

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

Subject: -

APPEAL NO. 102 OF 2022

Abhishek Malhotra aged about 27 year S/o Sh. Ashok Malhotra R/o SBP Homes, Flat No.177/2, Chajjumajra, Sector 126, Kharar, Mohali, Punjab-140301.

...Appellant

Versus

Singla Builder and Promoters Limited, through its Director Sh. Amandeep Singla, having Office at Plot 1265, having office at: Near Tata Motors, Sector-82, Industrial Area, SAS Nagar, Punjab-140308.

....Respondent

Memo No. R.E.A.T./2023/ 189

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 **04th**
day of May, 2023.

Amandeep Singla
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
 SCO NO. 95-98, BANK SQUARE, P.F.C. BUILDING,
 SECTOR 17-B, CHANDIGARH

Appeal No. 102 of 2022

MEMO OF PARTIES:-

Abhishek Malhotra aged about 27 years, son of Sh. Ashok Malhotra resident of SBP Homes, Flat No.177/2, Chajjumajra, Sector 126, Kharar, Mohali, Punjab-140301, Mobile No. 9876588844, (Aadhar Card 3896 6753 8883)

... Appellant(s)

-Versus-

Singla Builder and Promoters Limited, through its Director Sh. Amandeep Singla, having Office at Plot 1265, having office at: Near Tata Motors, Sector 82, Industrial Area, SAS Nagar, Punjab-140308, Mobile No. 98728-68007, Email a.s@sbpgroup.in

... Respondent(s)

Place: Chandigarh

Dated: 30.06.2022

Appellant

THROUGH:-

Chahit Bansal

Abhinandan Jindal

Kapil Singla

*Kewal Kher
Advocate
P/284/79*

CHAHIT BANSAL, ABHINANDAN JINDAL, KAPIL SINGLA

ADVOCATES OF THE APPELLANT

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

APPEAL NO. 102 OF 2022

Abhishek Malhotra aged about 27 year S/o Sh. Ashok Malhotra R/o SBP Homes, Flat No.177/2, Chajjumajra, Sector 126, Kharar, Mohali, Punjab-140301.

...Appellant

Versus

Singla Builder and Promoters Limited, through its Director Sh. Amandeep Singla, having Office at Plot 1265, having office at: Near Tata Motors, Sector-82, Industrial Area, SAS Nagar, Punjab-140308.

....Respondent

Present: Mr. Abhishek Malhotra, Appellant (in person).
Mr. Mrigank Sharma, Advocate for the respondent.



**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 22.09.2021 passed by Real Estate Regulatory Authority, Punjab (hereinafter known as the Authority), whereby the appellant had prayed that the respondent be proceeded

against under Section 59 of the Act for not getting his project registered in terms of Section 3 of the Act. Responding to the complaint the Authority noticed the contention of the appellant and also his prayer where he had argued that the provision of law exempting those projects from registration which have received a partial completion certificate at the time of enforcement of the Act is ultra vires.

2. The Authority concluded that it was a statutory body and could not go into the issue of vires of a provision of a statute.
3. Before us the appellant has not argued about the issue of vires and even if he had we would have agreed with the observations of the Authority as made in the impugned order.



4. However, appellant has drawn out attention to a statement made by representative of the respondent on 13.10.2020 before the Authority which we choose to extract herebelow:-

“Present: Sh. Chhavior Assistant Manager (F&A) for the Authority.

Advocate Amandeep Bindra through VC.

A complaint was received under Section 31, as the project was registered with the Authority and was on-going in nature. Notice under Section 59 was issued to the promoter. In response to the notice, counsel for the respondent made submission that the

project has 15 towers out of which 14 towers had received Partial Completion Certificate issued by office of Nagar Council, Kharar dated 19.12.16 and the Tower No.15 is registered with the Authority vide registration no. PBRERA-SAS80PR0073 dated 13.09.17.

In view of the above facts submitted by the counsel, the project was not liable to registration in respect of 14 Towers as the Partial Completion Certificate was obtained prior to the commencement of the Act.

The matter is hereby filed. The file be consigned to the record room. The respondent and the complainant be informed accordingly.”

The partial completion certificate appended as Annexure A-4 however talks of partial completion certificate qua Block Nos.1,2,3,4,5,6,7,8,9,10,13 and 14. Block Nos. 11 and 12 are missing from the sequence. Insofar as Block 15 is concerned it was stated that registration has duly been done with the Authority on 13.09.2017 and registration number was quoted before the Authority.



Appellant contends that the statement made by the representative of the respondent on 13.10.2020 pertains to some other complaint and proceedings but conceded, readily that it was in relation to the same project. If that be so, then merely because a statement was made in some other complaint would not affect the merits of the plea raised before us i.e., of the respondent attempting to obstruct the course of justice by misleading the Authority. Whether it was a deliberate attempt or an

APPEAL NO. 102 OF 2022

4

omission, we would not like to comment at this stage and would rather leave it to the Authority to reevaluate the contention to this limited extent and as to whether the respondent has misled the Authority into dropping the proceedings by making the statement before it on 13.10.2020.

6. We therefore, remit the matter back to the Authority to look into the aforestated issue. However we would readily agree with the impugned order insofar as the observations made on the issue of vires. The parties to appear before the Authority on **09.05.2023**.

File be consigned to the record room.



Sdr
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

Sdr
S.K. GARG, D & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

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

April 24, 2023
AG

Certified To Be True Copy

[Signature]
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh
04/05/2023