

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

Subject: -

APPEAL NO. 243 of 2020

Ashok Mair aged about 61 years S/o Jagdish Lal Mair R/o H. No. 935,
Sector-7, Panchakula, Haryana.

...Appellant

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent

APPEAL NO. 244 of 2020

1. Pallavi Thukral D/o sh. N.L Thukral aged about 41 years.

2. SwaranLata Thukral w/o Sh. N.L Thukral aged 70 years.

Both R/o House No. 506, GH-106, Arushi Apartment, Sector-20,
Panchkula, Haryana-134109.

(Appellant no.2 for self and also on behalf of Appellant no.1-Pallavi
Thukral)

...Appellants

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent

APPEAL NO. 245 of 2020

1. Deepti Thukral D/o sh. N.L Thukral aged about 41 years.

2. SwaranLata Thukral w/o Sh. N.L Thukral aged 70 years.

Both R/o House No. 506, GH-106, Arushi Apartment, Sector-20,
Panchkula, Haryana-134109.

(Appellant no.2 for self and also on behalf of Appellant no.1-Deepti
Thukral)

...Appellants

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent



Memo No. R.E.A.T./2023/ 127

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 07th
day of March, 2023.



Shamsher Kaur

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 243 of 2020
IN
Complaint Tr.GC OF M-II/1519/File
No.25-M(SG) GC /1409/2019

MEMO OF PARTIES

ASHOK MAIR aged about 61 years s/o Sh Jagdish Lal Mair r/o
H. No.935, Sector-7, Panchkula Haryana **...Appellant**


Versus

M/S Green Valley Heights, near Sector 20 Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

...Respondent



PLACE: Chandigarh
DATE: 28.09.2020


VIKAS SHARMA
P/768/2005
Advocate

COUNSEL FOR THE APPELLANT
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BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 244 of 2020
IN
Complaint Tr.GC OF M-II/1519/File
No.23-M(SG) - GC/1415/2019

MEMO OF PARTIES

1. **Pallavi Thukral** d/o Shri N.L. Thukral aged about 41 years
 2. **SwaranLata Thukral** wife of Shri N.L.Thukral aged 70 years
- Both residents of House No.506, GH-106, Arushi Apartment,
Sector-20, Panchkula, Haryana-134109.
(Appellant no.2 for self and also on behalf of appellant no.1-
Pallavi Thukral)

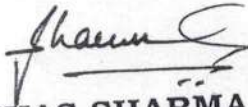
...Appellants

Versus

M/S Green Valley Heights, Near Sector 20 Panchkula,
Village Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab
140603.

...Respondent

PLACE: Chandigarh
DATE: 28.09.2020


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COUNSEL FOR THE APPELLANTS
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Appeal No. 245 of 2020
IN
Complaint Tr.GC OF M-II/1519/File
No.23-M(SG) - GC/1410/2019

MEMO OF PARTIES

1. **Deepti Thukral** d/o Shri N.L. Thukral aged about 40 years
 2. **Swaran Lata Thukral** w/o Shri N.L.Thukral aged 70 years
- Both residents of House No.506, GH-106, Arushi Apartment,
Sector-20, Panchkula, Haryana-135089.
(Appellant no.2 for self and also on behalf of Appellant no.1-
Deepti Thukral)

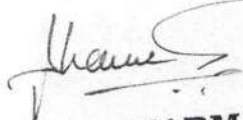
...Appellants

Versus

M/S Green Valley Heights, Near Sector 20 Panchkula,
Village Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab
140603.

...Respondent

PLACE: Chandigarh
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**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB
AT CHANDIGARH**

APPEAL NO. 243 of 2020

Ashok Mair aged about 61 years S/o Jagdish Lal Mair R/o H. No. 935,
Sector-7, Panchakula, Haryana.

...Appellant

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent

APPEAL NO. 244 of 2020

1. Pallavi Thukral D/o sh. N.L Thukral aged about 41 years.
2. SwaranLata Thukral w/o Sh. N.L Thukral aged 70 years.
Both R/o House No. 506, GH-106, Arushi Apartment, Sector-20,
Panchkula, Haryana-134109.

(Appellant no.2 for self and also on behalf of Appellant no.1-Pallavi
Thukral)

...Appellants

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent



APPEAL NO. 245 of 2020

1. Deepti Thukral D/o sh. N.L Thukral aged about 41 years.
2. SwaranLata Thukral w/o Sh. N.L Thukral aged 70 years.
Both R/o House No. 506, GH-106, Arushi Apartment, Sector-20,
Panchkula, Haryana-134109.

(Appellant no.2 for self and also on behalf of Appellant no.1-Deepti
Thukral)

...Appellants

Versus

M/s Green Valley Heights, near Sector 20, Panchkula, Village
Kishanpura, Zirakpur, SAS Nagar, Mohali, Punjab 140603.

....Respondent

Appeal No. 243 of 2020, Appeal No. 244 of 2020 and Appeal No.
245 of 2020

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Present: - Mr. Vikas Sharma, Advocate for the appellants.
Mr. Gaurav Tangri, Advocate for the respondent.

CORAM: **JUSTICE MAHESH GROVER (RETD.), CHAIRMAN**
SH. S.K. GARG DISTT. & SESSIONS JUDGE
(RETD.), MEMBER (JUDICIAL)
ER. ASHOK KUMAR GARG, CHIEF ENGINEER
(RETD.), MEMBER (ADMN./ TECH.)

JUDGMENT: (JUSTICE MAHESH GROVER (RETD.), CHAIRMAN)

1. By this order we will dispose of these appeals i.e.

Appeal No. 243 of 2020	Ashok Mair Vs. M/s Green Valley Heights
Appeal No. 244 of 2020	Pallavi Thukral and Anr. Vs. M/s Green Valley Heights
Appeal No. 245 of 2020	Deepti Thukral and Anr. Vs. M/s Green Valley Heights

Vide the impugned order passed by the Real Estate Regulatory Authority, Punjab (hereinafter known as the Authority) the complaint of the appellants (complainants) was dismissed resulting in the present appeals.



2. The appellants purchased an apartment in the project developed by the respondent for a total sale consideration of Rs.23,50,000/-. The expression of interest contemplated possession by 26.08.2014. However, it was on 20.09.2016 that the offer of possession was made and physical possession was given on 17.03.2017. The grievance in the complaint was qua the following

deficiencies i.e. extra charge for providing UPVC windows, gas pipes and AC wiring, and a prayer was thus made that interest on delayed possession be given to them as also the amounts charged for the above referred facilities being extra and not in the original understanding be refunded. An amount of Rs.50,000/- was claimed for mental agony and Rs.15,000/- as cost of litigation.

3. The respondent denied the allegations and pleaded that the complaint is not maintainable and no compensation can be awarded, besides no cause of action had arisen. The offer of possession was made on 20.09.2016 and actual possession was delivered on 17.03.2017. Therefore, the provisions of the Act would not apply the possession being prior in time to the notification of the Act.



The Authority concluded that since offer of possession had been made in the year 2016 and possession itself given on 17.03.2017 prior to the date of notification of the Act, this would deprive the appellants of any remedy under the Act. Besides the complaint was submitted after three years with regard to the issues that were to the knowledge of the appellants, having entered possession in the year 2017.

5. The respondent attributed the costs claimed by the appellants to the extra works done by him.
6. Before us in appeal no new point has been urged and neither has any meaningful argument been advanced. Concededly, the possession was given on 17.03.2017 and in the case of Deepti Thukral (Appeal No. 245 of 2020) there was no delay in possession at all. The sale deed was also registered in the year 2016. Having regard to these facts when the appellants were in physical possession of the unit since 2017 and the issues were raised belatedly, there would be no occasion for us to interfere particularly, when the provisions of the Act would not be attracted to the case of the appellant in view of the facts noticed above.

- ✓ 7. A lame argument was raised by the learned counsel for the appellants that the project was ongoing and the Act would require mandatory registration. We are afraid this argument is of no consequence, in view of the clear definition of the term ongoing projects ^{as given in the Rules.} which we extract herebelow:-



2. Definitions. - (1)xxxxx

(a) xxxx (b) xxxx (c) xxxx

(h) "ongoing project" means the Real Estate Projects which are ongoing in which development and development works as defined in Section 2(s) and Section 2(t) of the Act are still underway, excluding the area of portion of the Real Estate Project for

which partial completion or occupation certificate, as the case may be, has been obtained by the promoter of the project.

The facts reveal that the partial completion certificate was granted to the respondent much prior to the coming into existence of the Act. The definition of the partial completion certificate as per Rules is as below:-

2. Definitions. – (1)xxxxxx

(a) xxxxx (b) xxxxx (c) xxxxx

(g) 'partial completion certificate' means a certificate issued by the Authority competent to issue the same for a part of project on completion of development works in that part or of a building block in case of built up projects as the case may be.

There is no material to indicate that the area in which the apartments of the appellants are situated are beyond the area relating to the partial completion certificate. The appellant has also failed to prove that the costs claimed by them were beyond the scope of the amount envisaged for the apartment.

8. For the aforesaid reason we do not find any infirmity in the impugned orders and the appeals are held to be without any merit and thus dismissed.

Files be consigned to the record room.



Sdr
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

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

(06-03- , 2023)

DS

Sdr

Certified To Be True Copy
T. Manoj Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh.

07/03/2023