

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

APPEAL NO. 39 OF 2018

Chandigarh Royale City Promoters Pvt. Ltd, Village Karala,
Zirakpur Rajpura Highway, Banur District SAS Nagar Mohali.

....Appellant

Versus

1. RERA Punjab (Chandigarh)
2. Om Parkash S/o Sh. Puran Chand resident of Ram Basti,
Near Sadhu, Head Master House, Samana Punjab.
3. Rameshwar Dass S/o Sh. Des Raj resident of Anand
Colony, Samana, Punjab.

....Respondents

Present: Sh. J.P. Singla, Advocate for the appellant.
Sh. Vaneet Kumar, Advocate for respondents No.2 & 3.

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

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

The appellant company has filed this appeal praying that
ex-parte order dated 31.05.2018, passed by the Adjudicating Officer,
RERA, Punjab and order dated 31.09.2018 dismissing the application
for setting aside the aforesaid ex-parte order may be set aside.

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Counsel for the appellant submits that the respondent was aware that the appellant had shifted his registered and business office from its original location SCO No. 489-490, Level II, Sector-35, Chandigarh to village Karala Zirkapur, Patiala Road, Banur, SAS Nagar, Mohali. The notice annexure P-5, served through counsel before filing the complaint reveals that it was issued and served at the village Karala Zirakpur, Patiala Road, Banur, SAS Nagar, Mohali address. The respondent intentionally filed the complaint by giving the Chandigarh address, so as to procure an ex-parte order. Counsel for the appellant further submits that while dismissing the application for setting aside the ex-parte order, the Adjudicating Officer has not considered this aspect. The impugned order having been obtained by perpetuating a fraud on the Adjudicating Officer and the appellant, the appeal may be allowed, the impugned order may be set aside and the matter may be remitted for adjudicating afresh.

Counsel for the respondent while admitting the factual position argues that as the appellant shows the Chandigarh address

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on its website and in the online brochure and the appellant had also filed an appeal before the National Consumer Council, giving the Chandigarh address, the respondent was right in providing the respondent's Chandigarh address.

Counsel for the appellant in rebuttal denies that the online brochure and the online website refer to the Chandigarh address. Counsel for the appellant also states that appeal before the National Consumer Council, was filed before the change of address.

We have heard counsel for the parties, considered the pleadings and their arguments. Before dealing with the merits of the case, it would be necessary to record that ex-parte orders should, as far ^{as} possible, be avoided as they result in additional litigation, spiralling costs for parties and delay in final adjudication. We may however not be misunderstood to have observed that an ex-parte order cannot be passed. All that we wish to record is that a serious attempt should be made to secure the presence of the respondent by registered post, speed post, email and by any other electronic method that may be available to the Adjudicating Officer or the parties,

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including the address declared by the respondent on the website of RERA.

A due consideration of the facts reveals that the contesting respondents issued a legal notice to the respondent's ^{at} ~~on~~ the following address "M/s Chandigarh Royal City Promoters Pvt. Ltd. Through its Authorized Signatory/Officer, Village Karla, Zirkipur, Patiala Road, Banur, S.A.S. Nagar, Mohali", but when they filed a complaint under the Real Estate (Regulation and Development) Act, 2016, gave ^a ~~the~~ Chandigarh address. The contesting respondents are unable to proffer any clear and cogent explanation for this change in address. At this stage counsel for the appellant also submits, on instructions, that the ^{abs} ~~address given as above~~ is the address filed with RERA, Punjab, at the time of registration.

As the address given by the respondent in the complaint is not the correct address or the address filed with RERA, the order dismissing the application for setting aside the ex-parte order as well as the ex-parte order procured by providing an incorrect address to the Adjudicating Officer must be set aside.

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Consequently, the appeal is allowed, orders dated 31.05.2018 and 13.09.2018 are set aside and the matter is remitted to the Adjudicating Officer RERA, for adjudication afresh and in accordance with law within two months¹ of receipt of a certified copy of this order.

Parties are directed to put in appearance before the Adjudicating Officer/ Authority on 8.02.2019.

The Registrar is directed to forward the demand drafts deposited by the appellant to the Adjudicating Officer, RERA Punjab, who shall retain the drafts and pass an appropriate order while deciding the complaint filed by the private respondents.



JUSTICE RAJIVE BHALLA (RETD.)

CHAIRMAN



S.K SHARMA, IPS (RETD.)

MEMBER

January 18, 2019
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