

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

Subject: -

APPEAL NO. 105 OF 2021
GREATER MOHALI AREA DEVELOPMENT AUTHORITY (GMADA) THROUGH
ESTATE OFFICER, GMADA, PUDA BHAWAN, SECTOR-62, SAS NAGAR,
MOHALI-160062
VERSUS
JASWINDER KAUR, 2836/1ST FLOOR, SECTOR 49-D, CHANDIGARH-160047 AND
ANOTHER

Memo No. R.E.A.T./2021/ **354**

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
17th day of November, 2021.


REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



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**BEFORE THE CHAIRMAN, REAL ESTATE APPELLATE,
TRIBUNAL, PUNJAB, CHANDIGARH**

MEMO OF PARTIES

Greater Mohali Area Development Authority (GMADA)
through Estate Officer, PUDA Bhawan, Sector- 62,
S.A.S.Nagar, Mohali-160062.

...Appellant

Versus

1. Jaswinder Kaur, 2836/1 1st Floor, Sector 49-D,
Chandigarh-160047.
2. Real Estate Regulatory Authority Punjab, First
Floor, Plot No.3, Block-B, Madhya Marg, Sector-
18/A, Chandigarh-160018.

...Respondents

Place: SAS Nagar

Date: ~~05/08~~ 2021

07.10.2021


(Bhupinder Singh)

Advocate

Counsel for the Appellant



REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPLICATION NO. 118 OF 2021

AND

APPEAL NO. 105 OF 2021

GREATER MOHALI AREA DEVELOPMENT AUTHORITY (GMADA) THROUGH
ESTATE OFFICER, GMADA, PUDA BHAWAN, SECTOR-62, SAS NAGAR,
MOHALI-160062

VERSUS

JASWINDER KAUR, 2836/1ST FLOOR, SECTOR 49-D, CHANDIGARH-160047 AND
ANOTHER

Present: - Mr. Bhupinder Singh, Advocate for the appellant.

This appeal is directed against the order dated 21.05.2021, passed by the Real Estate Regulatory Authority, Punjab.

The controversy is limited. A letter of intent was issued to the allottee (respondent) with the following Clause:-

"The physical possession of the said plot shall be handed over to the allottee within a period of one year from the date of issuance of this Letter of Intent"

The possession was not given within the stipulated period, which is the cause of grievance to the respondent, who preferred the complaint, resulting in the impugned order.

The argument of the appellant before the Authority as also before us is that allotment letter was issued to the respondent on 10.06.2020 with the following stipulation Clause 9.

"The allottee shall be required to take physical possession of the site within 90 days of the issue of this allotment letter. In case the allottee fails to take the possession of the plot allotted within 90 days, the possession of the plot shall be deemed to have been delivered to the allottee. In case of non-feasibility of plot/site, the allottee shall inform the Estate Officer in writing before the lapse of 90 days. Within 60 days of



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Shaninder Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

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taking over possession or deemed possession of plot, the allottee shall submit the building plan for approval by the Competent Authority."

In view of the above, it is contended that since the respondent has accepted this the earlier Clause in the letter of intent would fade into insignificance. Besides, it is argued that possession has already been taken, which should be construed as waiver of any lapse on the part of the appellant, even if established.

Having heard the learned counsel for the appellant at length in which, he most vehemently propounded the arguments as noticed above, we are of the opinion, that there is no merit in the appeal and deserves to be dismissed.

The letter of intent clearly prescribed the period in which possession was to be given and having failed to abide by it, the appellant cannot seek any refuge in the subsequent letter of allotment, which materialized after three years of the initial letter of intent.

Accepting the argument of the appellant would imply defeating the rights of the allottee and the Authority was right in observing that the appellant being an agency of the State has a greater responsibility to that of a private entity.



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Registrar
Real Estate Appellate Tribunal Punjab
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The appeal is dismissed. However, the delay of 40 days in filing the appeal stands condoned in view of the observation of the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020*.

Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

Sd/-
ER. ASHOK KUMAR GARG, C.E. (RETD.)
MEMBER (ADMINISTRATIVE/ TECHNICAL)

October 26, 2021

AN



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