

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

Subject: -

APPEAL NO. 40 of 2024

Chief Administrator, PUDA Mohali now through Estate Officer Patiala
Development Authority, Urban Estate Phase-2, Patiala.

... Appellant

Versus

Real Estate Regulatory Authority, Punjab on its own motion, First Floor, Plot
No.3, Block-B, Madhya Marg, Sector 18-A, Chandigarh-160018

....Respondent

Memo No. R.E.A.T./2025/93

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 uploading the same on website.

Given under my hand and the seal of the Hon'ble Tribunal this 26th
day of March, 2025.


REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



Appeal No. 40 of 2024

MEMO OF PARTIES

Chief Administrator, PUDA Mohali now through Estate Officer Patiala
Development Authority, Urban Estate Phase-2, Patiala.

.....Appellant

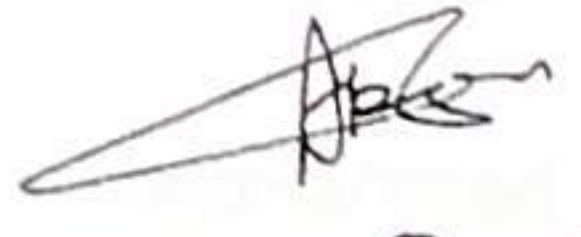
V E R S U S

Real Estate Regulatory Authority, Punjab on its own motion, First
Floor, Plot No.3, Block-B, Madhya Marg, Sector 18-A, Chandigarh -
160018.

.... Respondent



CHANDIGARH
DATED: 15.04.2023


(ASHISH GROVER)
ADVOCATE FOR THE APPELLANT
ENRL. No.P/671/1991

THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO. 40 of 2024

1. Chief Administrator, PUDA Mohali now through Estate Officer Patiala
Development Authority, Urban Estate Phase-2, Patiala

...Complaints/Appellant

Versus

1. Real Estate Regulatory Authority, Punjab on its own motion, First Floor, Plot
No.3, Block-B, Madhya Marg, Sector 18-A, Chandigarh-160018

....Respondents



Present: - Mr. Ashish Grover, Advocate for the Appellant
Mr. Prashant Rana, Advocate for RERA Punjab

**QUORUM: SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER (JUDICIAL)
DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF INCOME TAX (RETD.)**

JUDGMENT: DR. SIMMI GUPTA, IRS (IT), CHIEF COMMISSIONER OF INCOME TAX (RETD.) (ORAL)

FACTS OF THE CASE

The facts of the case are that the Authority in this case levied a penalty of Rs.5,00,000/- on the basis that the tentative cost of the project was Rs.42,60,50,953/- and that there was a clear violation of Section 3 of the Act as though the project was ongoing but the developer had not registered the project even after commencement of the Act, the Developer had also sold the plots and taken the first installments without offering any allotment letter even after 2017 and the total amount taken by the Developer without issue of allotment letter was 25% of the total cost of each plot from the allottee. The project was abandoned on 23.03.2018 which is much after the commencement of the RERA Act. In view of the above facts, the Authority invoked Section 59 and levied a penalty of Rs.5,00,000/-.

ARGUMENTS OF THE APPELLANT

1. The appellant claimed that the facts in this case are as under:-

APPEAL No.40 OF 2024**2**

Dates	Events
2016-2017	PUDA launched a commercial scheme known as PWD (Public Health) Fountain Chowk site scheme.
27.04.2016	Auction of SCO's.
12.05.2016	Subhash Kapoor and others had filed CWP No. 7956 of 2016 with a prayer to declare the area in question as protected monuments and to preserve it as it is. While issuing notice of motion the Hon'ble Court passed the status quo order with regard to kothi number 11-A situated in the erstwhile Chief Engineer Public Health Office near fountain chowk, Patiala.
19.04.2017/ 01.05.2017	RERA Act came into force and notified. Thus, when the site was auctioned and status quo was granted by Hon'ble High Court, the RERA Act was not in existence.
04.05.2017	A letter was received from Director Office of Directorate of Cultural Affairs, Archaeology and Museums Punjab that old PWD (Public Health) Buildings and surroundings and apparet thereto are under consideration of protection under Section 4(i) under the Ancient Monuments and Archaeology Sites and Remains Act 1964. Thus, not to carry out any type of development activity i.e demolition, construction, reconstruction, alteration, re-alteration and cutting of trees.
23.08.2018	Notification issued by Principal Secretary to Govt of Punjab Department of Tourism and Cultural Affairs declaring old Public health building as protected monument.
19.06.2018	Decision was taken by committee under the chairmanship of Chief Secretary Punjab vide agenda item no.48:12 to refund the earnest money received from auction purchasers.
01.10.2018	CWP No.7956 of 2016 was disposed of in view of the notification dated 23.08.2018

2. The above facts shows that the building was declared a protected monument under Punjab Ancient and Historical Monuments and Archeological Sites and Remain Act, 1964 on 23.08.2018, after which the Developer decided to refund the earnest money received from the allottees as a result of auction, however,

the RERA Act came into existence on 19.04.2017 and as on 19.04.2017 the project was an ongoing scheme and the appellant did not register the Project and thus contravened the relevant provisions of the Act. The reliance of the Appellant on the order of the Hon'ble High Court dated 12.05.2016, wherein status quo order had been issued, does not help the appellant as the order did not provide any stay to the proceedings and the appellant had the right to continue with the development of the project. It was only on 19.06.2018 that the decision was taken to refund the money of the purchaser/allottees. Even, thereafter the appellant took five months to refund the amount of the respondent and that too without interest.

3. Thus as the appellant contravened the provisions of the Act the levy of penalty by the Authority is justified and upheld.
4. The appeal is thus, dismissed and the order of the Authority is upheld. The amount of penalty deposited by the appellant in compliance of Section 43(5) be released to the respondent as per rules.

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

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

MARCH 24, 2025
SHUBHAM RANA

Certified to Be True Copy

Shanwar Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

Shubham Rana
26/3/2025