

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

Subject: -

Appeal No.47 of 2023

M/s Janta Land Promoters Private Limited, Corporate Office,
SCO No.39-42, Sector-82, S.A.S. Nagar, Mohali-140306.

...Appellant

Versus

1. Kuldeep Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017
2. Sh. Arjun Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017
3. Punjab Real Estate Regulatory Authority, Sector-18, Madhya Marg, Chandigarh

....Respondents

Memo No. R.E.A.T./2024/ 12

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1ST FLOOR,
BLOCK B, PLOT NO.3, MADHYA MARG, SECTOR-18,
CHANDIGARH-160018.**



Whereas appeal 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 appeal 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 **12th day of January, 2024.**

Shanand Kumar

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL PUNJAB

RERA APPEAL NO. 47 of 2023
(Arising out of Complaint No. GC No. 0408 of 2022)

MEMO OF PARTIES

M/s. Janta Land Promoters Private Limited, Corporate Office, SCO No. 39-42, Sector-82, S.A.S. Nagar, Mohali – 140306

...Appellant

VERSUS

1. Kuldeep Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017.
2. Sh. Arjun Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017.
3. Punjab Real Estate Regulatory Authority, Sector-18, Madhya Marg, Chandigarh

...Respondents



Dated: -19-9-23
Chandigarh

(Ranjit Singh Kalra) Advocate
Counsel for the Appellant

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

Appeal No.47 of 2023

M/s Janta Land Promoters Private Limited, Corporate
Office, SCO No.39-42, Sector-82, S.A.S. Nagar, Mohali-
140306.

...Appellant

Versus

1. Kuldeep Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017
2. Sh. Arjun Gupta, S 179-B, Panchsheela Park, Near Mother Dairy, South Delhi, Delhi-110017
3. Punjab Real Estate Regulatory Authority, Sector-18, Madhya Marg, Chandigarh

....Respondents

Present: - Mr. Ranjit Singh Kalra, Advocate for the appellant.
Mr. Rana Gurtej Singh, Advocate for the respondent
No.1 & 2.



CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN

**SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),
MEMBER (JUDICIAL)**

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

Appeal No.47 of 2023

2

1. The present appeal is by the developer impugning the Order dated 14.07.2023, passed by the Real Estate Regulatory Authority, Punjab (hereinafter known as Authority).
2. The respondent was desirous of having a plot in the project being developed by the present appellant and he booked a unit jointly in the name of Kuldeep Gupta and Arjun Gupta in the year 2021, after depositing an initial amount of Rs.13,00,000/-. A specific Unit No. J-1304, Sector 66-A, Mohali, in Falcon View, was the Unit chosen by the appellant and allocated to him. The unit was however, cancelled on 12.11.2021 on the ground that the application form was incomplete.
3. This was the cause of grievance to the allottee so he preferred a complaint before the Authority with the grievance that the cancellation was improper as also was the forfeiture of an amount of Rs.3,68,343/-. It was specifically alleged that no intimation ~~of~~ show cause notice was ever issued to them apprising them of any shortfall of particulars in the application form and thus the entire action was motivated in order to derive monetary advantage by selling the residential unit at a higher price to someone else.
4. The appellant who contested the proceedings, took-up the plea that the application form was incomplete insofar as the particulars of the co-applicant were concerned. The photograph and other details were not distinctly set out in the application form. Besides this there were other deficiencies and since the incomplete forms are not accepted the unit was cancelled.



5. This are in brief the facts of the case, and the Authority after looking into the grievance and related material before it concluded in favour of the allottees by holding that no notice was ever issued to the allottee apprising them of the deficiency of particulars and thus the cancellation was bad. It also went on to observe that the promoter had already allotted the same apartment to one Sh. Harminder Bajaj and entered into an agreement for sale within 3 days of cancellation for an amount of Rs.1,52,76,740/- plus G.S.T. whereas the unit was being sold to the present respondents for a sum of Rs.1,29,21,960/- plus G.S.T. The Authority then directed that the respondents be allotted the same type of apartment in the same project with a same location, size, amenities and facilities, floor rate etc. on same conditions as mentioned in the application for booking of the apartment of the respondents. The allottees were also bound to a condition of paying the balance amount within 180 days of the receipt of the copy of the order. For the purposes of reference the relevant portion of the order granting relief to the respondents is extracted herebelow:

17. According, the complaint is partly allowed and following is ordered:

(i) Cancellation of the Apartment No.J-1304 of Falcon View, Sector-66A, Mohali in the name of Sh. Kuldeep Gupta and Arjun Gupta done by the respondent/promoter is hereby quashed and held to be invalid.

(ii) The Allottee(s) are entitled to the Apartment No.J-1304 of Falcon View, Sector 66-A, Mohali but since the promoter has already allotted the said apartment to Sh. Harminder Bajaj and



entered into agreement for sale, therefore, it may not be possible to take it back and allot to Sh. Kuldeep Gupta and Sh. Arjun Gupta, the original allottees without involving litigation and delay in possession. **Therefore, the promoter is directed to allot Sh. Kudeep Gupta and Sh. Arjun Gupta, the original allottees, the same type of apartment in the same project with same location, size, amenities & facilities, floor, rate etc. on the same terms & conditions as mentioned in the Application for Booking of Apartment as mentioned on page 3 of the Application**

(iii) The refund amount made through cheque shall not be encashed by the respondent.

(iv) The Complaint-cum-Allottee will complete the application for booking of apartment to the satisfaction of the Respondent-cum-Promoter and submit all other documents are legally required & taken by the from other allottees by the Promoter (Respondent).

(v) An Agreement for Sale in Form Q as per Rule 8(1) will be duly entered and got registered by Respondent with Sh. Kuldeep Gupta and Sh. Arjun Gupta. The registration Charges for Agreement for Sale in Form Q will be divided equally in respondent and Joint allottees i.e., Sh. Kuldeep Gupta and Sh. Argun Gupta will jointly pay 50% and other 50% by the Promoter.

(vi) The complainants will pay the balance amount within 180 days of receipt of this order after adjusting Rs.13,00,000/- already paid by it. The complainant will not encash the cheque No.477192 dated 11.11.2021 of Punjab National Bank, Mohali for an amount of Rs.9,31,657/- The complainant will return the cheque in original, if available or will give an affidavit that it has not encashed the same & will indemnify the Promoter in case this cheque is encashed by any



Appeal No.47 of 2023

5

other person in connivance or fraudulently.

6. Aggrieved of the orders of the Authority, the present appeal has been filed. It has been contended before us that the impugned order is erroneous and since the application was incomplete the appellant was not bound to consider the same. It was then argued that the respondent was informed telephonically of the deficiencies and thus cannot claim ignorance of the action contemplated and eventually taken.
7. To a pointed question as to whether any notice was issued to the allottee informing him of the deficiencies and impending cancellation in the case of failure to rectify the deficiencies, the answer was evasive if not out rightly in the negative.
8. We have heard the learned counsel for the parties at some length and are of the opinion that such minor deficiencies in the application form as noticed from the material on record, could easily have been rectified if the respondent had been informed of it. The deficiencies centered around lack of details of the co-applicant even though his signatures were there and a missing photograph. Without issuing show cause notice and apprising the respondent of the deficiencies the cancellation of the unit can at best be termed to be perverse and harsh. Not only this the appellant forfeited a substantial amount without any justification.
9. The whole action of the appellant thus is completely unjustified, and obviously taken with a motive to derive advantage to itself by selling the unit at a higher price to someone else. This is



Appeal No.47 of 2023

6

adequately fortified by the fact that within 3 days of the cancellation of the allotment it was sold to one Sh. Harminder Bajaj at a higher price differential of Rs.23,54,780/-.

10. Having regard to the facts in totality we do not find any infirmity in the order of the Authority impugned before us and consequently we dismiss the appeal and uphold all the directions given by the Authority as reproduced in the foregoing paragraphs. The appeal is dismissed with a cost of Rs.5,000/-.



Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

January 4, 2024

SB

Certified To Be True Copy

Shanend Jain
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

12/01/2024