

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

Subject: -

APPEAL NO. 112 of 2022

1. Surinder Kumar Singla S/o Sh. Krishan Lal
2. Sunita Singla W/o Surinder Kumar

Both the appellants are residents of H. No.471, Sector 38-A, Chandigarh - 160036, now resident of flat No.181, Second Floor, Block-A, Greenwood City, Sector-45, Gurugram - 122003.

...Appellants/Complainants

Versus

Bajwa Developers Ltd. At SCO No.17-18, 5th / 6th Floors, Sunny Business Centre, Sector 125, Desu Majra, SAS Nagar (Mohali), Punjab - 140301.

...Respondent

Memo No. R.E.A.T./2023/ 344

To,



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

Whereas appeal 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 appeal 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 **22nd day of September, 2023.**

Shanesh Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

Appeal No. 112 of 2022

MEMO OF PARTIES

1. Surinder Kumar Singla S/o Sh. Krishan Lal
2. Sunita Singla W/o Surinder Kumar

Both the appellants are residents of H. No. 471, Sector 38-A, Chandigarh - 160036, now resident of flat No. 181, Second Floor, Block-A, Greenwood City, Sector-45, Gurugram-122003.

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Versus

Bajwa Developers Ltd. At SCO No.17-18, 5th /6th Floors, Sunny Business Centre, Sector 125, Desu Majra, SAS Nagar (Mohali), Punjab - 140301.

...Respondent/Developer



Place: Chandigarh.
Dated: 06.06.2022



(M.S. LONGIA) (GOURAV SHARMA)
ADVOCATES
COUNSEL FOR APPELLANTS

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

APPEAL NO. 112 of 2022

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2. Sunita Singla W/o Surinder Kumar

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Versus

Bajwa Developers Ltd. At SCO No.17-18, 5th / 6th Floors, Sunny Business Centre, Sector 125, Desu Majra, SAS Nagar (Mohali), Punjab - 140301.

....Respondent

Present: - Mr. M.S. Longia, Advocate for the appellant.
Mr. Vipul Monga, Advocate for the respondent.



CORAM: 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: SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),
MEMBER (JUDICIAL) (ORAL)

APPEAL No.112 OF 2022

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1. This appeal is directed against the order dated 26.04.2022 passed by Real Estate Regulatory Authority, Punjab (hereinafter known as the Authority), vide which the complaint filed by the appellant for withdrawal from the project and for refund of all the amounts paid by him. was dismissed.
2. As per the complaint upon payment of 10% of the total sale consideration of Rs.28,62,500/- of the plot on 21.07.2010, the appellant was allotted a plot measuring 250 sq. yards bearing No.1674 Sector 123, Mohali on 13.02.2012, however, the said plot was changed to plot No.511 in the same sector. After making entire sale consideration No Due Certificate was issued on 13.03.2015 and the sale deed was executed on 01.04.2015. The plot was duly mutated in their names. After taking possession, they raised a boundary wall which was demolished by the neighbours alleging that they (complainant) have encroached upon their land. On demarcation it was found that the actual size of the plot was 208 sq. yards as against 250 sq. yards for which the payment was made.
3. The respondent offered refund of 42 sq. yards but the appellants choose another plot No.852 in Amazon City, Sector 123 of the size of 250 sq. yards. Accordingly the exchange letter of the plot was issued on 05.10.2018, according to which the earlier terms of the agreement were applicable on the exchange also. A registered exchange deed was executed on 15.05.2019. After taking possession, the complainants



raised boundary wall and one room on the plot after spending an amount of Rs.4,30,000/-. The complainants submitted application for mutation which was refused on 18.12.2020, by the Tehsiidar, on the ground that the respondent has already sold his entire share in Khewat/Khatoni No.142/150/151 having Khasra No.13/11 (8-0), wherein the plot was situated. It shows that the plot No.852 given in exchange to the complainant has already been sold to someone else.

4. In the absence of mutation, they cannot get sanction of electricity, water and sewerage connection. The respondent has therefore cheated the appellants by allotting non-habitable plot, as a result of which they wish to withdraw from the project.
5. It has been prayed that refund of Rs.28,62,500/- paid towards cost of the plot, Rs.2.7 lakh paid towards cost of stamp duty and other allied charges and Rs.4.3 lakh towards the cost of construction of boundary wall and a room raised on the new plot be allowed along with interest.



The respondents filed reply to the complaint praying for dismissal of the complaint on the ground of maintainability and on merits as well.

7. After hearing the learned counsel for the parties the learned Authority dismissed the complaint.
8. We have heard the learned counsel for the parties and have gone through the records carefully. The only grievance which makes out from the complainant is the non-sanctioning of mutation of plot No.852 in their favour. The mere non-

sanctioning of mutation does not affect the title of the appellant on the plot in question as it is a settled law that mutations do not confer any title or interest in the property. The mutations are entered in order to keep the land records up to date. In the present case admittedly residential society was developed on the land which was earlier agricultural in nature. No Housing Project can be developed on agriculture land without the grant of change of land use from agricultural to residential by the Competent Authority. Admittedly this project in question has been registered with the RERA which implies sanction of change of land use. Therefore, after the grant of change of land use and with the development of the residential project, the mutations were not required to be sanctioned for the plot carved out in that society as the nature of the property has already been changed from agricultural to residential. So, the apprehension of the appellant that he may not get electricity, water, sewerage connection for want of mutation order is baseless. Moreover this apprehension of the appellants is also pre-mature because there is nothing on record that the competent Authority ever refused the release of electricity, water and sewerage connection to them. Even otherwise it is the duty of the developer to provide all these facilities to the allottees.

10. The transfer deed of both these plots i.e. plot No.511 and 852 has already been registered in the Office of Sub-Registrar Kharar on 15.05.2019. Since, then the appellant is in exclusive possession of plot No.852. He has raised not only the boundary wall around it but also constructed the room thereon. There is absolutely nothing on record that any person has ever challenged or interfered in his title or possession over plot No.852 till date.

12. Even otherwise if any cheating, fraud or forgery has allegedly been committed by the respondent then the appellant are at liberty to approach the civil and Criminal Courts for the redressal of their grievances as it is not within the domain of



the Authority to decide the issue of fraud, cheating or forgery if any committed by the respondent.

13. For the aforementioned reasons, no merit is found in this appeal accordingly the same stands dismissed.
14. Files be consigned to the record room.



Sd/-
JUSTICE MAHESH GROVER (RETD.)

CHAIRMAN

Sd/-
S.K. GARG, D & S. JUDGE (RETD.)

MEMBER (JUDICIAL)

Separate opinion
ER. ASHOK KUMAR GARG, C.E. (RETD.),
MEMBER (ADMINISTRATIVE/TECHNICAL)

September 21, 2023

CND

Certified To Be True Copy

Pranveer Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

22/09/2023

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REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

Appeal No. 112 of 2022

1. **Surinder Kumar Singla** S/o Sh. Krishan Lal
2. Sunita Singla W/o Surinder Singla

Both the appellants are residents of H. No. 471, Sector 38-A, Chandigarh – 1600036, now resident of flat No. 181, Second Floor, Block-A, Greenwood City, Sector-45, Gurugram-122003.

.....Appellants/Complainants

Versus

Bajwa Developers Ltd. At SCO No.17-18, 5th /6th Floors, Sunny Business Centre, Sector 125, Desu Majra, SAS Nagar (Mohali), Punjab -140301.

.....Respondent/Developer

Present: Mr. M.S. Longia, Advocate for the appellants.
Mr. Vipul Monga, 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.) – **HIS VIEW**)

1. By this order, I will dispose of above mentioned appeal, bearing Appeal No. 112 of 2022 (**Surinder Kumar Singla and another versus Bajwa Developers Limited**), filed against the order dated 26.04.2022 passed by Sh. Sanjiv Gupta, the then Member of the Real Estate Regulatory Authority, Punjab (*hereinafter referred to*

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as the Authority) in a complaint bearing AdC No. 00722021 instituted on 14.04.2021.

2. A complaint was filed before the Adjudicating Officer of the Authority by the appellants (*hereinafter may also be referred to as the complainants or the allottees or the buyers*) against the respondent (*hereinafter may also be referred to as the promoter or the developer or the seller*) in form 'N' under section 31 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*), praying therein for the reliefs of (i) refund of Rs.28,62,500/- paid to the respondent towards cost of plot along with interest; (ii) refund of Rs.2.75 lacs paid towards the cost of stamp duty and other allied charges paid by the complainant on 12.03.2015 along with interest; (iii) payment of Rs.4.3 lacs towards the cost of construction of four walls and a room, raised by the complainant, along with interest; (iv) payment of Rs.5 lacs as compensation towards selling plot without title, without occupation certificate and for harassment, mental agony, being faced by the complainants being senior citizens; (v) payment of Rs.55,000/- towards litigation expenses.

3. It has inter alia been stated in aforesaid complaint dated 14.04.2021 that (i) upon payment of 10% on 21.07.2010, the complainants were allotted, through draw of lots on 13.02.2012, a plot No. 1674, Sector-123, Mohali, measuring 250 square yards for total amount of Rs.28,62,500/-; (ii) that later on, the respondent at its own changed plot number to 511; (iii) that after making entire payment of Rs.28,62,500/-, No Due Certificate was issued on 13.03.2015, which also contains dates of the payments; (iv) that



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Rs.2,75,000/- was spent towards stamp duty and other allied charges for execution of sale deed executed on 01.04.2015; (v) that the plot was mutated in the name of the complainant; (vi) that after taking possession, the complainant raised boundary wall, which was demolished by neighbours alleging encroachment on his land; (v) that on demarcation by revenue authorities, it was found that plot which has been sold to the complainants actually was having area of 208 square yards only; (vi) that realizing its mistake, the respondents then offered refund of 42 square yards or an alternate plot; (vii) that the complainants opted for alternate plot and were thereafter allotted another plot, measuring 250 square yards bearing plot No. 852 in Amazon City (a township developed by the respondent), Sector-123, Mohali on 04.10.2018; (viii) that a letter certifying exchange of plots was also issued on 05.10.2018, according to which terms of earlier agreement were binding on exchange also; (ix) that registered exchange deed was also executed; (x) that aforesaid plot, allotted in exchange, was part/share of Khata No. **142//150, 151** having Khasra No. 13/11 (8-0), which duly finds mention in exchange deed; (xi) that after taking possession, the complainants raised boundary wall and one room in the said plot, by spending Rs. 4,30,000/-; (xii) that the complainants submitted application for mutation of property which was refused on 18.12.2020 by Tehsildar, upon report of revenue patwari, on the ground that the respondent has already sold his entire share in **Khewat/Khautani No. 142//150, 151** (*perusal of report reveals that "Khata No. 142/149" is mentioned in the report*) having Khasra No. 13/11(8-0), wherein plot of complainant is situated, meaning thereby that the plot which has been given in exchange to complainant, had already been sold to third person and mutated in favour of other persons, prior to execution of exchange



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deed; (xiii) that in absence of mutation, the complainants will not get electricity, water and sewerage connections; (xiv) that the persons, who have already purchased the plot in question and mutation having been entered in their name, prior to the complainants, in the said khasra number, would claim their share by way of force or litigation, involving the complainants; (xv) that being senior citizens, complainants do not wish to contest the forced litigation, particularly when they have been cheated by respondents; (xvi) that in terms of sections 12, 13, 14(3), 17 & 18 of the Act, it is duty of respondent to provide clear title, to allottee; (xvii) that since, the respondent builder is in violation of all the aforesaid provision, as having failed to provide clear title, possession and having duped complainants, they are no more interested in the project of the respondents and neither are left with any faith in the respondent and accordingly wishes to withdraw from project of respondent and seek refund of all amounts paid qua purchase of plot, construction raised, expenses incurred on conveyance deed, construction etc. along with interest at prescribed rate and compensation.



The complainants have attached with their complaint the copies of (i) the receipt dated 21.07.2010 for Rs.2,86,250/-; (ii) the allotment letter dated 13.02.2012 for residential plot No. 1674, measuring 250 square yards in Sunny Enclave Residential Township, Greater Mohali, Sector 123; (iii) No Due Certificate dated 10.03.2015 for plot No. 511 of 250 square yards; (iv) the receipt dated 12.03.2015 for Rs.2,75,000/- received by the respondent towards registry fee; (v) sale deed (English translation) dated 01.04.2015 for plot No. 511; (vi) mutation/Jamabandi dated 17.08.2015 for the year 2009-10; (vii) the re-allotment letter dated 04.10.2018 for plot No. 852 measuring

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250 square yards at sector 123, Amazon City, Sunny Enclave; (viii) the respondent's letter dated 05.10.2018 clarifying that allotment of Plot No. 852 is lieu of Plot No. 511; (ix) exchange deed dated 15.05.2019; (x) the photographs of the boundary wall and one room raised by the complainants on plot No. 852; (xi) the receipts for Rs.4,30,000/- (Rs.1,00,000/- each on 20.09.2020 & 29.09.2020 and Rs.2,30,000/- on 08/10.11.2020) against construction works at Plot No. 852, and (xii) mutation refusal report dated 18.12.2020.

4. The respondent, in its reply dated 07.10.2021 to the complaint, has inter alia contended that (i) the possession of the plot No. 511 was delivered and sale deed was executed on 01.04.2015 and subsequently on the request of the complainants exchange deed of the plot No. 511 to 852 has also been executed among the parties and possession of the plot has been delivered on the same date; (ii) that therefore, the demand under section 18 of the Act is devoid of merit; (iii) that no agreement as referred to under the provisions of the Act and the Rules has been executed, rather the sale deed has been executed prior to coming into force of the Act.

The respondent has not attached any document with its aforesaid reply.

5. The complainants, vide their rejoinder dated 08.11.2021, have inter alia contended that (i) the possession of the plot in question has been given illegally and is meaningless, as the sanction of mutation has been refused by the revenue authorities on the grounds that share of the respondent has already been sold to other persons; (ii) that as the plot given in exchange has been delivered in the year 2019, therefore, the provisions of the Act are applicable in the



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present case; (iii) that till date, the completion certificate qua the project has not been obtained.

6. As per order dated 26.04.2022, passed by the Authority, the matter qua the relief of compensation is pending with the Adjudicating Officer of the Authority; whereas while deciding the said complaint qua the relief of refund and interest, the Authority, vide his aforesaid order dated 26.04.2022, dismissed the complaint after inter alia observing as under:-

*"VI. The complainants have failed to provide any evidence in regards to contraventions of any of the provisions of the Act, as they had duly taken possession of allotted plot, after execution of the conveyance deed on 01.04.2015, prior to the commencement of the Act. On account of a shortfall of 42 sq. yards in the plot area, they did not opt for the refund for the deficient area but chose to exchange the earlier plot with a new plot of 250 sq. yards, on the same terms and conditions, by way of execution of an exchange deed. They have admitted to their exclusive possession on the new plot by way of boundary wall and a room. **The only allegation is that the revenue authorities have refused to mutate the plot in their name. This does not amount to contravention of any of the provisions of the Act as this Authority cannot go into the reasons for refusal for mutation, on the part of the revenue authorities, for which a separate remedy lies before the appropriate forum.**" [Emphasis laid]*



Aggrieved by the above said order dated 26.04.2022 of the Authority, the appellants have challenged the same before this Tribunal by filing their present appeal dated 06.06.2022, wherein the appellants have inter alia contended that (i) in case the mutation is not entered in favour of the appellants, they would not be able to obtain electricity, water and sewage connection and the persons whose names have already been entered in the revenue record, they would soon involve the appellants in a forced litigation; (ii) that the project is registered under the Act under registration No. PBRERA-SAS80-PR0255; (iii) that the completion certificate for

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the project has not been obtained by the respondent in respect of the project; (iv) that the 'possession' mentioned under section 18 of the Act, as per settle law and even so held by the Authority itself, would mean "valid possession"; (v) that exchange deed, executed on 15.05.2019, itself is illegal document, as once the respondent did not had any title in the land, then how could he pass on the title of that land, in exchange; (vi) that if the title of the land itself is defective, then the consequent possession, is in no way a possession in the eyes of law much less any valid possession; (vii) that the promoter was under obligation to get the mutation of the plot entered into the revenue record; (viii) that clause 7 of the exchange deed dated 15.05.2019 stipulates that the parties will be bound to get the mutation of the exchange deed and for this purpose they will appear before the concerned revenue officer for giving the required statement etc.; (ix) that as per section 18(2) of the Act, it is obligation of the promoter to compensate the allottee in case of loss caused to the allottee due to defective title of the land; (x) that section 18(3) of the Act provides that if the promoter fails to discharge any obligation in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay compensation to the allottee.



The appellants, in his appeal, has inter alia prayed for refund of Rs.28,62,500/- and Rs.2,75,000/- paid by them to the respondent towards cost of plot and stamp duty etc respectively and for payment Rs.4,30,000/- towards cost of construction of four boundary walls and a room raised by the appellants on plot No. 852, along with interest on all these amounts.

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MY FINDINGS:

8. Section 4(2)(1) inter alia provides that a promoter shall enclose along with its application made to the Authority for registration of a real estate project, inter alia, a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating inter alia (A) that he has a **legal title to the land** on which the development is proposed **along with legally valid documents with authentication of such title**, if such land is owned by another person; (B) that the **land is free from all encumbrances**, or as the case may be details of the encumbrances on such land including **any rights, title, interest or name of any party in or over such land along with details**.
9. Section 16 of the Act inter alia provides that a promoter shall obtain all such insurances as may be notified by the appropriate Government, including but not limited to insurance inter alia in respect of **title of the land and building** as a part of the real estate project.
10. Section 17(1) of the Act provides that a **promoter shall execute a registered conveyance deed** in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and **hand over the physical possession of the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto** within specified period as per sanctioned plans as provided under the local laws.
11. Section 18(2) of the Act provides that a promoter shall **compensate the allottees in case of any loss caused to him due**



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to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

12. Many provisions regarding the title of and encumbrance on the land are there even in the Rules, like rules 3(1)(d) to (f), rules 15(1)(E)(ii)(b) to (e), clauses C, 7.6, 8 & 10 of Form 'Q', etc.
13. In my opinion/ostensibly, one of the purposes of making above provisions in the Act and the Rules is that the promoter, after development of the projects, executes a registered conveyance deed and hands over physical possession along with the relevant title documents, as is even explicitly provided under section 17(1) of the Act so that the allottee(s) may enjoy peaceful possession of their unit(s).
14. By mutating a property, the title of the land in the name of the new landowner/buyer gets recorded in the land records.
15. Way back on 15/21.07.2010, the appellants have booked a plot measuring 250 square yards with the respondent by paying an amount of Rs.2,86,250/- towards 10% of its cost.
16. Residential plot No. 1674 measuring 250 square yards, allotted to him vide allotment letter dated 13.02.2012 in Sunny Enclave Residential Township, was changed by the respondent, at his own at the time of or before issuance of NDC vide its letter dated 10.03.2015 after receipt of entire consideration, to Residential (P.U) Plot No. 511, Jandpur at Sunny Enclave, Residential Township allegedly of 250 square. No reason for the said change has been brought on record by the respondent.



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17. After receipt of an amount of Rs.2,75,000/- towards registration fee from the respondent vide its receipt dated 12.03.2015, the respondent got the conveyance deed of plot No. 511, allegedly measuring 250 square yards, executed on 01.04.2015.
18. Thereafter, the boundary wall, raised by the complaints around aforesaid plot No. 511 allegedly measuring 250 square yards, was demolished by the neighbours because aforesaid re-allotted plot was actually of 208 square yards only as found later during demarcation by the revenue authorities. This shows that the promoter has not even cared to demarcate the plots in the project as per sanctioned plans before handing over possession thereof to the allottees.
19. Thereafter, the complainants opted for an alternate plot of same size, ostensibly as per their requirement/choice, out of two choices offered by the respondent viz refund of amount for 42 square yards or an alternate plot. Accordingly, the respondent, vide its allotment letter dated 04.10.2018 and letter dated 05.10.2018, allotted yet another plot bearing No. 852 measuring 250 square yards at Sector 123, Amazon City, Sunny Enclave, Greater Mohali.
Exchange deed for aforesaid plot No. 852 measuring 8-1/3 Marla (250 square yard) located at village Jandpur, Hadbasat No. 28 (25/480 share of 8 Kanal – 0 Marla land of Khata No. 142/150, 151, Khasra No. 13//11), in lieu of plot No. 511 allegedly of same size but located at village Hassanpur, Hadbasat No. 177, was got executed by the respondent on 15.05.2019 in favour of the appellants.
21. Thereafter, the appellants got raised four boundary walls around the said plot and also got constructed a room by spending an



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amount of Rs.4,30,000/- (Rs.1,00,000/- each paid on 20.09.2020 and 29.09.2020 and Rs.2,30,000/- paid on 08/10.11.2020).

22. After the first phase of Covid-19, one of the appellants requested the Naib Tehsildar, Kharar vide his letter dated 18.12.2020 to get the mutation of aforesaid exchanged land/plot recorded and approved in the revenue record, because the same was not reflected in fard obtained by him from the farad centre after execution of aforesaid exchange deed dated 15.05.2019.
23. The Circle Patwari has appended his report dated 18.12.2020, on the said request dated 18.12.2020 of one of the appellants, to the following effect, in Punjabi:-

It is submitted that as per the revenue record, out of land measuring (8-0) in respect of **Khata No. 142/149**, Jamabandi for the year 2014-15, Khasra No. 13//11, situated at village Jandpur, Hadbast No. 28, Tehsil Kharar, District S.A.S. Nagar, ownership of 4K-0M-0 was in the name of M/s Bajwa Developers Limited and has sold entitled share through sale vide mutations No. 4598-4607-5018-4740-5071-5182-5268-5576 Therefore the mutation of exchange cannot be recorded in the revenue record. ---xxx--- report is submitted please.

Possession of aforesaid plot No. 852, mutation of which in the revenue records in the name of the appellants has been denied by the revenue authorities for no fault on the part of the appellants, cannot be held to a valid possession. Section 17(1) of the Act inter alia provides that a promoter shall execute a registered conveyance deed in favour of the allottee, hand over the physical possession of the plot to the allottees; and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local law.

25. Thus, the appellants are deprived of peaceful unencumbered valid possession of any of the three plots allotted to them by the promoter. Thereafter, the appellants filed the said complaint dated 26.04.2021, wherein the appellants have expressed that now they



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have lost faith in the respondent and have sought refund of their investments on the plot along with interest thereon and compensation.

26. Under the aforementioned circumstances, I have no hesitation to hold that the respondent is liable to refund entire investment made by the appellant for a plot of 250 square applied for by them in the year 2010, in case the promoter has sold its share through sale vide mutations mentioned in aforesaid report dated 18.12.2020 of the Patwari.
27. As per impugned order dated 26.04.2022, the matter qua the relief of compensation is pending with the Adjudicating Officer of the Authority, before whom aforesaid composite complaint for refund along with interest thereon as well as for compensation was made by the appellants on 14.04.2021. This arose my curiosity to know about the final order passed by the Adjudicating Officer in this complaint bearing AdC No. 00722021, especially to ascertain whether any relief, on any of the counts sought by the complainants in their complaint dated 14.04.2021, has been granted by the Adjudicating Officer. As final order passed by the Adjudicating Officer has not been placed on record before this Tribunal, the one dated 08.07.2022 passed by him in this very complaint was founded on and downloaded from the website of the Authority and a copy of the same has been placed in the file of this appeal. Its perusal inter alia reveals that the Adjudicating Officer has dismissed the complaint as withdrawn with permission to the complainants to file a fresh complaint on the same cause of action after furnishing further particulars before the appropriate forum in accordance with law.



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28. During the arguments before this Tribunal on 17.08.2023, the counsel for the respondent inter alia contended that the respondent shall look into the matter as to whether the mutation of aforesaid plot No. 852 in the name of the appellants has been denied as a result of some error in the report/revenue record, and if so, assured to get the same corrected soon.

MY DECISION:

29. In view of above, I deem it appropriate to set aside the order dated 26.04.2022 passed by the Authority in the complaint bearing AdC No. 00722021 and hereby order as under:-

- (i) The respondent shall look into the matter as to whether the mutation of aforesaid plot No. 852 in the name of the appellants has been denied as a result of some error in the report/revenue record, and if so, shall get the same corrected and get the mutation of aforesaid plot recorded in the revenue record in the name of the complainants to the satisfaction of the complainants within a period of forty-five days from today;

- (ii) If the respondent fails to do so within the above stipulated period, it shall pay to the appellants an amount of Rs.35,67,500/- (i.e. Rs.28,62,500/- paid by the appellants to the respondent from time to time as detailed in aforesaid letter dated 10.03.2015 of the respondent + Rs.2,75,000/- paid by the appellants to the respondent as per receipt dated 12.03.2015 issued by the respondent + Rs.4,30,000/- paid by the appellant to a contractor in September/November 2020 for raising boundary walls/room) along with interest thereon at the rate prescribed under Rule 16 of the Rules from the dates of respective payments till realization. Aforesaid payment, along with interest thereon, shall be paid within 60 days of this order.



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- (iii) Immediately upon receipt of aforesaid amount of Rs.35,67,500/- along with interest thereon as ordered above, the appellants shall surrender the documents of aforesaid plot No. 852 to the respondent and shall co-operate with the respondent to get the ownership thereof transferred to the respondent (including ownership of aforesaid construction got raised by the appellant on aforesaid plot No. 852), if the promoter was a lawful owner of the land pertaining to aforesaid plot No. 852.



The appeal is accordingly disposed of. 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 thereafter the files be consigned to the record room.

Sd/-
September
August 21, 2023

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

Certified To Be True Copy

Manish Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

22/09/2023