

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

Subject: -

APPEAL NO.128 OF 2020

Omaxe Chandigarh Extension Developers Pvt. Ltd., through its Authorized Representative namely Sh. Deepanjit Singh, India Trade Tower, 1st Floor, Baddi Kurali Road, New Chandigarh (Mullanpur), District Mohali.

....Appellant

Versus

Kulwant Singh Brar son of Jarnail Singh, resident of #22688, Street No.2, Bhagu Road, Bhatinda, Punjab.

....Respondent/complainant

Memo No. R.E.A.T./2022/201.

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 29th day of April, 2022.

T. Manoj Kumar

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB**Appeal No. 128 of 2020****MEMO OF PARTIES**

Omaxe Chandigarh Extension Developers Pvt. Ltd., through its Authorized Representative namely Sh. Deepanjit Singh, India Trade Tower, 1st Floor, Baddi Kurali Road, New Chandigarh (Mullanpur), District Mohali.

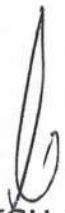
...Appellant

Versus

Kulwant Singh Brar son of Jarnail Singh, resident of #22688, Street No.2, Bhagu Road, Bhatinda, Punjab.

...Respondent/Complainant

Place: Chandigarh.
Dated: 03.01.2020


(MUNISH GUPTA)
P-515/2005
ADVOCATE
COUNSEL FOR APPELLANT



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

Date of Decision: 18.04.2022

APPEAL NO.128 OF 2020

Omaxe Chandigarh Extension Developers Pvt. Ltd.,
through its Authorized Representative namely Sh.
Deepanjit Singh, India Trade Tower, 1st Floor, Baddi
Kurali Road, New Chandigarh (Mullanpur), District
Mohali.

....Appellant

Versus

Kulwant Singh Brar son of Jarnail Singh, resident of
#22688, Street No.2, Bhagu Road, Bhatinda, Punjab.

....Respondent/complainant

**CORAM: 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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Argued by: - Mr. Munish Gupta, Advocate for the appellant.
Mr. Siddharth Gupta, Advocate for the
respondent.

JUDGMENT: (Justice Mahesh Grover (Retd.))

1. Learned counsel for the appellant with reference to the impugned order dated 04.09.2019 passed by the Member, Real Estate Regulatory Authority, Punjab (hereinafter referred to as the Authority) and the relief



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granted contends that it is a totally non-speaking order and deserves to be set aside as it does not give any reason for accepting the complaint.

2. We have heard the learned counsel for the appellant and notice that the complaint was with regard to the refund of the amount. Amongst this primary relief, other reliefs such as compensation etc. were also claimed, though not answered by the Authority; and presumably not agitated by the respondent, an impression strengthened by the fact that he is not in appeal before us. Evidently he has chosen not to assert his other reliefs set out in the complaint.
3. The Authority under the Act, while disposing of the complaint observed as follows: -

“Both the parties came present. The counsel for the complainant made his submissions and sought the refund of the entire amount along with interest of delayed period as per the provision of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the Act) and of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as ‘Rules’). The counsel for the respondent could not satisfactorily



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explain the reason for the delay and why the relief sought should be denied.

Based on the merits of the case and the submission made today, the following is ordered: -

1. *The respondent is directed to refund the entire amount paid by the complainant along with adjusted amount within 60 days from the date of this order.*
2. *As provided in Section 18(1) para two of the Real Estate (Regulation and Development) Act, 2016 read with Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules, 2017 the respondent shall pay interest w.e.f. 25.02.2016 (booking of 2nd Flat) as per State Bank of India highest marginal cost of landing rate +2% till the date of this order. This amount shall be paid within 60 days of this order.”*
4. No reasons have been recorded in the order even when the appellant claimed that the respondent was at fault in not depositing the amount as per the Construction Linked Plan, while the respondent on the other hand claims that amount of more than Rs.17 lacs have been paid, as against the total sale price of the unit of Rs.60



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lacs approximately. It is contended that no Buyers' Agreement had been executed, which would have defined the terms of the payment and the default of the respondent could only be established against a reading of such an agreement.

5. That apart, it is contended that the argument of the appellant, of the respondent, being merely a speculator is erroneous, considering that Rs.3 lacs were paid as a booking amount and more than Rs.14 lacs was asked to be adjusted from a different project in which the complainant/respondent had deposited the amount. This prayer had been accepted by the appellant indicating indisputably that an amount of more than Rs.17 lacs stood paid against the present transaction.
6. The fact that no Buyer's Agreement was executed has not been disputed before us. If that be so, then any argument raised by the respondent of the respondent's default in not making the payment would be meaningless. The fact of the matter is that more than 17 lacs has remained with the appellant on a promised unit, which has yet to see the light of the day in which



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case, the respondent cannot be faulted for making a prayer for refund of the amount, unjustly retained by the appellant.

7. The Authority has thus rightly ordered the refund.
8. In this view of the matter, we do not intend to relegate the matter back to the Authority for a decision afresh, even though the order is sans any reasons, for adopting such a course is likely to compel the respondent/parties into a prolonged round of litigation.
9. We make it clear and expect that the Authority should always record reasons that can withstand judicial scrutiny while offering its conclusions in the orders passed by it. The present case however, does not offer an opportunity for remand on this ground, considering that there was no Buyers' Agreement and the complainant/respondent merely asked for refund of the amount that had been unjustly retained by the appellant without offering him the possession of the unit.



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10. We notice that the appellant has offered no justifications for this except to state that the respondent is merely a speculator, who has not deposited any amount except the one required for booking which also we find to be erroneous for the reasons that we have recorded above.
11. Besides, we do not intend to force the respondent into throes of another round of litigation noticing that he is merely asking for refund of the amount, which was with the appellant since, 2016.
12. Disposed of. File be consigned to record room and a copy of this order be communicated to the parties as well as to the Real Estate Regulatory Authority, Punjab

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)

April 18, 2022



Certified To Be True Copy

[Signature]
 Registrar
 Real Estate Appellate Tribunal Punjab
 Chandigarh

29/04/2022