

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

Subject: -

Appeal No.43 of 2023

M/s Wooden Heights Developers Pvt. Ltd. having registered office at GH Site No.1, Preet City, Sector 86, SAS Nagar through its Authorized Representative/Director namely, Naushad Wats

...Appellant

Versus

1. Rohan Bansal Son of Raman Bansal R/o H.No.3257, Sector 21, Chandigarh
2. M/s Shaurya Townships Pvt. Ltd. address at Group Housing Site No.1, Sector 86, SAS Nagar, Punjab through its Director(s)
3. M/s Preet Land Promoters & Developers Pvt. Ltd. having registered Office at SCO 672, Sector 70, SAS Nagar, Punjab through its Director
4. Real Estate Regulation Authority, Punjab having registered office at 1st Floor, Plot No.3, Block-B, Madhya Marg, Sector 18-A, Chandigarh through its Chairperson

....Respondents

Memo No. R.E.A.T./2024/ 150

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 for be uploading the same on website.

Given under my hand and the seal of the Hon'ble Tribunal this **10th day of April, 2024.**


REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB

Appeal No. 43 of 2023

In G C No. 0199 of 2023

(Pending for 03.10.2023)

IN THE MATTER OF:

MEMO OF PARTIES

1. M/s Wooden Heights Developers Pvt. Ltd. having registered office at GH Site No. 1, Preet City, Sector 86, SAS Nagar through its Authorized Representative/Director namely, NAUSHAD WATS

...Appellant(s)

VERSUS



Rohan Bansal Son of Raman Bansal R/o H. No. 3257, Sector 21, Chandigarh.

M. - 9876901300

E-mail - hcbuilders37@gmail.com

2. M/s Shaurya Townships Pvt. Ltd. address at Group Housing Site No. 1, Sector 86, SAS Nagar, Punjab through its Director(s).

M. 9417428383

E-mail - shauryatownships@gmail.com

3. M/s Preet Land Promoters & Developers Pvt. Ltd. having registered office at SCO 672, Sector 70, SAS Nagar, Punjab through its Director

M. - 7696797979

E-mail - plpmohali@yahoo.com

4. REAL ESTATE REGULATION AUTHORITY, PUNJAB having registered office at 1st Floor, Plot no 3, Block -B, Madhya Marg, Sector 18-A, Chandigarh through its Chairperson.

...Respondent(s)

Chandigarh
21.08.2023



Appellant
Sh. Naushad Wats
Authorized Representative
M/s Wooden Heights Developers Pvt. Ltd.

Through Counsel



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COUNSELS FOR APPELLANT

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

Appeal No.43 of 2023

M/s Wooden Heights Developers Pvt. Ltd. having registered office at GH Site No.1, Preet City, Sector 86, SAS Nagar through its Authorized Representative/Director namely, Naushad Wats
...Appellant

Versus

1. Rohan Bansal Son of Raman Bansal R/o H.No.3257, Sector 21, Chandigarh
2. M/s Shaurya Townships Pvt. Ltd. address at Group Housing Site No.1, Sector 86, SAS Nagar, Punjab through its Director(s)
3. M/s Preet Land Promoters & Developers Pvt. Ltd. having registered Office at SCO 672, Sector 70, SAS Nagar, Punjab through its Director
4. Real Estate Regulation Authority, Punjab having registered office at 1st Floor, Plot No.3, Block-B, Madhya Marg, Sector 18-A, Chandigarh through its Chairperson

....Respondents

Present: - Mr. Akshit Grover, Advocate for Appellant
Mr. Prashant Rana, Advocate for RERA, Punjab
Mr. Mohammad Sartaz Khan, Advocate for respondent
Ms. Manju Goyal, Advocate for the respondent No.2.



**CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN
SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),
MEMBER (JUDICIAL)**

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

1. This is an application seeking modification of the interim order passed by us on dated 18.01.2024 in Appeal No.43 of 2023.
2. For the purposes of reference the order dated 18.01.2024 is extracted here below:-

1. *In this appeal order dated 25.07.2023 and 18.08.2023, have been impugned.*
2. *It is not in dispute that the application for transfer of the promoters' project is pending before the Authority under the Act.*
3. *The impugned orders passed are clearly interim orders as is evident from the record where while invoking Section 8 of the Act, its consequences have been inflicted upon the appellant purportedly as an interim measure while the main proceedings had been adjourned to 03.10.2023.*
4. *The instant appeal was filed against those interim orders visiting serious consequences upon the appellant and we upon hearing the learned counsel for the applicant had passed an interim order dated 24.08.2023, to the following effect:*



In the meantime, the operation of the impugned order shall remain stayed. However, it is made clear that the appellant shall not create any third party rights in the project by advertising or proposing to sell any part of the project till further orders.

5. *During the course of proceedings however, an undertaking has been filed by the appellant on 10.01.2024, wherein the appellant has bound itself to the following:*

5. *That the deponent further undertakes to comply with the interim order or any other order passed by this Hon'ble court. Further the deponent undertakes on the behalf of the appellant company that the appellant company will not advertise or initiate in the project till the completion of all legal formalities for the transfer of the promoter of the project.*

6. *That the deponent further submits that till the time all the legal formalities of transfer of the promoter of the project are not complied with, the appellant company will only construct and develop the project which is in the interest of allottees.*

6. *It was submitted before us that the appellant shall abide by the aforesaid undertaking till the time his application is decided by the Authority.*

7. *In view of the above stand of the appellants we do not deem it appropriate to proceed with the matter any further, particularly when what has been impugned before us are interim directions*



passed by the Authority. But the impugned orders are clearly unsustainable as the Authority was in error in passing the impugned directions through interim orders when they virtually have an effect of deciding the main proceedings. It is a settled law that such a course is impermissible.

8. We therefore dispose of the appeal in terms of the undertaking as above, which along with the order dated 24.08.2023 passed by us shall hold good till the time the application/proceedings before the Authority in the aforestated matter is concluded.

9. We also direct that the Authority shall conclude the proceedings in hand, within a period of one month from the date of receipt of our orders.

10. The appeal is disposed of as above.

3. Thereafter, an application was moved by the learned counsel for the Real Estate Regulatory Authority (hereinafter known as the Authority) seeking extension of time by a period of two months from the date the quorum of the Authority is constituted, to comply with the directions contained in our order reproduced above.

4. In the present Application No.81 of 2024, the learned counsel for the applicant has drawn our notice to some proceedings that took place after the passing of our order dated 18.01.2024 where after the Authority adjourned the proceedings sine die till



the Coram of the Authority is constituted. The order dated 12.02.2024 is also extracted here below:

1. Application for reflecting of M/s Preet Lan Promoters & Developers Pvt. Ltd. As promoter of the RERA registered project namely, Shaurya Ananda (PBRERA-SAS81-PR0091) in purview of the Circular vide No.RERA/Pb/ENF/2021/28 dated 04.06.2021.

Application for taking up the present application along with the proceedings pending before the Hon'ble Authority under Section 8 and 15 of the Act.

2. Application for considering the application filed for the transfer of the promoter of the RERA Registered project namely, Shaurya Ananda (PB-RERA-SAS81-PR0091) on dated 28.04.2023 be deemed to be moved by M/s Preet Land Promoters & Developers Pvt. Ltd.

And Irrevocable consent by the M/s Preet Land Promoter & Developers Pvt. Ltd. To transfer the promoter of the RERA registered project namely Shaurya Ananda (PBRERA-SAS81-PR-0091) from M/s Shaurya Townships Pvt. Ltd. To M/s Wooden Heights Developers Pvt. Ltd.

3. Application under Section 7 of the Act for revocation of the registration of the project namely Shaurya Ananda (PBRERA-SAS81-PR0091) in the peculiar facts and circumstances of the case.



And application under Section 7 and 8 of the Act for handing over the project namely Shaurya Ananda (PBRERA-SAS81-PR0091) to M/s Wooden Heights Developers Pvt. Ltd. In the interest of the allottees/home buyers along with the irrevocable consent of M/s Preet Land Promoters & Developers Pvt. Ltd.

Sh. Akshit Grover, Advocate Ld. Counsel for Respondent No.2 stated that the filed applications may be decided later on when the Real Estate Regulatory Authority, Punjab has the quorum as required as required under the law. He further stated that he will move an application before the Hon'ble Real Estate Appellate Tribunal, Punjab to grant time after another Member/Chairman is appointed in the Authority, so as to have quorum as required under the law.

The matter is adjourned sine-die till the quorum of the Authority is constituted.



In fact, a separate application was also preferred with a prayer to set aside the Order dated 18.01.2024.

6. It is pertinent to note here that functioning of the Authority came under some strain on account of various circumstances which we need not detail here. Suffice it to say that today the Authority is functional under an Administrative appointed by the Government.

7. These intervening circumstances have resulted in rendering the directions contained in our order dated 18.01.2024 with regard to disposal of the main issue pending before the Authority redundant (directions regarding concluding the proceedings within a period of 1 month from the date of receipt of our order).
8. We therefore, have no option but to enlarge the time granted by us vide the afore-referred order particularly when during the course of hearing of the matter today a limited prayer was made before us to this effect as also to modify the interim order with regard to the project in question.
9. The Real Estate Regulatory Authority Act is a beneficial piece of legislation. It is intended to regulate the activities of the developer. The act also ensures that the interest of the developer does not suffer at the hands of busy bees indulging in unwarranted litigation to stall the projects involving heavy investments while simultaneously watching over the interest of the allottees.
10. Be that as it may we notice that more than 3½ months have passed and the main controversy before the Authority is still pending for no fault of the appellant or for that purpose Authority itself.
11. To ensure substantial justice we are of the opinion that the interim order dated 18.01.2024 deserves to be modified as follows:



- i. The appellant had been permitted to go ahead with the construction but was restrained from creating any third party rights in the project by advertising or proposing to sell any part of the project till further orders.

12. The appellant has asserted before us:

"till date, after the execution of the MoU dated 26.08.2022, the applicant has completed the structure of the Tower A from 4th floor to 11th Floor as well as have completed the brick work upto to 6th Floor. Further, the applicant has incurred expenses of approximately, 20 crores over the project out of which liabilities of M/s Shaurya Townships Pvt. Ltd. Has been cleared to the extent of Rs.11 Crores approx. (which include the payments made to earlier construction contractors, 16 allottees as well as other creditors), for purchase of land, construction cost as well expenses incurred on taking approvals/NOCs from the competent authorities."

13. We therefore, while modifying our earlier order dated

18.01.2024 now permit the appellant to go ahead with the bookings and proceed with the advertising the project subject however, to the following conditions.

- a) The advertisement shall carry a cautionary note about the pendency of the proceedings before the RERA.
- b) Any booking done and amounts received by the appellant shall be intimated to the Authority in compliance of Section 4(D) by submitting a detailed financial statement of the transactions.



- c) From the facts we noticed that there are 7 flats regarding which some dispute is there between the appellant and one of the private respondents. The appellant may proceed with the booking and other sale aspects of the flats, but furnish an undertaking that in case the respondent who has stake in these 7 flats succeeds the appellant will be bound to satisfy the claims qua these flats.
- d) The appellant shall also furnish an undertaking to the Authority that the bookings etc. and the onward progress with regard to the project shall be at his own risk and responsibility and the appellant shall not claim or plead any advantage or equity on account thereof.
14. The aforesaid modification, to our minds is also essential because the constructed areas, tend to fall into decay, over a period, in case of non-use.
15. The Authority shall dispose of the matter as expeditiously as possible preferably within a period of 3 months from the date of the receipt of the copy of this order.



16. The aforesaid modification in the application stands disposed

Sdr
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

MEMBER (JUDICIAL)

April 04, 2024
SR

Certified To Be True Copy
Manish Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

10/04/2024