

BEFORE THE REAL ESTATE APPELLATE TRIBUNAL

PUNJAB, SAS NAGAR (MOHALI)

APPEAL NO. 51 OF 2018

1. Avtar Singh Azad son of late Shri Didar Singh, resident of 521, 'Housefed Complex' Pakhowal Road, Ludhiana.
2. Arshnoor Birinder Singh son of Shri Avtar Singh Azad, resident of 521, 'Housefed Complex' Pakhowal Road, Ludhiana.

... Appellants

Versus

1. M/S IREO Waterfront (P) Limited IREO Waterfront Sales Gallery, Sidhwan Canal Road, Off Ferozepur Road, village Dewatwal, Ludhiana, through its Director/President Shri Madhukar Tulsi.
 2. Shri Madhukar Tulsi Director/President, IREO Waterfront (P) Limited, 5 Dhanraj Chambers, Ist Floor Satbari, New Delhi-110074.
 3. Shri Amrik Singh Gambhir Head CRM Ireo, Waterfront (P) Limited IREO Waterfront Sales Gallery, Sidhwan Canal Road, Off Ferozepur Road, Village Dewatwal, Ludhiana.
 4. Hon'ble Chairman, RERA ,Punjab, Sector 18, Chandigarh.
- ... Respondents.

PRESENT: Sh.I.S.Ratta Advocate for the appellant.
Shri Pradeep Kamal Wadehra Advocate for respondents No.1 to 3.

Quorum

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**CORAM: JUSTICE RAJIVE BHALLA, (RETD), CHAIRMAN
SHRI S.K.SHARMA, IPS (RETD), MEMBER.**

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JUDGMENT: (Rajive Bhalla (J) (Retd)(oral)

The appellants pray that order dated 16-10-2018 passed by the Chairperson , Real Estate Regulatory Authority, Punjab may be set aside on the ground that power to assess compensation or interest is to be exercised by the Adjudicating Officer exercising powers under the Real Estate (Regulation and Development) Act, 2016 (herein after referred to as the Act) for adjudication.

Shri P.K.Wadehra Advocate, Counsel for respondents No.1 to 3 does not oppose the correctness of the aforesaid submission but states that if liberty is going to be granted to the appellants to file a fresh petition in form 'N', the appellants should be asked to crystallize the defects and short coming in the Villa as otherwise it is impossible for the respondents to respond to the ever changing complaints of the appellants. Counsel for the respondents also submits that monetary adjustments made and defects or shortcomings rectified can also be taken into consideration by the Adjudicating Officer while deciding the petition to be filed in Form 'N'.

We have heard counsel for the parties and perused the impugned order. An appraisal of the Act and the petition filed by the appellants before the Real Estate Regulatory Authority reveals that violations alleged fall squarely under section 14 (3) of the Act which requires the promoter to remove any defect or shortcoming within a period of thirty days of its having been brought to his notice failing which, the allottee shall be entitled to receive appropriate compensation in the manner as provided under this Act, namely, under section 71 (1) and (3) read with Rule 37 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 which enjoins upon the Adjudicating Officer to hold an enquiry into a violation or contravention, which if proved, would entitle a complainant to the relief of compensation as provided under section 14 (3) of the Act. The dispute between the parties, as also agreed by counsel for the parties should have been decided by the Adjudicating Officer.

The appeal is, therefore, allowed, the impugned order is set aside with liberty is granted to the appellants to file a petition in form 'N' under sections 14(3), 31, 71 of the Act read with Rule 37 of the Rules. The complaint shall be decided within two months of its filing. The appellant shall be required to crystallize the violations and the shortcomings

alleged and apprise the Adjudicating Officer of the short comings and defects already removed. Any financial adjustment already made along with all other relevant facts shall also be taken into consideration.

February 18,2019


JUSTICE RAJIVE BHALLA (RETD)
CHAIRMAN.


S.K.SHARMA,IPS (RETD)

MEMBER

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