

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
SAS NAGAR (MOHALI)

Appeal No. 95 of 2019

Estate Officer, Punjab Urban Planning and Development
Authority, (PUDA/PDA), Urban Estate, Phase II, Patiala-
147001.

....Appellant

Versus

Tarun Arora resident of House No. 17, Street No. 1, Old
Bishan Nagar, Patiala, Punjab-147001

....Respondent

Present: Mr. Bhupinder Singh with Mr. Vikram Singh
Advocates for the appellant.

QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN

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JUDGMENT: (Mahesh Grover (J) (Retd): (oral)

The appellant is aggrieved of the order dated
22.07.2019 passed by the Adjudicating Officer, Real Estate
Regulatory Authority, Punjab. The respondent filed a complaint in
Form-N alleging violation under Section 18 of the Real Estate
(Regulation and Development), Act, 2016 (hereinafter referred as the
Act), seeking refund of the amount deposited by him along with
interest and compensation on account of delay in handing over of
the physical possession of plot No. 113, of the project namely PUDA



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Enclave-2, Rajpura Colony, Patiala. He alleged that he had paid a sum of Rs. 55,78,560/- and an allotment letter was issued to him on 06.12.2016 with a stipulation that possession would be given within eighteen months i.e. by 06.06.2018. The appellant failed to deliver the possession, resulting in the application by the respondent for withdrawal from the project.

The appellant took up the plea that they had requested the respondent to take possession of the plot, which he failed to do on the ground that the site was occupied by squatters and Jhuggies existed on the spot. The appellant controverted this by saying that the Jhuggies were far away and not connected with the plot in question.

After appraisal of the rival stands, the Adjudicating Officer, RERA concluded in favour of the respondent and directed refund of the amount along with interest and compensation to cover his legal expenses.

Aggrieved of the order, the appellant has stated that the order deserves to be set aside, considering that the respondent himself failed to take possession of the plot despite notices. It is not



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denied that the respondent had paid a substantial amount of money after raising a loan.

I have heard learned counsel for the appellant and perused the impugned order and relevant material on record. The Adjudicating Officer noted that the offer of possession was not valid as they had not obtained the completion certificate and admittedly unauthorized Jhuggies were situated adjacent to the project in question. I would have no reason to differ with the Adjudicating Officer, considering that it is the right of the allottee to expect that the project be free from encumbrance and unauthorized structures either on the plot or in the vicinity. Nowhere has it been shown that the respondent was made aware of the jhuggies at the time of launch of the project. The photographs on record also show the existence of these unauthorized Jhuggies and one cannot find fault with the allottee's desire to disassociate himself from any such project and seek withdrawal of his amount.

In view of the above, the appeal is dismissed.

Sd/-

JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

November 7, 2019
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Registrar
Real Estate Appellate Tribunal Punjab

