

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

Subject: -

**APPLICATION NO.32 OF 2021**  
**APPLICATION NO.34 OF 2021**  
**AND APPEAL NO.30 OF 2021**

**DIRECTOR CHANDIGARH ROYALE CITY PROMOTERS PVT. LTD.**  
**CHANDIGARH**  
**VERSUS**  
**RAVINDER KUMAR AHLUWALIA**

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Memo No. R.E.A.T./2022/ 159

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup>**  
**FLOOR, BLOCK B, PLOT NO.3, MADHYA MARG,**  
**SECTOR-18, CHANDIGARH-160018.**

Whereas appeals 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 appeals 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 04<sup>th</sup> day of April, 2022.

*Tohanenab Kaur*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



**IN THE REAL ESTATE APPELLATE TRIBUNAL,  
PUNJAB**

Appeal No. 30 of 2021

(Arising out of Complaint No. ADC 1363 of 2019)

[Date of decision: 17.09.2020]

**IN THE MATTER OF: -**

Appeal under Section 44 of the Real Estate  
(Regulation and Development) Act, 2016

**AND IN THE MATTER OF: -**

Director, Chandigarh Royale City, Promoters Pvt.  
Ltd., SCO No. 489-490, 2<sup>nd</sup> Floor, Sector, 35-C,  
Chandigarh.

...Appellant

Versus

Ravinder Kumar Ahluwalia, resident of H. No. 133,  
Hargobind Nagar, City Phagwara, District  
Kapurthala, Punjab.

...Respondent

**Details of Appeal:**

**1. Particulars of Appellant:**

(i) **Name of Appellant:**

Director, Chandigarh Royale City,  
Promoters Pvt. Ltd.



REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPLICATION NO.32 OF 2021  
APPLICATION NO.34 OF 2021  
AND APPEAL NO.30 OF 2021

DIRECTOR CHANDIGARH ROYALE CITY PROMOTERS PVT. LTD.  
CHANDIGARH

VERSUS

RAVINDER KUMAR AHLUWALIA

\*\*\*

Present: - Ms. R.K. Grewal, Advocate for the appellant.  
Mr. Sanjeev Gupta, Advocate for the respondent.

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We notice from the record of the appeal that the prayer made by the complainant (present respondent) was with regard to grant of interest and compensation. Yet it was decided by the Adjudicating Officer without segregating the two claims, resulting in a jurisdictional error keeping in view the observations made by the Hon'ble Supreme Court in M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC."

That apart it is seen that the proceedings against the appellant were ex parte, which has resulted in the miscarriage of justice because the service was effected merely through email and not through a regular process. We would hasten to add here that it is not to be construed as an irregular service but to be fair other means such as resorting to a registered post, adds more credence to the process. Besides, the matter has in any case to be remanded back on account of the jurisdictional error.





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Learned counsel for the appellant further places reliance on the recent judgment of the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC.", and refers to Para 83 and 86, to contend that the Adjudicating Officer would have no jurisdiction to entertain and decide issues relating to refund and interest, even though he is specifically empowered under the Act to deal with the issues of compensation, which has also been approvingly observed by the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC." He thus prays that in view of the authoritative pronouncement of the Hon'ble Supreme Court, the impugned orders need to be set aside.

The ratio of our order passed in "Appeal No.277 of 2020", would be attracted to the facts of the present case as well.

Having regard to the facts referred to above, the appeal is accepted and the impugned order is set aside.

Accordingly, we deem it appropriate to dispose of the appeal with a liberty to the complainants to move an appropriate application in Form M seeking refund & interest



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and Form N seeking compensation before the competent Authority/ Adjudicating Officer.

In case, such applications are moved, the same shall be decided expeditiously by the Competent Authority/ Adjudicating Officer as the case may be in accordance with law.

We are of the opinion, that in order to ensure expeditious disposal of the matter, the parties should put in appearance before the Authority/Adjudicating Officer as the case may be, which in turn shall pass appropriate orders either for allocating the proceedings to the appropriate Authority/Adjudicating Officer or for return of the complaint with a permission to the complainant to file appropriate proceedings in Form-M or Form-N as the case may be. The Authority in this manner would have the benefit of providing a time-frame for the entire process as both the parties would be before it and the necessity of affecting service etc. may not arise. The Authority/ Adjudicating Officer shall then proceed to determine the matter in accordance with law.



Parties are directed to appear before the Real Estate Regulatory Authority on **23.04.2022**. Files be consigned to record room.

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The amount deposited by the appellant/promoter under Section 43(5) of the Act be disbursed to the appellant/promoter after proper identification and due verification in accordance with law.

*Sd:-*  
JUSTICE MAHESH GROVER (RETD.)  
CHAIRMAN

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

March 28, 2022  
AN

Certified To Be True Copy  
*Shamuel Kaur*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

04/04/2022





**Appeal No. 30 of 2021**

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

**Appeal No. 30 of 2021**

Director, Chandigarh Royale City Promoters Pvt. Ltd., SCO No. 489-  
490, 2<sup>nd</sup> Floor, Sector 35-C, Chandigarh.

.....Appellants

Versus

Ravinder Kumar Ahluwalia, resident of H. No. 133, Hargobind Nagar,  
City Phagwara, District Kapurthala, Punjab.

.....Respondents

**Present:** Ms. R.K. Grewal, Advocate for the appellant.  
Mr. Sanjeev Gupta, Advocate for the respondent.

**QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN  
SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),  
MEMBER (JUDICIAL)  
ER. ASHOK KUMAR GARG, CHIEF ENGINEER  
(RETD.), MEMBER (ADMN./TECH.)**

**JUDGMENT: (ER. ASHOK KUMAR GARG, CHIEF ENGINEER  
(RETD.), MEMBER (ADMN./TECH.))**

**(MINORITY VIEW)**



**1.** By this order, I will dispose off above mentioned appeal bearing  
Appeal No. 30 of 2021 (**Director, Chandigarh Royale City  
Promoters Pvt. Ltd. versus Ravinder Kumar Ahluwalia**)  
against order dated 17.09.2020 passed by Sh. Balbir Singh,  
Adjudicating Officer (*hereinafter also referred to as the AO*) of the

## Appeal No. 30 of 2021

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Real Estate Regulatory Authority Punjab (*hereinafter referred to as the Authority*) in the complaint bearing No. AdC1363 of 2019 instituted on 04.10.2019.

2. The respondent-decree holder-complainant filed the complaint bearing AdC No. 1363 of 2019 on 07.11.2019 (*as per paragraph 5(1) of the appeal, the complaint was filed on 18.11.2019*) in Form 'N' before the Adjudicating Officer under section 31 read with section 71 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the Act*) and Rule 37(1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (*hereinafter referred to as the Rules*) claiming return of an amount of Rs.24,55,000/- paid by the complainant plus interest @ 12% (Rs.21,00,000/-), after adjusting an amount of Rs.17,10,000/- returned till the date of the complaint. He has also claimed an amount of Rs.1,50,000/- for mental tension and botheration burdened on him in his present senior age. He has termed all the three afore-mentioned amounts claimed by him as compensation.
3. The said complaint has been accepted by the Adjudicating Officer and the appellant-respondent has been directed to pay interest at the prescribed rate as per Rule 16 of the Rules i.e. State Bank of India highest marginal cost of lending rate as on the date of the impugned order plus 2% w.e.f. respective dates of payments till 30.10.2019 on principal amount of Rs.24,55,000/- (by which the payment of Rs.22,80,000/- was made to the complainant by the appellant-respondent) and interest at the said rate on remaining amount of Rs.1,45,000/- (*should be probably Rs.1,75,000/-, being the difference of said amounts of Rs.24,55,000/- and*





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Rs.22,80,000/-) till realization within sixty days from the date of the impugned order; the Adjudicating officer has also held in the end of paragraph 8 of the impugned order that “----- *As such, to conclude with, I am of the view that the complainant was entitled the return of principal amount of Rs.24,55,000/- along with interest -----.*”; and it has further been held by the Adjudicating Officer in the end of paragraph 9 of the impugned order that “----- *the complainant is held entitled for compensation under all the heads i.e. mental agony, litigation expenses to the extent of Rs.25,000/-.*”.

4. Aggrieved by the above said order dated 17.09.2020 of the Adjudicating Officer, the appellants filed appeal dated 28.06.2021, bearing Appeal No. 30 of 2021, before this Tribunal and prayed to set aside the impugned order dated 17.09.2020 and to remand the complaint to the Adjudicating Officer for its trial and decisions on merits after giving a reasonable and proper opportunity to the appellant of being heard.
5. The appellant has inter alia contended, regarding ex-parte proceedings, in the grounds of the appeal (i) that the appellant has no knowledge about the complaint, the present case or any of the orders including the impugned order and all other ex-parte proceedings, till 30.04.2021 when the appellant, during visit to its bank for making certain transaction, came to know that Rs.30,00,000/- has been attached in compliance with the warrants of attachment issued by the Authority in Execution No. AO18/2021 in the complaint; (ii) that the appellant was proceeded ex-parte without being duly served in accordance with the



procedure established by law; (iii) that as per zimni order dated 20.12.2019, the appellant has been duly served through email on 26.11.2019, but the appellant, on search, was unable to trace an email dated 26.11.2019 received from the official website of the Tribunal; (iv) that there is a specific direction passed by this Court vide order dated 27.01.2021 that the applicant/respondent to be served through through registered post as well; (v) that it has been specifically mentioned in the zimni order dated 19.11.2019 that the notice to the respondent be issued through email as well as registered post for 20.12.2019, but neither summons nor email has been received by the appellant to put their appearance before the Tribunal either through registered post or through ordinary process and thus, no proper service of the notice/summons to appear has been effected upon the appellant; (vi) that the appellant company's emails are accessed by its many employees and 100s of emails are received every day in a routine manner and therefore, the said email issued by this Court was unread till 30.04.2021; (vii) that this Tribunal in its judgment dated 18.01.2019 in Appeal No. 48 (*should probably be Appeal No. 39 as per copy annexed with the present appeal as Annexure A-5*) of 2018 in case titled as "M/s Chandigarh Royale City Promoters Pvt. Ltd. versus RERA Punjab and Om Parkash" held and directed that *"All that we should record that a serious attempt should be made to secure the presence of the respondent by registered post, speed post, email and by any other electronic methods that may be available to the adjudicating officer or the parties including the address declared by the respondent on the website of RERA"*. The other grounds (i.e. the grounds other than regarding ex-parte proceedings) taken in the





appeal are not being briefed herein for the reason that the complaint is being remanded to the Authority and the Adjudicating Officer as mentioned hereinafter.

6. Upon certain observations made by this Tribunal during the proceedings held on 13.07.2021, the appellant's learned counsel contended that there certainly has been a wrong assertion and that she will like to file a better affidavit by inspecting the record of the Authority and make proper declaration regarding notice not having been received by the appellant either through registered/speed post or through email.
7. Accordingly, the appellant filed Application No. 52 of 2021 for placing on record the affidavit dated 03.08.2021 of Sh. Daljeet Singh, Director of the appellant company, wherein it is inter alia admitted that the appellant was served on email address 'INFO@CHANDIGARHROYALCITY.COM', which was provided by the complainant to the Adjudicating Officer, which is not used by the company and the same was earlier used by the company and that email ID 'CHANDIGARHROYALCITY@GMAIL.COM' is being used at the time alleged service of the aforesaid notice.

**MY OPINION IN THE MATTER OF JURISDICTION OF THE  
ADJUDICATING OFFICER OF REAL ESTATE REGULATORY  
AUTHORITY PUNJAB FOR ADJUDICATION OF  
COMPLAINTS MADE IN COMPOSITE APPLICATION  
INVOLVING REFUND/RETURN OF AMOUNT DEPOSITED BY  
THE ALLOTTEE, INTEREST THEREON AND  
COMPENSATION:**





8. I have expressed my opinion in detail while disposing off Appeal No. 277 of 2020 (EMAAR India Ltd. (formerly EMAAR MGF Land Limited) versus Sandeep Bansal) vide order dated 24.02.2022 and further updated it while disposing off cross appeals bearing Appeal No. 268 of 2020 (Vijay Mohan Goyal & Anr. versus Real Estate Regulatory Authority Punjab & Ors.) and Appeal No. 6 of 2021 (PDA Patiala versus Vijay Mohan & Ors.) vide order 03.03.2022, as per which, I am of the view that the appeals, against the orders passed by the Adjudicating Officer in the complaints involving composite claim of refund, interest thereon and compensation, need not be remanded by this Tribunal to the Authority but should be decided by this Tribunal on merit, provided that such orders have been passed by the Adjudicating Officer pursuant to the directions imparted by the Authority in this regard vide its circular No. RERA/Pb./ENF-17 dated 19.03.2019 in view of the judgment dated 27.02.2019 of this Tribunal in Appeal No. 53 of 2018 or vide circular No. RERA/PB/LEGAL/24 dated 05.03.2021 of the Authority but before (in both the cases) the decision of the Authority circulated vide its circular No. RERA/LEGAL/2021/8950 dated 06.12.2021.

**MY OPINION IN THE PRESENT APPEAL**

9. It is evident that some of the contentions of the appellant, regarding ex-parte proceedings, which are briefed in paragraphs 5 to 7 above, are self contradictory or are not corroborated from the record placed before this Tribunal.

10. The appellant, on one hand, has contended that the appellant, on search, was unable to trace an email dated 26.11.2019 received



from the official website of the Tribunal; and on the other hand had admitted that, the said email issued by this Court was unread email till 30.04.2021.

- 11.** Perusal of the zimni order dated 19.11.2019 in the complaint bearing AdC No. 1363/2019, annexed with the appeal as Annexure A-2, reveals that as per reports dated 12<sup>th</sup> December, appended on the afore-mentioned order dated 19.11.2019, notice to the complainant was sent through email on 19.11.2019, which was delivered on 19.11.2019; and notice to the appellant-respondent sent by email on 19.11.2019 was delivered on 19.11.2019 and also by registered post, the status of delivery of which has been reported thereby as "Item Dispatched 26-11-19".
- 12.** The copy of the ex-parte/zimni order dated 20.12.2019, annexed with the appeal as Annexure A-3, relates to complaint bearing AdC No. 1294/2019 in the case titled 'Ravinder Kumar V/s Director Chandigarh Royale City Promoters Pvt. Ltd. (and does not relate to the complaint in question, bearing AdC No. 1363/2019).
- 13.** It has also not been placed on record of this Tribunal as to how a copy of the impugned order etc was sent to the appellant and whether the same was delivered to the appellant or not. Moreover, neither a copy of the notice, that might have been issued by the Adjudicating Officer in the execution proceedings, has been placed on record before this Tribunal, nor any thing has been stated by the appellant regarding the service thereof to the appellant.
- 14.** It is inter alia contended by the appellant-judgment debtor-respondent in his appeal that the careful perusal of the order dated





20.12.2019 shows that the appellant has been duly served through email, however, there is a specific direction passed by this Court vide order dated 27.01.2021 that the applicant/respondent to be served through through registered post as well. A copy of the aforesaid order dated 27.01.2021 has not been placed on record by the appellant before this Tribunal.

- 15.** Perusal of the judgment dated 18.01.2019 of this Tribunal in Appeal No. 39 of 2018 titled as '**Chandigarh Royale City Promoters Pvt. Ltd. versus RERA Punjab (Chandigarh) and others**' reveals that that appeal has been filed by the appellant for setting aside the ex-parte order dated 31.05.2018 and the order dated 31.09.2018 dismissing the application for setting aside the aforesaid ex-parte order on the grounds that the respondent therein was aware that the appellant had shifted his registered and business office from its original location SCO No. 489-490, Level II, Sector-35, Chandigarh to village Karala Zirakpur, Patiala Road, Banur, SAS Nagar, Mohali, still he filed the complaint in that case by giving chandigarh address. Hence, that appeal was allowed and the matter was remitted to the Adjudicating Officer for adjudication afresh. However, in the present appeal, the address of the appellant as mentioned by the appellant itself is afore-mentioned Chandigarh address only.

- 16.** Whereas in afore-mentioned Appeal No. 39 of 2018, the Authority was impleaded as the first respondent, but in the present Appeal No. 30 of 2021, the Authority has not been impleaded as a party at all. Therefore, there is absence of the concerned party against whose allegations of ex-parte proceedings without proper service





have been leveled and only the concerned party could have replied those allegations.

- 17.** Present appeal bearing Appeal No. 30 of 2021 has been filed on 07.07.2021 against the impugned order dated 17.09.2020, accompanied inter alia by the Application No. 32 of 2021 for condoning the delay and Application No. 33 of 2021 for waiver of pre-deposit, whereas the appellant has inter alia contended & claimed in its appeal that he has come to know about the complaint on 30.04.2021.
- 18.** Though in the interest of justice, there may not be much harm in remanding the case to the Authority for refund and interest thereon (and not to the Adjudicating Officer now because vide above referred circular dated 06.12.2021 of the Authority, the powers of refund and interest of the Authority, delegated to the Adjudicating Officer in the cases involving compensation as well, stands withdrawn) and to the Adjudicating Officer for re-adjudging the compensation, after giving a reasonable and proper opportunity of being heard to the appellant, but it has to be subject to deposit of an exemplary cost of at least Rs.50,000/- by the appellant, in view of the facts mentioned above.
- 19.** The Adjudicating Officer, while re-adjudging the compensation, shall follow the procedure for adjudging the quantum of compensation as laid down in the Act and as has been directed by this Tribunal vide order dated 30.11.2021 in Appeal No. 11 of 2021 (**Omaxe New Chandigarh Extension Pvt. Ltd. versus Gurmeet Singh Gulati & Anr.**).



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20. The appeal is accordingly disposed off. File be consigned to record room and a copy of this order be filed in the file of the appeal and also be communicated to the parties as well as to the Authority and the Adjudicating officer.

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

March 28, 2022



Certified To Be True Copy  
*Shanesh Kumar*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

*04/04/2022*