

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

Subject: -

Appeal No. 50 of 2021

1. Hukam Chand Goyal, S/o Sh. Rakesh K. Goyal R/o H.No. 113/9, Aggar Nagar, Malerkotla, District Sangrur, Punjab 148023.

Versus

....Appellant

1. Estate Officer, Patiala Urban Planning and Development Authority (PDA), office at Urban Estate, Phase-II, Patiala, Punjab.
2. M/s Omaxe Ltd., registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, District SAS Nagar, Mohali, Punjab.

....Respondents

Appeal No. 51 of 2021

1. Jiwan Parkash Singla, S/o Sh. Amarnath Singla, R/o H.No. 9-B, Friends Colony, Patiala, Punjab.

Versus

....Appellant

1. Estate Officer, Patiala Urban Planning and Development Authority (PDA), office at Urban Estate, Phase-II, Patiala, Punjab.
2. M/s Omaxe Ltd., registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, District SAS Nagar, Mohali, Punjab.

....Respondents

Memo No. R.E.A.T./2021/ 395

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 were 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 **15th**
day of December, 2021.



REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

(L)

BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 50 /2021

MEMO OF PARTIES

1. **Hukam Chand Goyal**, s/o Sh. Rakesh K Goyal r/o HNo. 113/9, Aggar Nagar, Malerkolta, Distt. Sangrur, Punjab 148023. (**GC No. 1489/2019/UR**)

...Appellant/Complainant

Versus

1. Estate Officer, **Patiala Urban Planning and Development Authority (PDA)**, office at Urban Estate, Phase-II, Patiala, Punjab.
2. **M/s Omaxe Ltd.**, registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, Distt. SAS Nagar, Mohali, Punjab.

...Respondents/Opposite Parties

DATE: 12/08/2021
PLACE: Chandigarh



Jatin Bansal
(**JATIN BANSAL**) & (*Niharika Goel*)
PH/2745/2019 P-3915/2017
ADVOCATES
COUNSEL FOR THE APPELLANT

(M)

BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 51 /2021

MEMO OF PARTIES

1. **Jiwan Parkash Singla**, s/o Sh. Amarnath Singla, r/o HNo. 9-B, Friends Colony, Patiala, Punjab. (GC No. 1489/2019/UR)

...Appellant/Complainant

Versus

1. Estate Officer, **Patiala Urban Planning and Development Authority (PDA)**, office at Urban Estate, Phase-II, Patiala, Punjab.
2. **M/s Omaxe Ltd.**, registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, Distt. SAS Nagar, Mohali, Punjab.

...Respondents/Opposite Parties

DATE: 12/08/2021
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Jatin Bansal & *Niharika Goel*
(**JATIN BANSAL**) & (**NIHARIKA GOEL**)
PH/2745/2019 P-3915/2017
ADVOCATES
COUNSEL FOR THE APPELLANTS

**REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,
AT CHANDIGARH**

Appeal No. 50 of 2021

1. Hukam Chand Goyal, S/o Sh. Rakesh K. Goyal R/o H.No. 113/9, Aggar Nagar, Malerkotla, District Sangrur, Punjab 148023.

....Appellant

Versus

1. Estate Officer, Patiala Urban Planning and Development Authority (PDA), office at Urban Estate, Phase-II, Patiala, Punjab.
2. M/s Omaxe Ltd., registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, District SAS Nagar, Mohali, Punjab.

....Respondents

Appeal No. 51 of 2021

1. Hukam Chand Goyal, S/o Sh. Rakesh K. Goyal R/o H.No. 113/9, Aggar Nagar, Malerkotla, District Sangrur, Punjab.
1. Jiwan Parkash Singla, S/o Sh. Amarnath Singla, R/o H.No. 9-B, Friends Colony, Patiala, Punjab.

....Appellant

Versus

1. Estate Officer, Patiala Urban Planning and Development Authority (PDA), office at Urban Estate, Phase-II, Patiala, Punjab.
2. M/s Omaxe Ltd., registered office at India Trade Tower, 1st Floor, New Chandigarh, Mullanpur, District SAS Nagar, Mohali, Punjab.

....Respondents

Present: - Mr. Jatin Bansal, Advocate for the appellant.

Mr. Balwinder Singh, Advocate with Mr. Bhupinder Singh, Advocate for the respondent No.1.

Mr. Maninder Kumar, Advocate for Mr. Munish Gupta, Advocate for respondent No.2.



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Maninder Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

15-12-2021

Appeal No. 50 of 2021
Appeal No. 51 of 2021

**QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN
SH. S.K GARG DISTRICT AND SESSIONS JUDGE (RETD.)
ER. ASHOK KUMAR GARG, C.E. (RETD.), MEMBER
(ADMINISTRATIVE/TECHNICAL)**

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JUDGMENT: (Justice Mahesh Grover (Retd.))

1. By this order we will dispose of two appeals bearing No. Appeal No. 50 of 2020 ("Hukum Chand Goyal Versus Estate Officer, Patiala Urban Development Authority and anr.") and Appeal No.51 of 2020 ("Jiwan Parkash Singla Versus Estate Officer, Patiala Urban Development Authority and anr.")
2. The appellant before us preferred a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter known as the Act). Section 31 is extracted hereinbelow: -

" Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be."



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3. The grievance of the complainant as encapsulated in the complaint sets out various grievances but a closer scrutiny shows it was primarily directed against the non-delivery of possession of a plot allotted to him 12 years back. The plot was to be given after undertaking complete development. Since the needful had not been done the complainant prayed that he be refunded the amount along with interest and penal interest which has been charged from him, besides granting him compensation.
4. The Authority declined interference by observing that a similar matter is pending before the Hon'ble Punjab and Haryana High Court, where Residents Welfare Society of Plot Holders of PDA Omaxe City has raised identical issues with similar prayers. The complaint was dismissed as being not maintainable.
5. While dismissing the complaint on the issue of maintainability, the Authority also commented adversely against the issue of enhancement of price raised by the appellant in the complaint. In Para 3 of the impugned order, the Authority declined the prayer observing that it cannot sit over the decision of Civil Courts regarding enhancement of compensation which was



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Registrar
Real Estate Appellate Tribunal Punjab
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determined in judicial proceedings and which enabled the respondents to raise an additional demand regarding the price of the plot on this count.

6. Learned counsel for the appellant while impugning the order dated 07.04.2021 of the Authority contends that merely because some people by forming an association/society have prayed for a relief similar to the one that he has raised before the Authority, there would be no justification for the Authority to decline interference on the issue of maintainability of a complaint particularly when the statute empowers the Authority to decide such complaint and more importantly when the appellant is not the writ petitioner or a member of the society which has preferred a writ petition.

7. Learned counsel for the respondent No.1 on the other hand contends that the impugned order is justified because the matter raised before the High Court by the Residents Welfare Society is absolutely identical to the one raised by the complainant in the complaint before the Authority. He further contends that the Authority was justified in shutting out the appellant for the reason that an order passed by the Authority the society which has preferred a writ petition.



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 Registrar
 Real Estate Appellate Tribunal Punjab
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may possibly result in a contradiction of the High Court's order.

8. After hearing learned counsel for the parties, we are of the opinion that the Authority was wrong in shutting out the appellant-complainant at the threshold. Section 31 was invoked by the complainant which certainly empowers the Authority to look into the grievance raised in the complaint.

9. The Authority has not made any observation as to whether it may possibly result in a contradiction of the High Court's order. lacks jurisdiction in view of the assertions made in the complaint rather it has reasoned that the same issue regarding the same project is pending before the Hon'ble High Court at the instance of Residents Welfare Society and therefore the complaint was not maintainable. Such reasoning is fallacious and deserves to be set aside. There may be various Forums having concurrent jurisdiction and initiation of a complaint or The Authority has not made any observation as to whether it lacks jurisdiction in view of the assertions made in the complaint rather it has reasoned that the same issue regarding the same project is pending before the Hon'ble High Court at the instance of Residents Welfare Society and therefore the complaint was not maintainable. Such reasoning is fallacious and deserves to be set aside. There may be various Forums having concurrent jurisdiction and initiation of a complaint or

For example a writ petition may be preferred by one set of persons regarding some grievances and another set of persons may choose to file a civil suit before the Civil court with the



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 Registrar
 Real Estate Appellate Tribunal Punjab
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same grievance and a similar prayer. In this eventuality the Court cannot refuse to entertain the suit by saying that the matter is before the High Court. Indeed if the High Court passes certain orders which may shed some light on the controversy when the matter is pending or even makes observations which may have an impact on the controversy pending before the Forum of concurrent jurisdiction, the said Forum being bound by order of High Court would follow it as judicial discipline demands but under no circumstances can a Court cannot refuse to entertain the suit by saying that the right of a litigant be snuffed out only on this score by holding the proceedings are not maintainable.

10. For the above said reasons, the appeal is accepted and the matter is remitted back to the Authority for decision afresh.
11. If any order passed by the Hon'ble High court has come into existence during this period which likely to impact the Forum being bound by order of High Court would follow it as outcome of the complaint the same be brought to the notice of the Authority by the parties.
12. Before parting with the order, we notice that the Authority in Para 3 of the impugned order declined the prayer regarding for the above said reasons, the appeal is accepted and the matter is remitted back to the Authority for decision afresh. Court with which we are in complete agreement.



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Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

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Appeal No. 50 of 2021
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13. In view of above, the appeal is allowed and the impugned order is set aside and the case is remanded back for decision on merits.

Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

Appeal No. 50 of 2021
Appeal No. 51 of 2021
Sd/-
S.K. GARG, D & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

Sd/-
ER. ASHOK KUMAR GARG, C.E. (RETD.)
MEMBER (ADMINISTRATIVE/ TECHNICAL)

13. In view of above, the ap
November 30, 2021

AN order is set aside and the case is remanded back for decision on merits.



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Dr. Amendra Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

15-12-2021

JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

S.K. GARG, D & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

ER. ASHOK KUMAR GARG, C.E. (RETD.)
MEMBER (ADMINISTRATIVE/ TECHNICAL)

November 30, 2021

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