

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

APPEAL NO. 15 OF 2021

1. Kunika Sharma wife of Sanjeev Sharma, resident of House No.28, First Floor, Shivalik Enclave, Mani Majra, U.T., Chandigarh.
2. Sanjeev Sharma son of Col. Bal Krishan Sharma, resident of House No.28, First Floor, Shivalik Enclave, Mani Majra, U.T., Chandigarh.

...Appellants

Versus

Greater Mohali Area Development Authority, PUDA Bhawan, Sector-62, Sahibzada Ajit Singh Nagar (Mohali)-160062 through its Estate Officer.

....Respondent

APPEAL NO. 23 OF 2021

Greater Mohali Area Development Authority, PUDA Bhawan, Sector-62, Sahibzada Ajit Singh Nagar (Mohali), Punjab-1160062

....Appellant

Versus

1. Kunika Sharma wife of Sanjeev Sharma, resident of House No.28, First Floor, Shivalik Enclave, Mani Majra, U.T., Chandigarh.
2. Sanjeev Sharma son of Col. Bal Krishan Sharma, resident of House No.28, First Floor, Shivalik Enclave, Mani Majra, U.T., Chandigarh.
3. Real Estate Regulatory Authority, First Floor, Plot No.3, Block-B, Madhya Marg, Sector-18/A, Chandigarh-160018.

....Respondents



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Present: - Ms. Rupali Shekhar Verma, Advocate for the appellants in Appeal No.15 of 2021 and for respondents in Appeal No.23 of 2021.

Mr. Bhupinder Singh, Advocate for the respondent in Appeal No. 15 of 2021 and for appellant in Appeal No. 23 of 2021.

QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN
SH. S.K GARG DISTRICT AND SESSIONS JUDGE (RETD.)
ER. ASHOK KUMAR GARG, C.E. (RETD.), MEMBER
(ADMINISTRATIVE/TECHNICAL)

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JUDGMENT: (SH. S.K GARG DISTRICT AND SESSIONS JUDGE (RETD.))

- Both these appeals have been filed against the order dated 25.01.2021 passed by Real Estate Regulatory Authority Punjab, vide which complaint filed by the allottee was allowed by observing as under:-

" In view of the nature of the functioning of the respondent a grace period of one year is allowed and the respondent is directed to pay interest at the rate of 9.30% per annum (today's highest MCLR rate of 7.30% plus 2%), prescribed in the Punjab State Real Estate (Regulation and Development) Rules, 2017 from 16.08.2019 till the actual handing over of possession. On their part the complainants are directed to take possession of the plot within 30 days of issue of this order. If they are unable to enjoy the fruits of their



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investment on account of delay in energisation of electrical services they would be free to move the appropriate forum at the relevant time."

2. Admittedly, a plot measuring 500 sq. yards was allotted to one Shri Mukul Bansal on 17.08.2015 for a price of Rs.23,000/- per square yard by GMADA (hereinafter called respondent). The plot was subsequently transferred in the name of the complainant-appellant on 16.10.2015. Accordingly, a letter of intent dated 17.08.2015 was issued in their favour, as per which all development works at the site were to be completed in approximately 36 months, after which allotment letter was to be issued with possession to be taken within 30 days thereafter.
3. Neither the development works were completed nor the allotment letter was issued to the appellant within stipulated period which led the appellant to file the complaint, resulting into impugned order.
4. It has been argued by the learned counsel for the complainant that the learned Authority has arbitrarily and without any basis given grace period of one year to the respondent. The learned Authority has not specified how the functioning of the



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respondent-authority is different from that of a private developer regarding the development of a housing project. So, the grant of grace period of one year is illegal and arbitrary, resulting into huge loss to the appellant.

5. Learned counsel for the complainant-appellant further submitted that the allotment letter was to be issued to the appellant on the completion of all the development works but in the present case the respondent-authority has issued the allotment letter without the completion of the development works as according to the learned counsel the energisation of electricity service has not been completed till date.
6. Learned counsel for the appellant further submitted that the appellant-allottee would not be able to start his construction work unless and until there is an electric supply at the spot. So, the direction given by the learned Authority to the appellant to take possession of the plot within 30 days of the issuance of impugned order is also arbitrary and illegal and a prayer has been made to direct the respondent-authority to issue the allotment letter on the completion of all the development works.



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7. On the other hand the learned counsel for the respondent has challenged the impugned order by raising half hearted arguments to the effect that the complaint is not maintainable because the allotment of the plot to the appellant was made under the Regional and Town Planning and Planning and Development Act, 1995 and as such any dispute between the parties is to be decided as per the provisions of that Act. Learned counsel for the respondent-GMADA has further submitted that the delay in the present case took place because the necessary EIA clearance was not given by the Ministry of Environment and Forest in time. It was not within the power of the respondent-GMADA to direct that Ministry to issue the clearance in time. So due to these facts some delay had taken place in the development works. So according, to the learned counsel for the respondent-GMADA on these grounds the impugned order of the learned Authority is liable to be set aside.
8. After hearing learned counsel for the parties at length we are of the confirmed view that there is no merit in the appeal filed by the respondent-GMADA, whereas sufficient merit is found



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in the submission of learned counsel for the complainant-appellant.

9. Clause 14(1) of the letter of intent clearly prescribes that the period for completion of development works at the site shall be approximately 36 months and allotment letter was to be issued after completion of all the development works. The letter of intent was issued in August, 2015. However, development works were not completed within the stipulated period. Allotment letter was ultimately issued to the appellant on 26.06.2020 i.e. during the pendency of the complaint. It appears that if the complaint had not been filed by the allottee, then the respondents might not have issued the allotment letter till date. But admittedly, there is considerable delay in issuance of allotment letter to the appellant and finding of the learned Authority regarding the delay in giving allotment letter to the appellant has not been challenged by the learned counsel for the respondent. It is not out of place to mention here that the respondent-authority develop the housing projects like any other private developer. Rather, it being a government agency is in a better position to complete its project more conveniently. But in this case, as observed above,



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there is an inordinate delay in completion of development works and issuance of the allotment letter to the complainant. So, granting of grace period of one year to the respondent by the learned Authority is not justified at all. Moreover, RERA Act does not provide for the grant of any grace period to any developer, including the government agency. So, we are of the view that the findings of the learned Authority granting grace period of one year to the respondent cannot be sustained and accordingly same are set aside.

10. Admittedly, energisation of the electrical services was not completed at the time of issuance of the allotment letter or even at the time of passing of the impugned order. Clause 14(1) of the letter of intent clearly mention that the letter of allotment is to be issued after the completion of all development works so it was the duty of the respondent-GMADA to complete the work of energisation of the electrical services, as without electricity nobody can raise construction on the allotted place, therefore, the complainant/allottee cannot be forced to take possession of the allotted plot without the electric supply. In this view of the matter, the direction given by the learned Authority to the complainant to take



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possession of the plot within 30 days of the passing of the impugned order is held to be arbitrary and illegal.

11. So far as the submissions of the learned counsel for the respondent-GMADA are concerned, they, as stated above are found to be without any merit because the project in question was an ongoing project, when the RERA Act came into operation, so the parties are bound by the provisions of this Act and the complainants have rightly approached the Authority under the provisions of the RERA Act for the redressal of their grievances.
12. No other point argued.
13. In view of the above discussions the impugned order is modified to the extent that the complainant would be entitled to interest as assessed by the learned Authority but with effect from 16.08.2018 till the actual handing over of the possession after the completion of all the development works including energisation of electric services.
14. The respondent-GMADA are also directed to offer the possession of the allotted plot afresh after the completion of the energisation of electrical services and the complainant is



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directed to take possession thereof within 30 days of the issue of offer.

15. For the aforesaid reasons- appeal of complainants is allowed and the appeal filed by the respondent-GMADA is dismissed. The amount deposited by GMADA under Section 43(5) of the Act be disbursed to the appellants- Ms. Kunika Sharma W/o Sanjeev Sharma and Mr. Sanjeev Sharma S/o Col. B.K. Sharma after proper identification and due verification in accordance with law.
16. The respondents-GMADA is directed to make the remaining payment within a period of 30 days after the handing over of the possession of the plot in question to the appellants.

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)

December 09, 2021

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Registrar
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