

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

Subject: -

**Appeal No.12 of 2022**

1. Sohan Lal S/o Shri Kishori Lal
  2. Smt. Tania W/o Shri Sohan Lal
- Both residents of 187/8, Krishna Nagar, Jalandhar, Punjab 144001.
- ....Appellant

**Versus**

The Chief Administrator, Punjab Urban Planning and Development Authority, PUDA Bhawan, SAS Nagar, Mohali Punjab 160062.

....Respondent

**Appeal No. 106 of 2021**

Sushma Jain W/o Sh. Sunil Jain Resident of 352, Adarsh Nagar, Jalandhar, Punjab 144008.

....Appellant

**Versus**

Punjab Urban Development Authority, PUDA Complex, SCO No. 41, Opposite DC Complex, Jalandhar, Punjab-144043

....Respondent

**Appeal No. 107 of 2021**

Mehtab Singh S/o S. Inderpal Singh Resident of House No.292, Gupta Colony, Jalandhar, Punjab, 144001.

....Appellant

**Versus**

Punjab Urban Development Authority, PUDA Complex, SCO No. 41, Opposite DC Complex, Jalandhar, Punjab-144043

....Respondent

**Appeal No. 108 of 2021**

1. Harpeet Singh S/o Shri Isher Singh
  2. Amanpreet Singh S/o Shri Isher Singh
- Both residents of House No.85/2, Guru Nanak, Kapurthala Road, Jalandhar, Punjab-144027.



....Appellants

**Versus**

Punjab Urban Development Authority, PUDA Complex, SCO  
No. 41, Opposite DC Complex, Jalandhar, Punjab-144043

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**Appeal No. 109 of 2021**

1. Tej Mohan Singh S/o S. Makhan Singh
2. Urmil Kaur W/o Tej Mohan Singh  
Both residents of House No.139-140, Raja Garden Basti, Bawa  
Khel, Jalandhar, 144021.

....Appellants

**Versus**

Punjab Urban Development Authority, PUDA Complex, SCO  
No. 41, Opposite DC Complex, Jalandhar, Punjab-144043

....Respondent

**Appeal No. 110 of 2021**

1. Sarbjeet Singh S/o S. Makhan Singh
2. Gurbinder Kaur W/o Sh. Sarbjeet Singh  
Both residents of NM-218, Nivin Chakki, Moh: Kararkhan,  
Jalandhar, Punjab, 144001.

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**Versus**

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....Respondent



Memo No. R.E.A.T./2022/ 176

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 21<sup>st</sup>  
day of April, 2022.

*Thamara Kaur*

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB





9A  
IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT  
CHANDIGARH

Appeal No. 12/2022

Sohan Lal and Another

....Appellants

Versus

The Chief Administrator, PUDA, Mohali

....Respondent

MEMO OF PARTIES

1. Sohan Lal S/o Shri Kishori Lal
2. Smt. Tania W/o Shri Sohan Lal

Both residents of 187/8, Krishna Nagar, Jalandhar, Punjab 144001

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PLACE  
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Manju  
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Place: Chandigarh

Date: 01/10/21



(MANJU GOYAL)  
ADVOCATE

COUNSEL FOR THE APPELLANTS

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

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Mehtab Singh S/o S. Inderpal Singh Resident of House No.292, Gupta colony, Jalandhar, Punjab, 144001.

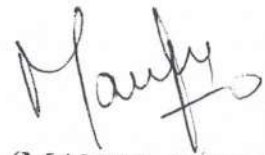
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(MANJU GOYAL)  
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COUNSEL FOR THE APPELLANTS



IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 108/2021

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1. Harpreet Singh S/o Shri Isher Singh
2. Amanpreet Singh S/o Shri Isher Singh

Both residents of House No.85/2, Guru Nanak Nagar, Kapurthala  
Road, Jalandhar, Punjab-144027

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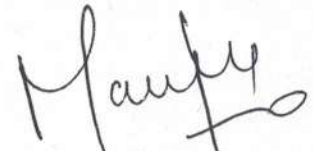
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Appeal No. 109/2021.

Tej Mohan Singh and Another

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Punjab Urban Development Authority, Jalandhar

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1. Tej Mohan Singh S/o S. Makhan Singh
2. Urmil Kaur W/o Tej Mohan Singh

Both residents of House No.139-140, Raja Garden Basti, Bawa Khel,  
Jalandhar, 144021.

Versus

Punjab Urban Development Authority, PUDA Complex, SCO No. 41,  
Opposite DC Complex, Jalandhar, Punjab- 144043

PLACE : Chandigarh

DATED : 01/10/21



*Manju Goyal*

MANJU GOYAL  
ADVOCATE  
COUNSEL FOR APPELLANT



IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 110/2021.

MEMO OF PARTIES

- (1) Sarbjeet Singh S/o S. Makhan Singh
- (2) Gurbinder Kaur W/o Sh. Sarbjeet Singh

Both residents of NM-218, Nivin Chakki, Moh: Kararkhan, Jalandhar  
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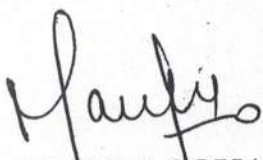
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Place: Chandigarh  
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(MANJU GOYAL)  
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Mehtab Singh S/o S. Inderpal Singh Resident of House No.292, Gupta colony, Jalandhar, Punjab, 144001.

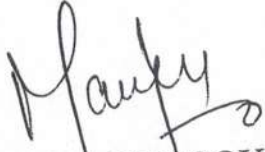
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....Respondent

Place: Chandigarh  
Date: 01/10/21

  
(MANJU GOYAL)  
ADVOCATE  
COUNSEL FOR THE APPELLANTS



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

**Date of Decision: 31.03.2022**

**Appeal No.12 of 2022**

1. Sohan Lal S/o Shri Kishori Lal
  2. Smt. Tania W/o Shri Sohan Lal
- Both residents of 187/8, Krishna Nagar,  
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APPEAL NO. 12 OF 2022  
APPEAL NO. 106 OF 2021 TO APPEAL NO. 111 OF 2021

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**CORAM: 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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**Argued by:** - Ms. Manju Goyal, Advocate for the appellant(s).  
 Mr. Bhupinder Singh, Advocate with Mr.  
 Balwinder Singh, Advocate the respondent.

**JUDGMENT: (Justice Mahesh Grover (Retd.))**

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By this order we will dispose of seven appeals as they relate to the same project with commonality of facts and law. However, learned counsel for the appellant states that due to a typographical error in 'Appeal No.12 of 2022', the project has been incorrectly indicated as a



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registered project in the complaint while it is not. She thus prays that these factual errors be condoned upon recording her statement at the Bar in this regard.

2. We thus proceed to dispose of all the above appeals.
3. A complaint was preferred before the Real Estate Regulatory Authority, Punjab (hereinafter referred to as the Authority) with a grievance that the possession of the dwelling plots which were to be handed over after the completion of development works was delayed inordinately.
4. It was prayed that benefits of the Real Estate Regulation and Development Act, 2016 (hereinafter referred to as the Act) under Section 18 be allowed to all the complainants.
5. The Authority partly accepted the complaint by granting three years' time for completion of construction, to be reckoned from 29.04.2017 when the Completion Certificate was granted by the competent authority. Aggrieved, thereof the present appeals have been filed with a prayer that the benefits under Section 18 of the Act as prayed for in the complaint be granted to the appellants. It is pertinent to mention here that





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complainant had also asked for time-frame for three years for completion of works, which prayer was granted by the Authority.

7. Learned counsel for the respondent at the outset refers to the complaint where while providing information regarding the project, it has been described as unregistered, a fact not disputed before us as well by the parties.
8. The completion certificate had been obtained on 29.04.2017, whereas the Act became operational in 01.05.2017 and thus according to the respondent the provisions of the Act would not be attracted.
9. The completion certificate has been defined in Section 2(q) of the Act to mean a Real Estate project that has been developed according to a sanctioned plan, layout plan and specifications as approved by the Competent Authority under the local laws.



The Hon'ble Supreme Court in "**M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC.**", has observed in Para No.54

as follows:-

*"From the scheme of the Act 2016, its application is retroactive in character and it can safely be*

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*observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the on-going projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016."*

11. There is thus no escape from the conclusion that if the project stood completed prior, to the coming into force of the Act, it would as a consequence render the complaint outside the purview of the Act.
12. That being the position in law, there is no hesitation to conclude that the complaint was not maintainable under the Act, rendering all proceedings, a nullity and the resultant orders of the Authority, in violation of law, ordered accordingly.
13. However, we would not disturb the direction regarding completion of the works within a period of 3 years as this period was to be construed w.e.f. 2017 i.e. grant of completion certificate, rendering this prayer infructuous, with the efflux of time.
14. The appeal is accordingly disposed of with the proceedings before the Authority being held a nullity and not maintainable. File be consigned to record room and a





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copy of this order be filed in the file of the connected appeals and also be communicated to the parties as well as to the Real Estate Regulatory Authority, Punjab.

15. Before parting with the order, we are constrained to observe that in several cases, upon a complaint being filed by an aggrieved allottee the developer/promoter often takes up the plea of a completion of the project prior to the coming into force of the Act, and derive support from a completion certificate or a partial completion certificate to enhance the case of non-applicability of the Act thereby escaping the consequences of the Act, altogether even when the allottees complain about incomplete works.

16. The sanctity of these certificates stands belied with the grievance of an allottee about the non-completion of development works. A completion certificate or partial completion certificate would ring hollow if such complaints are correct.



17. In such an eventuality, the Authority should not accept the plea of completion works blindly and deprive a legal remedy to an allottee by concluding that the provisions of the Act would not apply.



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18. The Act envisages a pro-active role by the Authority and if any such like complaints are received, when the developer pleads non-applicability of the Act in view of prior completion certificate, the Authority should consider asserting its powers to determine the correctness of the position regarding the development works so that the allottees are not left in lurch and effective legal remedy available to them is not thwarted at the threshold.
19. Section 35 of the Act empowers the Authority to either act on a complaint or take suo moto cognizance of any such grievance and by passing a reasoned order embark upon a process in the exercise of its power under Sub-Section 1 and consider adopting any of the following courses available and envisaged in Section 35 (2).  
Section 35(1) and (2) are extracted hereinbelow: -



- (1) *Where the Authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules or regulations made thereunder, it may, by order in writing and recording reasons therefor call upon any promoter or allottee or real estate agent, as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require and appoint one or more persons to make an*

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*inquiry in relation to the affairs of any promoter or allottee or the real estate agent, as the case may be.*

(2) *Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:—*

- (i) *the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;*
- (ii) *summoning and enforcing the attendance of persons and examining them on oath;*
- (iii) *issuing commissions for the examination of witnesses or documents;*
- (iv) *any other matter which may be prescribed.*

20. Not only this the Authority has vast function to discharge to ensure transparency in the interest of the allottees, promoter and even real estate agency, in which regard it can make adequate recommendations to the appropriate Government. If Section 32 is perused, in particular, Clause (c), it talks of creation of a transparent and robust grievance redressal mechanism against any acts of omission and





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commission of competent authorities and their officials. Section 32 Clause (c) is as below: -

(c) *creation of a transparent and robust grievance redressal mechanism against acts of omission and commission of competent authorities and their officials;*

21. A conjoint reading of Section 32, 34 and 35 of the Act leave no manner of doubt that the Authority is a watchdog created to ensure transparency in the real estate sector to protect all the players, be it allottees, the promoters or the real estate agents. The underlying emphasis is to protect the interest of an allottee, who is a dwarf compared to the might of the promoters/developers.
22. Therefore the Authority has to adopt a pro-active role and in cases, where grievances are made of non-completion of development works by placing reliance on completion or partial completion certificates, the Authority should adopt the course suggested in Section 35 of the Act to satisfy itself, so as to ensure that a legal remedy is not rendered illusory.
23. Likewise when a plea is taken that project, which is not registered on account of completion certificate and





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yet complaint of non-completion of development works are made by the allottees, the Authority should consider resorting to the provisions of Section 3 of the Act because it would then fall in the category of an ongoing project. Section 3 is extracted hereinbelow:-

*“Prior registration of real estate project with Real Estate Regulatory Authority.—*

- (1) *No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:*

*Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:*

*Provided further that if the Authority thinks necessary, in the interest of*



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*allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.*

- (2) *Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—*
- (a) *where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:*

*Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;*

- (b) *where the promoter has received completion certificate for a real estate project prior to commencement of this Act;*
- (c) *for the purpose of renovation or repair or re-development which does not involve*





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*marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.*

24. No doubt the language of the statute would state that a project when stand completed, would require no registration but in the event of grievances being made regarding deficiency in development works, it is the bounden duty of the Authority to look closely into the matter, otherwise such pleas can be resorted to by unscrupulous developers/promoters to defeat the valuable rights of the allottees.

*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)**



**Certified To Be True Copy**  
*[Signature]*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

21/04/2022