

F.A.O. 28 of 2024

IN

GC No.375 of 2021

D.O.D 29.11.2023

MEMO OF PARTIES

1. Rohit Goyal S/o Sh. Dev Raj Goyal.
2. Nisha Mittal W/o Sh. Rohit Goyal.
Both Resident of G-02, Ground Floor, Tower-3, Hero Homes,
Sector-88, Sahibzada Ajit Singh Nagar, Mohali, Punjab-160055.
..Appellants



VERSUS

2. M/S Hero Realty Pvt Ltd, Through its Managing Director,
Group Housing Site, Sector-88, Hero Homes, Sahibzada Ajit
Singh Nagar, Mohali, Punjab-160055.
...Respondent

Dated: 20/3/24
Chandigarh

Gaurav L
(Gaurav Gupta)
Counsel for the Appellants

BEFORE THE HON'BLE PUNJAB REAL ESTATE
APPELLATE TRIBUNAL AT CHANDIGARH

Appeal No. 23 of 2024

HERO REALTY PVT LTD.

...Appellant(s)

-Versus-

ROHIT GOYAL & ANOTHER

...Respondent(s)

[MEMORANDUM OF PARTIES]

HERO REALTY PVT LTD Through its Authorized signatory
Group Housing Site, Sector-88, Hero Homes

SAS NAGAR, MOHALI, PUNJAB-160055

... Appellant(s)

- VERSUS -



1. ROHIT GOYAL, Resident of G 03, Ground Floor, Tower-3
Sector-88, Hero Homes, SAS NAGAR, MOHALI
PUNJAB-160055

2. NISHA MITTAL Resident of G 03, Ground Floor, Tower-3
Sector-88, Hero Homes, SAS NAGAR, MOHALI
PUNJAB-160055

... Respondent(s)

Through Counsel:

Dated: 20.01.2024
Place: Chandigarh

Sanjeev Sharma *Vishal Singal*
SANJEEV SHARMA & VISHAL SINGAL
(P/2316/99, P/1487/99, ADVOCATES)
COUNSEL FOR THE APPELLANTS

THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO.23 of 2024

Hero Realty Pvt. Ltd. Through its Authorized Signatory Group Housing Site, Sector-88, Hero Homes.

...Appellant

Versus

1. Rohit Goyal, resident of G 03, Ground Floor, Tower-3 Sector-88, Hero Homes, SAS Nagar, Mohali, Punjab-160055
2. Nisha Mittal, resident of G 03, Ground Floor, Tower-3 Sector-88, Hero Homes, SAS Nagar, Mohali, Punjab-160055

....Respondents

APPEAL NO.28 of 2024

1. Rohit Goyal S/o Sh. Dev Raj Goyal.
2. Nisha Mittal W/o Sh. Rohit Goyal.

Both Resident of G-03, Ground Floor, Tower-3, Hero Homes, Sector-88, Sahibzada Ajit Singh Nagar, Mohali, Punjab-160055.

...Appellants

Versus

M/s Hero Realty Pvt. Ltd., Through its Managing Director, Group Housing Site, Sector-88, Hero Homes, Sahibzada Ajit Singh Nagar, Mohali, Punjab-160055.

....Respondents

Present: - Mr. Sanjeev Sharma, Advocate for Appellant in Appeal No.23 of 2024 and for Respondent in Appeal No.28 of 2024
Mr. Gaurav Gupta, Advocate for Appellants in Appeal No.28 and for Respondents in Appeal No.23 of 2024

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

DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF INCOME TAX (RETD.) MEMBER (TECH./ADMN.)

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

1. This Order shall dispose of Appeal No.23 of 2024 filed by the appellant/promoter and Appeal No.28 of 2024 preferred by the appellant/allottees against the impugned order of Real Estate

Regulatory, Authority Punjab (hereinafter referred to as the Authority) dated 29.11.2023.

2. The complainants were allotted a 3 BHK residential Flat No.G02 in Tower No.3 vide Allotment Letter dated 07.09.2018 in Housing Project "Hero Homes Mohali", developed by the respondents for a sale consideration of Rs.74,52,585/-. The complainant paid the entire sale consideration to the respondents. The possession of the flat was to be delivered on 13.01.2020. The offer of possession was given vide Letter dated 14.01.2021. The possession of the flat was ultimately taken on 09.04.2021. Though, the flat was not complete vide E-Mail dated 23.09.2021 the respondent was requested to complete the pending works but without any result. So, the allottees filed complaint before the Authority. The respondents in their reply replied that the delay in offering the possession was due to lockdown period imposed on account of COVID-19 Pandemic. The complainants made default in making the payments of installments. The possession of the flat was offered to the complainants on 14.01.2021 after receipt of occupation dated 12.01.2021.

3. The Authority disposed of the complaint in the following terms:-

"Accordingly, the complaint is accepted and the complainants are entitled to payment of interest payable by the respondent as prescribed under Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 at the rate of 10.75% (today's rate 8.75% per annum plus 2% as per State Bank of India's Highest Marginal Cost of Lending Rate) with effect from 13.01.2020 till 14.03.2021 minus four months period awarded by the Hon'ble Appellate Tribunal in the matter of Hero Realty vs Arun Premdhar Dubey" due to force majeure on account of Covid-19. The respondent is also



entitled to set off the amount of Rs.80,896/- from the payable interest which has already been adjusted/paid to the complainants by it. The respondent is further directed that the payment of interest be made within the time stipulated under Rule 17 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 i.e. within 90 days from the date of this order."

4. While impugning the order learned counsel for the allottee contended that the issue of *force majeure* has not been effectively dealt with. The promised date of possession was 13.01.2021 and as per the Circulars issued by the Authority and the Central Government during Covid-19 Pandemic the registration date and the completion date was extended by 6 months in respect of registered projects whose completion date or revised completion date or extended completion date expired on or after 25.03.2020. In the present case the date of completion expired on 13.01.2020 so the promoter in this case is not covered by the aforesaid circulars and has been wrongly given the benefit of 4 months and the said findings of the learned Authority are liable to be set aside. The learned counsel further submitted that the learned Authority in an arbitrary manner set off the compensation amount of Rs.80,896/- paid by the respondent-promoter to the complainant towards the delayed interest without giving any reasoning for setting off the aforesaid interest.
5. On the other hand learned counsel for the respondent has made submission in support of the impugned order. However, according to the learned counsel the learned Authority has failed to quantify the amount on which the interest is payable because the allottees paid some of the amounts after the offer of possession and on that amount they are not entitled to interest and moreover according to the learned counsel the completion certificate was applied vide Application dated 08.07.2020 and so the date of possession should be considered as 08.07.2020 and not



14.03.2021 and as such the appellant(developer) cannot be held liable to pay interest from 13.01.2020 to 08.07.2020.

6. After hearing the learned counsel for the parties we are of the opinion that in all appeals of similar situations and in the same project we have granted the benefit of 4 months because of the lockdown due to Covid-19 Pandemic. The appellant/allottees in the present case are also entitled to the similar benefit which was granted to the allottees of Appeal No.100 of 2021. We would thus, unhesitatingly adopt the same approach and grant similar benefit to the appellants/allottees. In the present case the possession was to be given on 13.01.2020. The Lockdown was imposed in March, 2020. By that time the possession had been delayed by almost 2 months. The offer of possession has been made on 14.03.2021 thus, the total delay is of 14 months. The contention of the learned counsel for the appellant/promoter that they had applied for the completion certificate vide Application dated 08.07.2020 and as such this date be considered as date of possession is without any merit because the date on which the offer is made is material not the date when completion certificate was applied for or the date when it was issued.
7. So far as the contention of the learned counsel for the respondent-promoter that the allottees are not entitled to interest on the amounts/payments which they made after the offer of possession is concerned, the same is also without any merit because as per the table of payments in given in Para No.6 of the grounds of appeal, no payment has been shown to have been given after 14.03.2021 the date when the possession was offered.
8. The contention of the learned counsel for the appellant/allottees that the compensation amount of Rs.80,896/- has been wrongly set of is also without any merit because the allottees cannot be allowed to receive double benefit with regard of the delay in delivery of the flats as the



RERA Act, has been enacted in order to protect the welfare of the allottees but not to enrich them.

9. Hence, both the appeals stands dismissed for the aforementioned reasons.



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

Sd/-
DR. SIMMI GUPTA, IRS (IT)
CHIEF COMMISSIONER OF INCOME TAX (RETD.)
MEMBER (TECH./ADMN.)

February 03, 2025

Vishal Sharma

Certified To Be True Copy
Shanesh Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh
Shubhendu Sharma
11/2/2025