR rate plus 2%) from the date of deposit till the time of refund.



Appeal No. 01 of 2023

3

iv. The due amounts be paid by the respondent within 3 months of the date of issue of this order."

To be true to the facts we need to mention that our order upon which the present impugned order is based was passed on 21.04.2022. It is equally pertinent to mention here that this order dated 21.04.2022 was taken up in appeal by the present appellant before the Hon'ble High Court in RERA Appeal No. 21 of 2022 and decided on 25.07.2022, upholding the order of this Court dated 21.04.2022. It is now argued before us that the orders of the Hon'ble High Court have been challenged before the Hon'ble Supreme Court where the proceedings are pending and an ad interim order has been passed granting stay to the extent of the impugned order directing refund to even those allottees who had not approached the Authority (Real Estate Regulatory Authority, Punjab) by filing a complaint.

3. Therefore the restraint order is limited and not a blanket one. Be that as it may the fact remains that as on today the Hon'ble High Court has dismissed the appellant's appeal qua an order dated 21.04.2022 passed by this Court upon which the present impugned order is largely based. There is no order to the contrary as on today. Hence, we do not intend to keep the matter on our board,



Appeal No. 01 of 2023

4

considering the affirmation of our view by the Hon'ble Court.

4. Pendency of the proceedings before The Hon'ble Supreme Court has been cited as the sole ground for us to interfere in the impugned order which to our minds may not constitute a sufficient ground to accept the appellant's plea.
5. For the aforesaid reason we do not find any merit in the appeal, which is dismissed accordingly.
6. Since the appeal stand dismissed, the amount deposited by the appellant in compliance of Section 43(5) of the Act be released to the ^{respondent No.1. (corrected vide order no. 273 dated 27.3.2023)} appellant upon proper verification in accordance with law.

File 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)

March 06, 2023
AG

Certified To Be True Copy

Anamika Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh
12-4-2023