

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

Subject: -

APPLICATION NO.67 OF 2022.

AND APPEAL NO. 43 OF 2022

KAPIL KUMAR

VERSUS

M/S NXTEP MAINTAIN INFRAZ PVT. LTD. AND ANR.

Memo No. R.E.A.T./2022/146

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 07th
day of April, 2022.



Tonamals Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB

CHANDIGARH

Appeal No 43 of 2022

MEMO OF PARTIES

Kapil Kumar S/o Shri Vijay Kumar

#608, Tower 2, SBP North Valley, Santemajra, Kharar,

S.A.S. Nagar (Mohali), Punjab - 140301

Mobile : 9463689246

Email: kapilkumar_m@rediffmail.com

..Appellant

Versus

1) NXTEP Maintain Infraz Pvt Ltd

523,5th Floor, Block D and E,

Chandigarh City Centre, VIP Road, Zirakpur,

S.A.S. Nagar (Mohali), Punjab- 140603

Mobile : 9988076878 (Amandeep Bindra, Advocate)

Email: bindraamandeep@gmail.com

2) Singla Builders and Promoters Ltd

Plot Number 1265C, Sector 82,

S.A.S. Nagar (Mohali), Punjab - 160055

Mobile : 9988076878 (Amandeep Bindra, Advocate)

Email: bindraamandeep@gmail.com

... Respondents

कापिल कुमार
(KAPIL KUMAR)



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REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT
CHANDIGARH

APPLICATION NO.67 OF 2022

AND APPEAL NO. 43 OF 2022

KAPIL KUMAR

VERSUS

M/S NXTEP MAINTAIN INFRAZ PVT. LTD. AND ANR.

Present: - Mr. Kapil Kumar, appellant in person.

ORDER:-

1. This appeal is directed against the impugned order dated 29.09.2021 passed by the Real Estate Regulatory Authority, Punjab. The appeal is accompanied by application for condonation of delay, which we intend to allow keeping in view the judgment of the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020*. Ordered accordingly.

2. We have heard the appellant appearing in person.

3. A complaint was preferred by the company in-charged with maintenance of the building, wherein the appellant had been allotted residential unit obligating him to pay charges, as per Clause 3 of the Buyers Agreement, extracted hereinbelow:-



APPEAL NO. 43 OF 2022

3. (a) Maintenance Agreement

"The Purchaser(s) hereby agrees & undertakes that it shall enter into a separate Maintenance Agreement with the maintenance agency appointed or nominated by the Developer for the maintenance of the common areas of the complex. The purchaser(s) agrees to pay the maintenance charges (indicative) @ Rs.one approximately per sq. ft. of the Super Area per month in advance for two years and security of Rs.25/- per sq. feet of super area at the time of possession as Interest Free Maintenance Security."

4. The appellant was required to pay maintenance charges @ Re.1/- square feet approximately per month of the super area at the time of possession. In the first instance this amount was to be paid for a period of 2 years in advance along with a security of Rs.25/- per sq. ft. of the Super area as Interest Free Maintenance Security entitling the appellant to maintenance of the residential unit and the surrounding areas.

5. Since the appellant fell in arrears, the present respondent initiated the complaint before the Real Estate Regulatory Authority, Punjab, which was looked into by the Authority resulting in the impugned order.



APPEAL NO. 43 OF 2022

6. The appellant pleads that ~~although~~ the complaint of the respondent has been partly allowed, resulting in an unfair advantage to it, since the amount of maintenance charges have been foisted upon the appellant with effect from 2014, whereas the completion certificate indicates the completion of project in the year 2016 and this should have been the starting point for calculating the amount.
7. We are unable to appreciate and accept the argument raised before us by the appellant. By his own showing and candid admission before us, he had taken possession of the residential unit in year 2015. There are other documents also to substantiate this fact. In fact the appellant had been raising some sort of grievance with the developer with effect from 2015, itself, which fortifies the factum of possession. If that be so then the emphasis placed by the appellant on the aspect of maintenance charges being linked to the grant of completion certificate is baseless considering the specific Clause 3 of the agreement, noticed in the forgoing paragraphs, which is unambiguous to state that maintenance charges would be levied from the date of possession. In fact the appellant can hardly have a grievance in view of the finding recorded by the



APPEAL NO. 43 OF 2022

Authority against the present respondent of there being no agreement envisaging maintenance charges @ Re.1.10 on account of the failure of the respondent to produce such an agreement before the Authority.

8. The Authority was thus right, not only in negating the plea of the respondent in this regard, but also on the clause of grant of maintenance @ of Re.1/- per square feet per month in terms of the agreement, confining it to the periods mentioned in Para 6 of the impugned order and extracted below:-

"6. The documents available on the record are enough to corroborate the allegations made in the complaint as far as the payment of maintenance charges at the rate of Re.1/- per square foot as per the assertion in the agreement dated 16.09.2012 is concerned. However, there is no evidence on record showing that the respondent had entered into a further agreement for payment of monthly maintenance charges at the rate of Rs.1.10/- per sq. foot per month w.e.f. August 2019 till March 2020 as against the rate of Re.1/- per square foot per month. As such, the complainants are unable to substantiate their claim for payment at a higher rate i.e. Rs.1.10/- per square foot per month from August 2019 till March 2020. Hence the complainants are held entitled to maintenance charges w.e.f. March, 2016 till March 2020 at the rate of Re.1/- sq. foot per month. The



APPEAL NO. 43 OF 2022

complainants have wrongly claimed a sum of Rs.12,232/- (@1.10/-) instead of Rs.11,120/- (@Re.1/-) for the period w.e.f. August, 2019 till March, 2020). As such, the complainants are entitled to arrears of maintenance allowances and GST as under:-

w.e.f. March 2016 till July, 2019 (41 months) @ Re.1/- per square foot	Rs.56,990/-
w.e.f. August, 2019 till March 2020 (8 months) @ Re.1/- per square foot	Rs.11,120/-
Total arrears of maintenance allowance	Rs.68110/-
GST at the rate of 18% on the above amount.	Rs.12,259/-
Grand Total	Rs.80,369/-

9. Finding no merit in the appeal, we decline interference.

10. Dismissed. Files be consigned to record room.

Sdr
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

Sdr
S.K. GARG & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

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

Certified To Be True Copy

Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

04/04/2022

