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IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 91 of 2021

MEMO OF PARTIES

M/s Omaxe Chandigarh Extension Developers Pvt. Ltd. (**now known as Omaxe New Chandigarh Developers Pvt. Ltd**) through its Authorized Representative namely Sh. Deepanjit Singh, India Trade Tower, Ist Floor, Madhya Marg Extension Road, New Chandigarh, SAS Nagar (Mohali), Punjab-140901

...Appellant

Versus

Vinod Issar, House No. 65, Sector 18-A, Chandigarh-160018.

...Respondent/Complainant

Date of Filing 27/9/2021/283
Date of Receipt by post _____
Appeal No. 91 - 2021
Signature _____
Registrar Dd

Place: Chandigarh.
Dated: 07.09.2021



(MUNISH GUPTA)
P-515/2005
ADVOCATE
COUNSEL FOR APPELLANT

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO. 91 OF 2021

M/S OMAXE CHANDIGARH EXTENSION DEVELOPERS PVT. LTD. (NOW
KNOWN AS OMAXE NEW CHANDIGARH DEVELOPERS PVT. LTD.)

VERSUS

VINOD ISSAR, HOUSE NO.65, SECTOR-18-A, CHANDIGARH-160018

Present: - Mr. Maninder Singh Advocate, for Mr. Munish
Gupta, Advocate for the appellant.

This appeal is directed against the order of the Real
Estate Regulatory Authority, Punjab dated 07.07.2021.

The complainant preferred a complaint against the
present appellant alleging an arbitrary demand qua 93 square
feet alleged to be the increased area necessitated on account of
the revised plans.

Learned Authority concluded against the appellant
by observing that the appellant had failed to provide any
justification or evidence in support of his demand for increase
in the Basic Sale Price (BSP), Preferential Location Charges
(PLC) and External Development Charges (EDC) related to the
increase of 93 square feet of the super area.

Learned counsel for the appellant refers to the
clause of the agreement, which contemplates additional price in
the eventuality of an increase in super area.

On the strength of this, it is argued that the findings
of the Authority below are erroneous and deserve to be set
aside particularly when it failed to take into consideration the



Maninder Singh

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additional material brought on record by the appellant and that too on an order passed by the Authority on 28.05.2021, in this regard.

We have heard the learned counsel for the appellant. That for the purposes of reference, we choose to extract here below the directions given by the Authority on 28.05.2021 enabling the appellant to provide additional information that would justify the enhanced demand regarding 93 square feet of the super area.

"Accordingly the respondent is directed to supply the following information:

- i. Explanation as to why the super area of the unit has increased;*
- ii. Calculation showing how the area of 93 sq. feet in the unit allotted to the complainant has been arrived at;*
- iii. Whether the factors that led to increase in super area do also necessitate an amendment of the building plans;*
- iv. If yes, has the change been approved by the competent authority.*

The above information may be furnished within 4 weeks from today."



The Authority categorically noticed that such relevant information was not provided. Although in para 9 of its order dated 07.07.2021, it refers to this additional affidavit only to discard it.

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Learned counsel for the appellant has drawn our attention to the revised plans sanctioned by the competent authority, where the built-up area of the second floor has been pegged at 175.517 square meters.

He would go on to argue that since this area had already been sanctioned, the demand was justified since in the agreement an area of 174.19 square meters only was specified.

We have heard learned counsel for the appellant at some length and find that there is no infirmity in the impugned order

The revised plans referred by the appellant are of 26.03.2015. The agreement with the respondent is of 26.11.2016. Evidently the area permitted in the revised layout plan was to the knowledge of the appellant and he ought to have made the respondent aware of what he is entitled to along with the corresponding price of the area to be delivered. This was obviously not done and consequently at the time of possession such a demand regarding an increased area which already stood accepted in the revised plans could not have been made justifiably upon the respondent. Confronted with the situation the learned counsel for the appellant states that this is a mistake on their part. However we do not intend to accept this plea of the appellant in view of the facts detailed above and primarily



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for the reason that no justification has been shown to raise the demand upon the respondent regarding the increased area of 93 sq. ft.

No ground to interfere.

Accordingly dismissed.

Sds.
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

October 14, 2021

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[Signature]
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