

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

**Appeal No. 49 of 2018**

M/s Silver City Construction Ltd. Ambala-Chandigarh Highway, NH-22, Zirakpur, District Mohali, through managing director Mr. RajitKakar S/o Sh. Satish Kakar, H.No. 121, Sector-8-A, Chandigarh, authorized vide Resolution dated 05.12.2018.

....Appellant

**Versus**

1. State of Punjab through Principal Secretary, Department of Housing and Urban Development, Mini Secretariat, Sector-9, Chandigarh.
2. Municipal Council, Zirakpur, Opposite Police Station, Zirakpur, Punjab, through Executive Officer.
3. Director, Department of Local Bodies, Government of Punjab, Punjab Municipal Bhawan, Dakshin Marg, Plot No.3, Sector-35, Chandigarh.
4. Chief Administrator, Greater Mohali Area Development Authority, PUDA Bhawan, Sector-62, Mohali.
5. Residents' Welfare Association (Regd.), Silver City Zirakpur.

....Respondents

**Present:** Mr. Rajiv Malhotra, Advocate for the appellant.

Sh. Manpreet Singh Dua, Advocate for respondent

No.5.



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## APPEAL NO. 49 OF 2018

**QUORUM: JUSTICE ARUN CHAUDHARI, (RETD), CHAIRMAN  
S.K. SHARMA, IPS (RETD.), MEMBER**

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**JUDGMENT: (Arun Chaudhari J) (Retd):**

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Being aggrieved by the judgment and order passed by the Real Estate Regulatory Authority, Punjab dated 21.12.2017 (A-1) in complaints Nos. 5 & 7 of 2017 as well as against the revisional order passed by the Secretary to the Government of Punjab, Department of Housing and Urban Development Chandigarh-cum- Revisional Authority under the Punjab Apartment and Property Regulation Act, 1995 dated 04.03.2016 (A-2), the present appeal has been filed by the builder/appellant M/s Silver City Construction Ltd.



Since Real Estate Regulatory Authority, Punjab under the impugned order held that the complaint No. 5 of 2017 filed by the Residents Welfare Association (Regd.), Silver City, Zirakpur and complaint No. 7 filed by the appellant were not maintainable for want of registration of the project in question, this Appellate Tribunal made an order dated 08.07.2019 and 12.07.2019 that the legal question is required to be decided though the Resident Welfare Association (Regd.) has not preferred any appeal against the impugned order rejecting complaint No. 5 of 2017 and accordingly we proceed to decide the appeal.

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## APPEAL NO. 49 OF 2018

**FACTS: -**

The appellant-builder obtained a colony license dated 28.01.2000 for promotion and development of colony namely "Silver City" under the provisions of the Punjab Apartment and Property Regulation Act, 1995. The members of the Resident Welfare Association (Regd.), booked the offered units by the builder. However, a dispute arose between the Resident Welfare Association and the appellant-builder in relation to the handing over of community hall and its area in the project. It is noteworthy that the project has not been registered as required by Section 3 of the Real Estate (Regulation and Development) Act, 2016. The Residents Welfare Association filed CWP No. 24551 of 2015 decided on 26.11.2015 agitating the said grievances against order passed by the Deputy Director in relation to approval of revised layout plans. The High Court made the following operative order on 26.11.2015 :-



*"In our considered view, the above-stated order/decision of the Deputy Director is revisable at the instance of the State Government, for which there are ample powers vested in the State under the Act. We thus dispose of this writ petition without expressing any views on merits at this stage, with a direction to respondent No.2- Secretary to the Government of Punjab, Department of Housing and Urban Development-cum- Revisional Authority under the Punjab Apartment and*

R

## APPEAL NO. 49 OF 2018

*Property Regulation Act, 1995, to call for the records, hear both the parties and taken an appropriate decision in accordance with law/Rules/Bye-laws, as early as possible but not later than four months from the date of receiving a certified copy of this order .*

*Ordered accordingly. Dasti."*

Pursuant to the said order, the Revisional Authority made an order on 04.03.2016(A-2), which is under challenge in this appeal, in favour of the respondent No.5-Residents Welfare Association. The Resident Welfare Association filed another CWP No. 40352 of 2018 in the High Court asking for the implementation of the said revisional order in their favour. The petition is pending and on 02.04.2019 the following interim order has been passed:-

*"On the request of counsel for the petitioner, adjourned to 19.08.2019.*

*In the meantime, it is made clear that pendency of this writ petition shall not be construed to be an impediment for the appellate authority to pass an order."*

Since the appellant-builder felt aggrieved by the revisional order as aforesaid, CWP No. 21572 of 2016 decided on 26.04.2017 was filed by the appellant-builder in which the High Court noted that the appellant-builder was required to be relegated to the Real



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## APPEAL NO. 49 OF 2018

Estate Regulatory Authority, which started working in Punjab. The Real Estate Regulatory Authority, Punjab however, did not decide the validity of the revisional order dated 04.03.2016, perhaps because relying on its earlier Full Bench decision, the complaints Nos.5 & 7 were not maintainable as the project was not registered.

A copy of the said Full Bench decision dated 13.12.2017 has been filed along with the written arguments filed by the Residents Welfare Association-respondent No.5.

Since under the impugned order the Authority has relied upon on its Full Bench decision, we are bound to examine the validity of that judgment in the present appeal. The respondent No.5 has entered appearance and had filed application for dismissal of the appeal which would obviously be decided in terms of the present final judgment. Respondent No.5 has also filed written arguments, which are taken on record and we have gone through the same carefully.



**ARGUMENTS:-**

In support of the appeal the learned counsel for the appellant-builder vehemently argued that the appellant is aggrieved by the revisional order dated 04.03.2016 passed by the State Government (A-2) and also aggrieved by the impugned order dated

## APPEAL NO. 49 OF 2018

21.12.2017 passed by the Real Estate Regulatory Authority, Punjab since it did not decide the validity of the said revisional order in contravention of the direction issued by the High Court on 26.04.2017. He submitted that the Authority went wrong in not even touching the validity of the revisional order on merits, merely because it held that the complaints No.5 & 7 filed by the Residents Association and the appellant respectively were not maintainable for non-registration of the project. According to him the project having been completed it does not fall within the teeth of the provision regarding registration and therefore the Real Estate (Regulation and Development) Act, 2016 would not apply. He then submitted that Real Estate Regulatory Authority, Punjab was under obligation to decide the validity of the revisional order passed by the State Government. In fact vide para (iv) of the appeal the appellant has stated that the complaint was erroneously dismissed by the Authority. The learned counsel for the appellant then submitted that the first authority namely Real Estate Regulatory Authority, Punjab will have to decide the validity of the revisional order and if this Tribunal comes to a conclusion accordingly, he would pray for stay of the execution of the said order till the validity of the said order is decided by the Real Estate Regulatory Authority, Punjab.



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## APPEAL NO. 49 OF 2018

Per contra, the learned counsel for the respondent No.5- Association argued that the revisional order is legal, correct and proper and no interference therewith is called for. The learned counsel for the respondent No.5- Association, however submitted that the Association would not file any appeal against the order of rejection of their complaint in this Tribunal but would pursue the CWP No. 40352 of 2018 which is pending in the High Court. The counsel for respondent No.5-Association relied on the written note of arguments which is taken on record.

**CONSIDERATION:-**

We have heard learned counsel for the rival parties at length. We do not want to comment as to why the respondent No.5/association has not chosen to file appeal against the impugned order passed by the Real Estate Regulatory Authority, Punjab by which their complaint has been rejected, though the present appellate remedy is statutory, alternate, effective and efficacious. Hence we have already indicated our inclination to decide the legal question, even if the Association-respondent No.5 has refused to file appeal before us. As we think it is our duty to decide the question of law in the matter pending for examination before us.



## APPEAL NO. 49 OF 2018

We have perused the entire note of arguments filed by respondent No.5-Association. The note relates to the history of the case and the claim of the respondent No.5-association for upholding the revisional order by this Tribunal.

As already stated the first Authority (Real Estate Regulatory Authority, Punjab) has not even touched the validity of revisional order. It is well settled that ordinarily the legal right of both the parties to the lis cannot be extinguished by Appellate Authority by examining the validity of the revisional order for the first time.

We, therefore do not propose to incorporate any of the arguments from the written arguments. However, as it is necessary to refer to the reasons in the Full Bench decision by Real Estate Regulatory Authority, Punjab dated 13.12.2017 in complaint No. 3 of 2017 which is a *terra firma* of the impugned order in this appeal. The Full Bench decision of Real Estate Regulatory Authority, Punjab dated 13.12.2017 on the aspect of non-registration of the project has been pronounced by the majority of two as against the dissenting one Member. The dissenting Member in paras 39 and 40 of order held that even for want of registration of the project the complaints before the Authority are maintainable.



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## APPEAL NO. 49 OF 2018

We have carefully perused the reasons recorded by the Chairperson and the Judicial Member of Real Estate Regulatory Authority, Punjab who have held that the complaints are not maintainable for non-registration. It has been stated by the Chairman, Real Estate Regulatory Authority, Punjab in his reasons part of the order that the Act was brought into force by the Parliament to create a mechanism of quick resolution of the disputes as the only remedy to such investors was under the Consumers Protection Act and there was no specific law to protect the interest of consumers in the real estate sector.

Looking at the background aims and objects to bring the Act of 2016, it was realized that Consumer Protection Act and similar laws did not provide for effective, simpliciter and overall remedy for consumers in real estate sector, or that the possible mischief or defects in meeting the needs of such consumers were required to be dealt with. The Act of 2016 will have to be looked from that perspective and with harmony.

We would apply: " The Mischief Rule" and purposive construction". In Heydon's case, 76ER637, it was held that four matters are required to be taken into consideration in construing an

Act -



R

## APPEAL NO. 49 OF 2018

- (i) What was the law before the making of the Act,
- (ii) What was the mischief or defect for which the law did not provide.
- (iii) What is the remedy that the Act has provided, and
- (iv) What is the reason of the remedy.

The Rule also directs that the Courts must adopt that construction which "shall suppress the mischief and advance the remedy". There is a further reason in para 9 which we quote here under: -

*"In my opinion, even though it is not specifically laid down in the Act that complaints cannot be filed against promoters in relation to projects that are not registered, the scheme and sequencing noted above does lead to this conclusion. To hold otherwise would imply that promoters who do not register their projects can be put into double jeopardy, as it were, by both penalizing them and also making them amenable to the directions issued by the Authority. Thus I have no hesitation in holding that under the RERA Act complainants can be instituted against promoters only in relation to projects which have been registered with this Authority- complaints against other promoters/projects can be filed in other forums/courts available under the law."*



Thus applying the Heydon's Rule and the matters required to be taken into consideration, we are of the firm view that the Act of 2016 would apply to all the consumers and in relation to the projects whether the projects are registered or not.

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## APPEAL NO. 49 OF 2018

In paras 11 and 12 the following observations have been made: -

"11. Normally, this would be the end of the matter. However, the situation is complicated somewhat by the fact that the complainants were relegated to this Authority by the Hon'ble High Court. Counsel for the complaints has contended that since the Hon'ble High Court had remanded the matter to this Authority, it is bound to take a decision on merits. On the other hand, counsel for respondent pointed out that the Hon'ble High Court's order was passed at the preliminary stage without even issuing notice to him and hence it was not binding in nature. Having considered the order of the High Court in the light of detailed discussion on maintainability narrated above, and with great respect, I hold that the order of the Hon'ble High Court does not confer any jurisdiction on this Authority which it would not have under the RERA Act. This is largely because the order of the High Court is not one passed on merits after hearing both parties but one that was passed at the motion stage itself without hearing rival arguments. As already held above, this Authority cannot entertain complaints against promoters in relation to projects



R

## APPEAL NO. 49 OF 2018

*that have not been registered with it- meaning that there is no jurisdiction in this matter.*

12. *The net result of the above discussion is that this complaint is held to be non-maintainable and is accordingly rejected. The complainants may pursue their remedy before the appropriate forum in accordance with law, if so advised. "*

With reference to observations in para 11, we think it was improper on the part of Authority, the Chairperson to say that the order of High Court making remand to Real Estate Regulatory Authority, Punjab was not the one passed on merits after hearing both the parties but the one that was passed at a motion stage itself without hearing the rival arguments. We are afraid we can agree with such a reasoning since the same may amount to contravention of the direction of the High Court made upon remand. The reason given as aforesaid is not warranted and amounts to defying the order of the High Court. At the most the Authority could have asked the parties to get a clarification from the High Court. It is a Constitutional Court with powers under Article 226/227 of the Constitution to issue directions. The Chairperson should not have breached the judicial discipline. The Authority should be careful in future.



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## APPEAL NO. 49 OF 2018

Vide para 9 of the reasons, application of concept of double jeopardy for promoters is misconceived. The principle of double jeopardy remotely is not attracted.

The Judicial Member has recorded the reasons in paras 20 and 23 as under: -

- "20. According to section 88 of the Act the provision of this Act (RERA) are in addition to and not in derogation of the provisions of any other law for the time being in force. It is important to note here that the PAPRA Act, 1995 is a complete enactment in itself, in which the dispute redressal mechanism has also been provided. Moreso, the PAPRA Act, 1995 is still in operation and has not been repealed. Any aggrieved person for any violation or contravention can seek relief under PAPRA ACT by invoking the relief redressal mechanism under this Act, besides availing any relief available under any law in force such as available under The Consumer Protection Act, 1986.
23. The cause of action has not been defined in the statute books. In my view, the continuation of cause of action would be deemed under the same law in which whole or part of cause of action has accrued. For instance, if cause of action has accrued under PAPRA, as in this case, would be deemed under PAPRA Act only and not under RERA. The complainants may seek remedy available under PAPRA or any law in force. The continuation of cause of action at the most may be considered relevant



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## APPEAL NO. 49 OF 2018

*for the purpose of counting prescribed period of limitation.*

We have considered the above reasons carefully and we find that the aforesaid reasons suggest and promote adoption of multiplicity of litigation particularly when the Real Estate (Regulation and Development) Act, 2016 has been brought into force for resolution of the disputes with transparency and protecting the rights of the consumers. To say that the complainant should adopt the remedy under the PAPRA Act is to defeat the purpose for very constitution of the Real Estate Regulatory Authority. We, therefore do not agree with the aforesaid reasons recorded by the learned Judicial Member.



We now proceed to apply the settled Rules of interpretation of law in the matter.

We herewith record the contention raised by the counsel for the appellant-builder that according to him the complaints No. 5 & 7 were rightly dismissed for want of registration of the project and that the complaints against the non-registered project would not be maintainable. He supported the Full Bench judgment as well as impugned order passed by the Authority holding that the complaints were not maintainable.

## APPEAL NO. 49 OF 2018

We frame the following question of law that falls for our consideration: -

*Whether Real Estate Regulatory Authority, Punjab under subsection 1 of Section 20 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act of 2016 for brevity) has jurisdiction to hear and decide the complaints in relation to the projects which have not been registered by the promoters thereof, as required by Section 3 of Act of 2016?*

This Tribunal will have to consider the entire scheme of the Act of 2016, in order to answer the aforesaid legal question.

The said Act of 2016 came into force w.e.f. 01.05.2016.

The preamble of the Act reads thus: -



*An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.*

## APPEAL NO. 49 OF 2018

Preamble of the Act is the guiding light to find out the object of the Legislation.

Perusal of the Preamble inter-alia, shows that the Real Estate Regulatory Authority has been established for regulation and promotion of the real estate sector and to protect the interest of consumers in that sector. Section 2(i) defines Authority as under: -

- (i) "Authority" means the Real Estate Regulatory Authority established under sub-section (1) of section 20;

Section 2(zn) defines real estate project as under: -

(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

Section 2(zk) defines promoter as under: -

(zk) "promoter" means, -

- (i) a person who constructs or causes to be constructed an independent building or a building



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## APPEAL NO. 49 OF 2018

consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

- (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or
- (iii) any development authority or any other public body in respect of allottees of—
- (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
- (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or
- (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or
- (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the



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## APPEAL NO. 49 OF 2018

holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or

(vi) such other person who constructs any building or apartment for sale to the general public.

Sub section (1) of Section 3 in Chapter II of the Act reads thus: -

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules



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## APPEAL NO. 49 OF 2018

*and regulations made thereunder, shall apply to such projects from that stage of registration.*

Perusal of Section 3(1) clearly shows in broad spectrum that no promoter shall be entitled to sell or offer for sale in any real estate project including the ongoing project on the date of commencement of the Act and in the absence of completion certificate unless such promoter gets the project registered within a period of 3 months from the date of commencement of Act i.e. 01.05.2016.

Second proviso to Sub Section 1 of Section 3 extends the scope of registration even in respect of the projects beyond the planning area. To repeat, Section 3(1) of the Act, in terms mandates registration of each and every project by each and every promoter that too within a period of 3 months. A look at the definition of promoter shows all kinds of persons, co-operative societies etc. have been covered.



Section 11 in Chapter III of the Act provides for Functions and duties of promoter. Sub Section 4 of Section 11 clause (a) and (b) thereof reads as follows: -

(4) *The promoter shall -*

## APPEAL NO. 49 OF 2018

- (a) *be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:*

*Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.*

- b) *be responsible to obtain the completion certificate or the occupancy certificate, or both, as applicable, from the relevant competent authority as per local laws or other laws for the time being in force and to make it available to the allottees individually or to the association of allottees, as the case may be;*



Section 17 (1) provides for transfer of title by the promoter by registered conveyance deed to the allottee. Section 17 sub Section (1) reads thus: -

17. (1) *The promoter shall execute a registered conveyance deed in favour of the allottee along with the*

## APPEAL NO. 49 OF 2018

*undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:*

*Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate.*

Section 18(1) of the Act reads thus:-

- (1) *If the promoter fails to complete or is unable to give possession of an apartment, plot or building, --*
- (a) *in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*
  - (b) *due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,*

*he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him*



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## APPEAL NO. 49 OF 2018

*in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

*Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.*

Section 34 clause (a), (f) and (g) reads thus: -

34. Functions of Authority, inter alia provides for

- (a) *to register and regulate real estate projects and real estate agents registered under this Act;*
- (f) *to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;*
- (g) *to ensure compliance of its regulations or orders or directions made in exercise of its powers under this Act;*



Perusal of clause (a) above of Section 34 shows that there is an obligation on the part of the Authority to register and regulate the projects. Clause (f) obligates the authority to ensure compliance of the obligations cast upon the promoters etc. under the Act, Rules and Regulations.

## APPEAL NO. 49 OF 2018

The Punjab State Real Estate (Regulation and Development) Rules, 2017 came into effect from 08.06.2017, framed in exercise of power conferred by Section 84 of the Act of 2016.

Rule 36 in chapter IX thereof deals with <sup>the</sup> filing of the / complaint with the Real Estate Regulatory Authority. It would be appropriate to quote Rule 36 (1) and (2) (a): -

(1) Any aggrieved person may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder, save as those provided to be adjudicated by the adjudicating officer, in Form 'M' which shall be accompanied by a fee of one thousand in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favor of the Authority and payable at the branch of that bank at the station where the seat of the Authority is situated.

(2) The Authority shall for the purposes of deciding any complaint as specified under sub-rule (1), follow summary procedure for inquiry in the following manner, namely:-

(a) upon receipt of the complaint, the Authority shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;



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## APPEAL NO. 49 OF 2018

Perusal of the above Rule 36 shows that "any" aggrieved person may file a complaint with the Authority while Sub Rule (2) shows that the Authority shall for the purpose of deciding "any" complaint. Rule 37 sub Rule (1) reads thus: -

- (1) *Any aggrieved person may file a complaint with the adjudicating officer for interest and compensation as provided under sections 12, 14, 18 and 19 in Form 'N' which shall be accompanied by a fee of one thousand rupees in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favor of the Authority and payable at the branch of that bank at the station where the seat of the Authority is situated.*



Perusal of Rule 37 also shows that "any" aggrieved person may file a complaint with the 'Adjudicating Officer'. The word "any" has been deliberately employed therein.

A close look at the entire scheme of the Act, Rules and Regulations as aforesaid, in terms shows that each and every promoter and each and every project has got to be registered within the stipulated period of 3 months from the date of commencement of the Act and the obvious reason is to have the regulatory control of the Authority under the Act.



## APPEAL NO. 49 OF 2018

To say that Regulatory Authority shall be entitled to have control only over those projects which have been registered and not over those projects which have deliberately or otherwise not been registered would be an interpretation nugatory to the object sought to be achieved for implementing the Act in its letter and spirit. Not a single provision of the Act 2016, makes out any such classification or distinction about projects which are registered or not registered or of the promoters whose projects are registered or not registered. Nay, such an artificial classification/categorization may violate Article 14 of the Constitution on the touchstone of equality qua the consumers in registered projects and consumers in unregistered projects.



A look at the function and duties of promoter in Section / 11 and in particular in Sub Section 4 thereof clearly shows that (a) promoter (whether he has registered his project under Section 3 or not) shall be responsible for all obligations. Nowhere any of the provision of this Act and the Rules separately speaks about the functions, duties, responsibility and obligations of those promoters who have not registered the projects. The fact that the Act does not make any such distinction amongst the promoters who have registered the projects and who have not registered the projects

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## APPEAL NO. 49 OF 2018

clearly indicates that the jurisdiction of the Authority would extend to all; namely over the projects which have been registered or which have "not" been registered. Else the consumers connected with the unregistered projects will be left high and dry and without any remedy contrary to the basic principle 'ubi jus ibi remedium. After all, Act of 2016 is welfare legislation and must be interpreted in such a manner to further and advance the policy and object of the Act. We must put purposive construction and not such a narrow interpretation leading to absurdity.

Further, a look at Section 17 shows that any such promoter (whose project is registered or not) shall execute a registered conveyance deed in favour of an allottee. Thus the promoter of the project which is unregistered will also liable to execute conveyance deed. If he fails, it is the Authority which has to register a complaint and implement the provisions of Act.

Section 18 provides for option to the allottee to withdraw from the project or not to withdraw; and in such event; the consequences mentioned in Section 18 would follow. If the reasoning that the Authority will have no jurisdiction over the projects which are not registered is taken into consideration, the very purpose of



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## APPEAL NO. 49 OF 2018

framing Sections 17 and 18 inter alia would be frustrated. To put in other words a promoter who does not decide to register his project at all would enjoy the premium for breaking the rule of law and a promoter who has registered his project will have to abide by the Rule of law enunciated by the Act of 2016, so also the Rules and Regulations. The consumers of the projects which are not registered will be deprived of the remedy U/s 17 and 18 of the Act, though such consumers are also connected with the real estate projects. Such an absurd and bizarre interpretation cannot be made which would defeat the very purpose, policy and object of the Act.

The upshot of the above discussion is that the question of law framed by us above will have to be answered in the affirmative.

We accordingly hold that Real Estate Regulatory Authority, Punjab has jurisdiction to hear and decide the complaints in relation to the projects which have not been registered by the promoters thereof as required by Section 3 of the Real Estate (Regulation and Development) Act, 2016.

The submission that the appellant's project does not require registration as the project has been completed is a question of fact to be decided by the Real Estate Regulatory Authority, Punjab. In so far as prayer for stay of revisional order dated 04.03.2016 is concerned,



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## APPEAL NO. 49 OF 2018

we find that the same should be stayed only for a limited period, as the validity of the said order has not been decided.

Consequently, we make the following order: -

**ORDER:-**

- (i) Appeal No. 49 of 2018 is allowed and the impugned order dated 21.12.2017 (A-1) passed by the Real Estate Regulatory Authority, Punjab is quashed and set aside.
- (ii) The proceedings of complaints No. 5 & 7 are remitted to the Real Estate Regulatory Authority, Punjab for decision on merits of the complaints.
- (iii) The Real Estate Regulatory Authority, Punjab shall also decide the validity of the revisional order dated 04.03.2016 (A-2) on its own merits after hearing the rival parties.
- (iv) The Full Bench judgment dated 13.12.2017 passed in complaint No. 3 of 2017 titled as "Bikramjit Singh and others Versus State of Punjab and



## APPEAL NO. 49 OF 2018

others" holding that the complaints against promoters in relation to the projects that are not registered with Real Estate Regulatory Authority, Punjab are not maintainable is declared as no longer good law with reference to para 41(2) thereof.

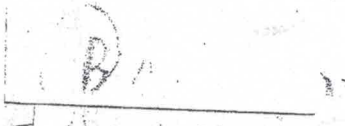
- (v) All the points arising in the matter are kept open.
- (vi) Parties to this appeal are directed to appear before the Real Estate Regulatory Authority, Punjab on 12.08.2019.
- (vii) After appearance of the parties before the Real Estate Regulatory Authority, Punjab the entire matter as aforesaid shall be decided by the Authority within 4 months from 12.08.2019.
- (viii) The Revisional order dated 04.03.2016 (A-2) passed by Secretary, Govt. of Punjab shall stand stayed for a period of four weeks only with liberty to the



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## APPEAL NO. 49 OF 2018

parties to apply before the Real Estate Regulatory  
 Authority, Punjab for continuation/ vacation  
 thereof.

sd /   
**JUSTICE ARUN CHAUDHARI (RETD.)**  
**CHAIRMAN**

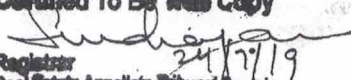
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**S.K SHARMA, IPS (RETD.)**

**MEMBER**



**July 24, 2019**  
**AN**

**Certified To Be True Copy**

  
 Registrar  
 Real Estate Appellate Tribunal Punjab  
 Chandigarh

24/7/19