

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

Subject: -

**APPEAL NO. 16 of 2022**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali)-140901 through its Authorized Representative/Signatory Sh. Deepanjit Singh.

...Appellant

Versus

Sandeep Mann son of Col S.S. Mann, resident of House No.2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)-160062.

....Respondent/Complainant

**Appeal No.17 of 2022**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali)-140901 through its Authorized Representative/Signatory Sh. Deepanjit Singh.

...Appellant

Versus

Rupinder Mann daughter of Sh. Sukhdev Singh Mann, resident of House No.2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)-160062.

....Respondent/Complainant



Memo No. R.E.A.T./2023/ 440

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup> 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 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 **12th day of Decemeber 2023.**

*Dr. Anand Singh*

REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB



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

Appeal No. 16 of 2022<sup>2</sup>

**MEMO OF PARTIES**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali) – 140901 through its Authorized Representative/ Signatory Sh. Deepanjit Singh.

...Appellant


Versus

Sandeep Mann son of Col S.S. Mann, resident of House No. 2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)- 160062

...Respondent/Complainant



Place: Chandigarh.  
Dated: 22.12.2021

  
(MUNISH GUPTA)  
P-515/2005  
ADVOCATE  
COUNSEL FOR APPELLANT

Appeal No. 17 of 2021<sup>22</sup>

**MEMO OF PARTIES**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali) – 140901 through its Authorized Representative/ Signatory Sh. Deepanjit Singh.

...Appellant


Versus

Rupinder Mann daughter of Sh. Sukhdev Singh Mann, resident of House No. 2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)- 160062

...Respondent/Complainant



Place: Chandigarh.  
Dated: 22.12.2021

  
(MUNISH GUPTA)  
P-515/2005  
ADVOCATE  
COUNSEL FOR APPELLANT



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

**APPEAL NO. 16 of 2022**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali)-140901 through its Authorized Representative/Signatory Sh. Deepanjit Singh.

...Appellant

Versus

Sandeep Mann son of Col S.S. Mann, resident of House No.2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)-160062.

....Respondent/Complainant

**Appeal No.17 of 2022**

Omaxe New Chandigarh Developers Pvt. Ltd (previously known as M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.), India Trade Tower, First Floor, New Chandigarh, Sahibzada Ajit Singh Nagar (Mohali)-140901 through its Authorized Representative/Signatory Sh. Deepanjit Singh.

...Appellant

Versus

Rupinder Mann daughter of Sh. Sukhdev Singh Mann, resident of House No.2426, Phase-10, Sahibzada Ajit Singh Nagar (Mohali)-160062.

....Respondent/Complainant



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**Present: -** Mr. Munish Gupta Advocate for the appellant  
Mr. Amitabh Tewari along with Mr. Jatvik Bansal,  
Advocates for the respondent.

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**CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN**

**SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.), MEMBER  
(JUDICIAL)**

**JUDGMENT: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN (ORAL)**

1. By this order we shall dispose of two appeals bearing No.16 of 2022 and 17 of 2022 titled Omaxe New Chandigarh Developers Pvt. Ltd. Vs. Sandeep Mann and Omaxe New Chandigarh

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Developers Pvt. Ltd. Vs. Rupinder Mann as they involve commonality of facts and engage a similar controversy.

2. The respondent (allottee) in each of the cases applied for a plot in the project being developed by the present appellant, the details of which are not essential to the decision of the present appeals and hence are not be elaborately set out herein.
3. Suffice it to say that the agreement executed in this regard on 03.11.2014 envisaged delivery of the plot, complete in all respects within 24 months of the date of execution of the agreement i.e. 03.11.2016.
4. Concededly the possession of the plot was not given within the stipulated time and a complaint was filed on 15.04.2019 wherein the allottee alleged violation of Section 18 and claimed interest in terms of the said provision read along with Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules 2017 (hereinafter known as the Rules). Interest was claimed w.e.f. 03.11.2016 till the actual delivery of the possession.
5. The appellant contested the complaint to contend that a partial completion certificate had been obtained on 28.04.2017 and possession offered to the allottee on 25.10.2018. However, the allottee did not clear the entire dues. The complaint was thus opposed on these two grounds. The Authority concluded that the partial completion certificate and the other related material produced by the appellant on record did not establish that the plots of the allottees fell within that area to which the partial completion certificate related to and thus discarded this plea and granted interest in terms of the relief claimed by the claimant by construing that the delay had indeed occurred in handing over possession and partial completion certificate was inconsequential for the reasons noticed above.





6. The offer of possession dated 25.10.2018 was also negated on the ground that the communication addressed to the allottee in this regard did not bear the proper address furnished by the allottee and rather carried some other address thereby denying an effective communication to the allottee of the offer of possession. As a consequence thereof the complaint was accepted and the appellant was directed to pay interest at the statutory rate prescribed along with Rule 16 of the Punjab State Real Estate (Regulation & Development) Rules 2017 w.e.f. 03.11.2016 till the date, possession is actually handed over after obtaining the completion certificate.
7. Before we proceed with the matter we must record a fact, that undisputably the possession has indeed been handed over to the allottee.
8. Learned counsel for the appellant contented that the partial completion certificate covered the plots of the allottees, and related material was brought on record by moving an application before the Authority for rectification of the impugned order dated 19.11.2019, but the same was not considered since the Authority was of the view that review petition was not maintainable and even if it were to be considered it could only be done in a case where an error is apparent on the face of the record. It was argued that this order of the Authority dated 11.02.2021 read with the original order dated 19.11.2019 has caused immense grievance to the appellant as the partial completion certificate clearly established that the plot of allottee fell within the completed area. It was next argued that the offer of possession was indeed made on 25.10.2018 and if the communication sent to the allottee is seen, it clearly mentions the correct address in the opening part of the letter but the post office on its own has mentioned a different



pincode thereby creating a confusion for which the appellant cannot be blamed.

9. On the other hand learned counsel for the respondent contends that even though the possession has been given on 01.03.2021 yet the appellant has no case as the delay in handing over the possession stands established and obtaining partial completion certificate would have no bearing on the relief claimed by the allottee. That apart it was argued that the appeal is barred by a delay of 704 days. Review is not a statutory remedy and the limitation would start running from the date when the first order of 19.11.2019 was passed. Subsequent order passed in review/rectification application cannot be taken as the starting point for limitation.

10. We have heard the learned counsel for the parties.

11. Whether the partial completion certificate as obtained by the appellant covered the plots of the allottees or not fades into insignificance in view of the conceded position of the delayed possession offered to the allottee. Even as per the best case of the appellant the possession was offered on 21.10.2018. If that be so then the appellant cannot make much of the fact of obtaining the partial completion certificate when the offer of possession is beyond the date of the completion certificate, partial or otherwise. The record shows that this offer of possession was never effectively communicated to the respondent as the address on the envelope which contained the communication of offer of possession, concededly shows an address of Sector 55, Chandigarh, even though in the opening line of the communication the address furnished by the respondent has been correctly mentioned as 2426, Phase-X, SAS Nagar, Mohali "SAS Nagar, Punjab". This is clear from the perusal of the Annexure R-2. The lapse clearly is on





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the part of the appellant, for which the respondent cannot be held responsible. In the eyes of law communication in this regard i.e. offer of possession was clearly an invalid offer. We are also at pains to notice that even though the complaint was filed in the year 2019 yet the appellant instead of being straight forward in offering the possession to the allottee chose to contest the complaint and the present appeal. Had he done so and offered the possession on 15.04.2019 itself or around the time when he was served he would have saved himself and the Courts a lot of bother, but he continued to persist with the litigation even though he is alive to the controversy and the limited grievance of the allottee with regard to the possession.

12. Besides the appeal is hit by delay of more than seven hundred days. Even if some benefit is to be given on account of review proceedings the present appeal has been filed after considerable delay of decision in review petition as well. The appeal deserves to be dismissed on this score as well.

13. It is thus clear the applicant himself has invited trouble for himself. Concededly the possession has now being given on 01.03.2021, therefore in view of the reasons given above we are of the opinion that partial completion certificate and its relevance would have no bearing on the outcome of the case considering the conceded delay in handing over the possession. The allottee cannot be disentitled to the benefits of Section 18 of the Act and Rule 16 of the Rules which the Authority has correctly granted. Since the possession has been given on 01.03.2021 the benefits of Section 18 as granted by the Authority shall enure to the allottee till that time alone. The appeal therefore, is without any merit and is dismissed. Consequently the amount deposited by the appellant in terms of Section 43(5) along with interest accruing thereon shall be



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released to the allottee as a part of the relief granted by the Authority and by this Court. The amount shall be adjusted towards the interest as granted in the impugned order and affirmed by us.



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

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

**December 11, 2023**  
**SR**

**Certified To Be True Copy**

*Shanendra Kumar*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

12/12/2023