

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

Subject: -

APPEAL NO. 87 OF 2022

Kamaljeet Cheema W/o Sh. Sukhwinder Singh Cheema,
Presently R/o 15 D, Omega City, Khanpur, Kharar, Punjab.

...Appellant

Versus

1. Real Estate Regulatory Authority, Punjab 1st Floor, Block B,
Plot No.3, Madhya Marg, Sector-18, Chandigarh-160018
through its Assistant Manager.
2. Omaxe Chandigarh Extension Developer Pvt. Ltd, 7, Local
Shopping Centre, Kalkaji, New Delhi-110019

...Respondents

Memo No. R.E.A.T./2022/443

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 09th
day of September, 2022.



Manendra Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH

Appeal No. 87 of 2022

Between

Kamaljeet Cheema W/o Sh. Sukhwinder Singh Cheema, Presently
R/o 15D, Omega City, Khanpur, Kharar, Punjab ...Appellant

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Omaxe Chandigarh Extension Developer Pvt. Ltd, 7, Local
Shopping Centre, Kalkaji, New Delhi-110019

Respondents

R/o 15D, Omega City, Khanpur, Kharar, Punjab ...Appellant

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND
DEVELOPMENT) RULES, 2017 FOR SETTING ASIDE THE
ORDER DATED 07.04.2022("IMPUGNED ORDER-)" VIDE
WHICH THE AUTHORITY HAS DIRECTED THE
RESPONDENT TO REFUND AN AMOUNT OF Rs. 5,96,072,
AFTER FORFEITING 33% OF THE TOTAL AMOUNT PAID
BY THE APPELLANT.**



Details of the Appeal:

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO. 87 OF 2022

KAMALJEET CHEEMA
VERSUS

REAL ESTATE REGULATORY AUTHORITY, PUNJAB AND ANR.

Present: - Mr. Mohammad Sartaj Khan, Advocate for the appellant.
Ms. Navdeep Kaur, Advocate for RERA Punjab.
Mr. Munish Gupta, Advocate for respondent No.02

This appeal is directed against the order dated 07.04.2022 passed by the Real Estate Regulatory Authority, Punjab. The appellant who had applied for a residential unit in the project being developed by the respondent sought to withdraw his claim and prayed for refund of the amount he had deposited.

The respondent objected to it and claimed that as per clause 11 of the application form, the appellant would necessarily have to forfeit 10% of the booking amount in case of no fault of the respondent.

Learned counsel for the appellant contends that he has no objection if 10% of the booking amount is forfeited, subject to the condition that the remaining amount is refunded to him along with interest.

The Authority for some unexplained reasons has ordered forfeiture of 33% on the deposited amount even while holding the respondent liable to a default in violation of Section 13 of the Act, as no agreement etc was executed.



Learned counsel for the respondent on the other hand justifies the impugned order passed by the Authority.

After hearing learned counsel for the parties, we are of the opinion that the impugned order is totally arbitrary and based on unsustainable reasoning. There is absolutely no reason given for forfeiture of 33%. The only document executed between the parties supported a forfeiture of 10%. There was no buyers agreement as has been noticed by the authority itself. Therefore, this forfeiture of 33%, ordered, without any justifiable reason renders the impugned order bad in the eyes of law.

The same is thus accordingly set aside and while accepting the contention of the appellant the respondent is directed to refund the entire amount after forfeiture of 10% of the booking amount along with interest as per Rule 16 of the Punjab State Real Estate (Regulation and Development) Rules, 2017 from 08.01.2020 till its realization.

September 1, 2022
DS

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)

September 1, 2022
DS



Certified To Be True Copy

Manoj Kumar
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

09/09/2022