

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

Subject: -

APPLICATION NO.02 OF 2022
AND APPEAL NO. 02 OF 2022
GMADA THROUGH, ESTATE OFFICER, GMADA
VERSUS
HARASH BEHAL AND ~~ANOTHERS~~

Memo No. R.E.A.T./2022/48

To,

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

Whereas appeals 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 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 01st
day of February, 2022.

Dr. Harash Behal
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



BEFORE THE CHAIRMAN, REAL ESTATE
APPELLATE, TRIBUNAL, PUNJAB, CHANDIGARH

MEMO OF PARTIES

Greater Mohali Area Development Authority (GMADA)
through Estate Officer, PUDA Bhawan, Sector- 62,
S.A.S. Nagar, Mohali-160062.

...Appellant

Versus

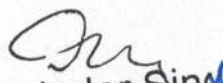
1. Harash Behal, House No 12, Block No 703, Sector 26,
Chandigarh-160019 and Another.
2. Real Estate Regulatory Authority Punjab, First
Floor, Plot No.3, Block-B, Madhya Marg, Sector-
18/A, Chandigarh-160018.

...Respondents

3. Principal Secretary, Greater Mohali Area
Development Authority Room No. 201, IInd Floor
PUDA Bhawan Sector 62, Mohali, Punjab-160062
4. Chief Administrator, Greater Mohali Area
Development Authority Room No. 102, PUD
Bhawan Sector 62, Mohali, Punjab-160062.

Proforma Respondents

Place: SAS Nagar
Date: 6-12-2021


(Bhupinder Singh)
Advocate

Counsel for the Appellant



REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPLICATION NO. 02 OF 2022

AND

APPEAL NO. 02 OF 2022

GREATER MOHALI AREA DEVELOPMENT AUTHORITY
(GMADA) THROUGH ESTATE OFFICER, GMADA, PUDA
BHAWAN, SECTOR-62, SAS NAGAR, MOHALI-160062.

....APPELLANT

VERSUS

1. HARASH BEHAL, HOUSE NO.12, BLOCK NO.703, SECTOR-26,
CHANDIGARH-160019.
2. REAL ESTATE REGULATORY AUTHORITY PUNJAB, FIRST
FLOOR, PLOT NO.3, BLOCK-B, MADHYA MARG, SECTOR-18/A,
CHANDIGARH-160018.

...RESPONDENTS

3. PRINCIPAL SECRETARY, GREATER MOHALI AREA
DEVELOPMENT AUTHORITY, ROOM NO.201, IIND FLOOR,
PUDA BHAWAN, SECTOR-62, MOHALI, PUNJAB-160062.
4. CHIEF ADMINISTRATOR, GREATER MOHALI AREA
DEVELOPMENT AUTHORITY, ROOM NO.102, PUDA BHAWAN
SECTOR-62, MOHALI, PUNJAB-160062.

....PROFORMA RESPONDENTS

Present: - Mr. Bhupinder Singh, Advocate for the appellant.

This appeal is directed against the order dated
24.03.2021, passed by the Real Estate Regulatory Authority,
Punjab.

The controversy is limited. A letter of intent was
issued to the allottee (respondent) with the following Clause:-



*"The physical possession of the said plot shall be
handed over to the allottee within a period of one
year from the date of issuance of this Letter of
Intent"*

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The possession was not given within the stipulated period, which is the cause of grievance to the respondent, who preferred the complaint, resulting in the impugned order.

The argument of the appellant before the Authority as also before us is that allotment letter was issued to the respondent with the following stipulation Clause 9.

"The allottee shall be required to take physical possession of the site within 90 days of the issue of this allotment letter. In case the allottee fails to take the possession of the plot allotted within 90 days, the possession of the plot shall be deemed to have been delivered to the allottee. In case of non-feasibility of plot/site, the allottee shall inform the Estate Officer in writing before the lapse of 90 days. Within 60 days of taking over possession or deemed possession of plot, the allottee shall submit the building plan for approval by the Competent Authority."

In view of the above, it is contended that since the respondent has accepted this the earlier Clause in the letter of intent would fade into insignificance. Besides, it is argued that possession has already been taken, which should be construed as waiver of any lapse on the part of the appellant, even if established.



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Having heard the learned counsel for the appellant at length in which, he most vehemently propounded the arguments as noticed above, we are of the opinion, that there is no merit in the appeal and deserves to be dismissed.

The letter of intent clearly prescribed the period in which possession was to be given and having failed to abide by it, the appellant cannot seek any refuge in the subsequent letter of allotment, which materialized after years of the initial letter of intent.

Accepting the argument of the appellant would imply defeating the rights of the allottee.

The appeal is dismissed. However, the delay in filing the appeal stands condoned in view of the observation of the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020*.

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)

January 10th, 2022
AN



Certified To Be True Copy
T. Ranveer Singh
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh
12-2022