

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

Subject: -

Appeal No. 28 of 2021

Leela Gupta, aged about 74 years, wife of Sh. Amrit lal Gupta, resident of Gupta Hospital, Power House Road, Bathinda.

....Appellant

Versus

Bathinda Development Authority, BDA Complex, Bhagu Road, Bathinda - 151001

....Respondents

Appeal No. 37 of 2021

Leela Gupta, aged about 74 years, wife of Sh. Amrit lal Gupta, resident of Gupta Hospital, Power House Road, Bathinda.

....Appellant

Versus

Bathinda Development Authority, BDA Complex, Bhagu Road, Bathinda - 151001

....Respondents

Memo No. R.E.A.T./2022/261

To,

REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1ST 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

31st day of ^{June} May, 2022.



Dhanraj Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

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**BEFORE THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL,
PUNJAB AT CHANDIGARH**

Appeal- 28 of 2021

Memo of Parties

Leela Gupta, aged about 74 years, wife of Sh. Amrit Lal Gupta,
resident of Gupta Hospital, Power House Road, Bathinda.

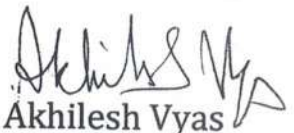
.. Appellant

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Through Counsel


Akhilesh Vyas

Advocate



BEFORE THE HON'BLE REAL ESTATE APPELLATE TRIBUNAL,

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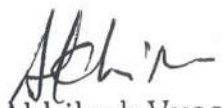
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**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL,
PUNJAB, AT CHANDIGARH**

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....Appellant

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Bathinda Development Authority, BDA Complex,
Bhagu Road, Bathinda - 151001

....Respondents

Present: Mr. Akhilesh Vyas, Advocate for the appellant.
Mr. Lakhwinder Singh, Advocate for the respondent.



**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)**

*

JUDGMENT: (Sh. S.K. Garg District and Sessions Judge (Retd.))

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APPEAL NO. 37 OF 2021

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1. By this order we propose to dispose of the above referred two appeal³⁸ bearing appeal No. 28 of 2021 and appeal No. 37 of 2021 as they arise from the order dated 12.05.2021 passed by the Real Estate Regulatory Authority, Punjab (hereinafter referred to as the Authority) vide which the complaints filed by the appellants were dismissed.
2. The facts in both the appeals are common. The appellants purchased S.C.O site No. 1 at Civil Lines, Power House Road, Bathinda through an open auction on 05.08.2015. Allotment letter was issued in their favor on 01.12.2015 after the deposit of 20% of principle amount plus 2% cancer cess. As per the allotment letter issued by the respondent the possession of the auctioned plots was to be given within 90 days from the date of the issue of the allotment letter. The appellants deposited the entire sale amount plus cancer cess as per the schedule but the possession of the plots was not handed over to them in time.
3. According to the appellants the development work was completed at the sites on 19.10.2017 based on



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the admissions made by the respondents in their reply to the RTI application.

4. The original allottee of site number SCO No. 2 were Sh. Jee Ram Goyal and Smt. Rekha Singla. However appellant Leela Gupta got transferred the allotment of this site to her name from Estate Office, PUDA, Bathinda on 04.08.2017.
5. The following reliefs were claimed:-
 - (i) Refund of interest paid for the plots up to 19.10.2017.
 - (ii) To extend the non-construction period for 3 years from 19.10.2017 to 18.10.2020.
 - (iii) Payment of interest under Section 18 of the Act.
6. The respondent Authority appeared and contested the complaints by filing reply thereto.
7. After hearing the counsel for the parties the learned Authority dismissed the complaints. Aggrieved from the same these appeals have been filed.
8. It has been argued by the learned counsel for the appellant that the impugned order cannot be sustained being illegal and against the facts, ^{as} no plausible reason whatsoever has been given for dismissing the complaints. According to the learned counsel, perusal of the impugned order would show



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that it has been passed only on the basis of reply filed/written statement by the respondent and without considering submissions/pleadings of the appellants. Admittedly the development work at the spot had been completed on 19.10.2017 so there would have been no occasion for the respondents to hand over the possession of the same to the appellants before that day. So prayer has been made for the grant of interest as per provision of Section 18 of the Act for the delayed possession.

9. On the other hand the learned counsel for the respondent made submission in support of the impugned order.
10. After considering rival contentions of the parties and after going through the record we are of the view that there is merit in the appeal. Annexure A-2 is the allotment letter dated 01.12.2015 and its clause 6 would show that the possession of the plots was to be given within 90 days from the issue of this allotment letter. In this view of the matter the date of delivery of the plots comes to 29.02.2016. Annexure A-4 is the reply filed by the Division



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Engineer PUDA, Bathinda in response to the RTI application filed by the appellant. Annexure A-7 is the order dated 25.05.2019 passed by the Chief Administrator PUDA, which was passed in compliance to the orders passed by the Hon'ble High Court of Punjab and Haryana at Chandigarh in civil writ petition **CWP No. 24881 of 2018 (Leela Gupta and Anr. Vs State of Punjab and Anrs.)** In both these documents i.e. A-4 and A-7 it has been categorically admitted by the respondent that the development work at the spot has been completed on 19.10.2017. It is also an admitted fact that the completion certificate ~~of~~ the project in question was issued on 26.06.2018, so in this view of the matter there could be no offer of possession earlier to that date. This factual position has not been controverted by the learned counsel for the respondent.

Once that is so, there is no escape from a conclusion that there is a delay in delivery of possession to the appellant. However, in the present appeal the appellant has sought relief of delayed



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possession until 19.10.2017 only, as is evident from page No. 10 of the grounds of appeal. The other reliefs were given up by the appellants before the learned Authority as is evident from the impugned order, as well as before us. So the appellant of appeal No. 28 are held entitled to interest for delayed possession w.e.f. 01.03.2016 till 19.10.2017.

12. So far as appeal No. 37 pertaining to S.C.O site No. 2 is concerned, it is admitted that appellant is not its original allottee. She got this site transferred in her name from the original allottees Sh. Jee Ram Goyal and Smt. Rekha Singla on 04.08.2017. It has been stated above that the development work was completed on 19.10.2017 so the appellants came into picture when almost all the development work was completed. The Hon'ble Supreme Court in **Civil Appeal No. 6239 of 2019 "Wg. Cdr. Arifur Rehman Khan and Aleya Sultana and others Vs DLF Southren Homes Pvt. Ltd (now known as BEGUR OMR Homes Pvt. Ltd) and Ors."** has held that the subsequent transferees who, inspite of



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delay in delivery of possession, purchases the plot from original allottee would not be entitled for compensation on account of such delay on delivery of possession. Moreover the appellants have not suffered the agony and harassment suffered by the original allottee because when they got SCO 2 transferred in their name when almost all the development work was completed.

13. In these circumstances the appellant of this appeal is held entitled interest for delayed possession for S.C.O Site No. 2 from 04.08.2017 i.e. till 19.10.2017.
14. For the aforementioned reasons these appeals are allowed and the appellant of appeal No. 28 ^{is} held entitled to interest for delayed possession from 01.03.2016 to 19.10.2017, where as appellant of appeal No. 37 is held entitled to interest w.e.f 04.08.2017 to 19.10.2017 as per the provisions of Rule 16 of Punjab State Real Estate (Regulation and Development) Rules, 2017 on the amount deposited till 19.10.2017.



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15. Both the appeals stand disposed of accordingly. Files be consigned to record room and a copy of this order be communicated to the parties as well as to the Real Estate Regulatory Authority, Punjab.

Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

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

May 12, 2022
AN



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

01/06/2022