

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

Subject: -

APPEAL NO. 59 of 2023

Sh. Bhupinder Pal S/o Sh. Lamber Ram R/o Ladhana Jhikka,
District Shahid Bhagat Singh Nagar (Nawanshahr) Punjab
...Appellant/Complainant

Versus

Real Estate Regulatory Authority Punjab
1st Floor, Plot No.3, Block B, Madhya Marg,, Sector 18-A, Chandigarh
.....Respondents/Opposite Parties

Appeal No.60 of 2023

Sh. Bhupinder Pal S/o Sh. Lamber Ram R/o Ladhana Jhikka,
District Shahid Bhagat Singh Nagar (Nawanshahr) Punjab
...Appellant/Complainant

Versus

Real Estate Regulatory Authority Punjab
1st Floor, Plot No.3, Block B, Madhya Marg,, Sector 18-A, Chandigarh
.....Respondents/Opposite Parties

Memo No. R.E.A.T./2024/57

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 were 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 19th day of
February, 2024.

Dr. Anand Kumar
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT
CHANDIGARH

Appeal No. 59/2023

Sh. Bhupinder Pal s/o Sh. Lamber Ram

....Appellant

Versus

Real Estate Regulatory Authority Punjab

....Respondent

MEMO OF PARTIES

Sh. Bhupinder Pal s/o Sh. Lamber Ram

Resident of Ladhana Jhikka District Shahid Bhagat Singh
Nagar(Nawanshahr),Punjab.

144510

...Appellant

Versus

Real Estate Regulatory Authority Punjab

1st Floor, Plot No.3, Block B, Madhya Marg, Sector 18A, Chandigarh

...Respondent



Place: Chandigarh

Date: 8/10/23

Through Counsel

Mohit
Mohit Dhiman & Pooja & Manisha Maggu
(PH/5981/2021) & (PH/2251/2019) & (PH/3341/2022)
(Advocates)
Counsel for the Appellant

Manisha Maggu

IN THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT
CHANDIGARH

Appeal No. 60/2023

Sh. Bhupinder Pal s/o Sh. Lamber Ram

....Appellant

Versus

Real Estate Regulatory Authority Punjab

....Respondent

MEMO OF PARTIES

Sh. Bhupinder Pal s/o Sh. Lamber Ram

Resident of Ladhana Jhikka District Shahid Bhagat Singh

Nagar(Nawanshahr),Punjab.

144510

...Appellant

Versus

Real Estate Regulatory Authority Punjab

Ist Floor, Plot No,3, Block B, Madhya Marg, Sector 18A, Chandigarh

...Respondent



Place: Chandigarh

Date: 10/10/23

Through Counsel

Mohit

Pooja Manisha Maggu

Mohit Dhiman & Pooja & Manisha Maggu
(PH/5981/2021) & (PH/2251/2019) & (PH/3341/2022)
(Advocates)

Counsel for the Appellant

THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO. 59 of 2023

Sh. Bhupinder Pal S/o Sh. Lamber Ram R/o Ladhana Jhikka,
District Shahid Bhagat Singh Nagar (Nawanshahr) Punjab
...Appellant/Complainant

Versus

Real Estate Regulatory Authority Punjab
1st Floor, Plot No.3, Block B, Madhya Marg,, Sector 18-A,
Chandigarh

....Respondents/Opposite Parties

Appeal No.60 of 2023

Sh. Bhupinder Pal S/o Sh. Lamber Ram R/o Ladhana Jhikka,
District Shahid Bhagat Singh Nagar (Nawanshahr) Punjab
...Appellant/Complainant

Versus

Real Estate Regulatory Authority Punjab
1st Floor, Plot No.3, Block B, Madhya Marg,, Sector 18-A,
Chandigarh

....Respondents/Opposite Parties

Present: - Mr. Mohit Dhiman, Advocate for appellant
Mr. Prashant Rana, Advocate for RERA, Punjab

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.59 of 2023 and 60 of 2023 titled Sh. Bhupinder Pal Vs. Real Estate Regulatory Authority, Punjab and Sh. Bhupinder Pal Vs. Real Estate Regulatory Authority, Punjab, directed against the impugned orders dated 14.07.2023 and 03.03.2023 respectively, passed by the Real Estate Regulatory Authority (herein after known as the Authority).

APPEAL No.59 & 60 OF 2023

2

2. By virtue of the impugned order, the Authority has proceeded to impose penalty under Section 60 and 61 of the Act upon the appellant for not furnishing and uploading information as required in terms of 3rd proviso to Section 4(2)(1)(D) of the Real Estate Regulation and Development Act, 2016. The default is spread over period of time ranging from the year 2018-19, 2019-20, 2020-21 and 2021-22.
3. In Appeal No.59 of 2023 the penalty imposed was graded i.e. Rs.2,00,000/- for the financial year 2018-19, Rs.1,50,000/- for the financial year 2019-20, Rs.1,00,000/- for the financial year 2020-21 and Rs.50,000/- for the financial year 2021-22. In this way total of Rs.5,00,000/- was imposed under Section 60 of the Act. In Appeal No.60 of 2023 the penalty was imposed was graded i.e. Rs.1,00,000/ for the financial year 2018-19, Rs.75,000/- for the financial year 2019-20, Rs.50,000/- for the financial year 2020-21 and Rs.25,000/- for the financial year 2021-22. In this way total of Rs.2,50,000/- was imposed under Section 60 of the Act. For the purposes of reference the provisions of law are extracted herebelow:



“60. If any promoter provides false information or contravenes the provisions of section 4, he shall be liable to a penalty which may extend up to five percent of the estimated cost of the real estate project, as determined by the Authority.”

4. The argument of the learned counsel for the appellant is that the penalty is highly excessive and totally arbitrarily and thus the impugned order deserves to be set aside.

5. Upon hearing learned counsel for the appellant we are of the opinion that the impugned order does not warrant any interference for two reasons.
6. Firstly, despite several notices issued to the appellant, he failed to appear before the Authority. Thus, the opportunities given by the Authority were not respected by the appellant. There is thus, hardly any reason to come to the rescue of the appellant when he himself does not care about the process of law which he has violated firstly, by defaulting in submission of the requisite information and secondly by not appearing before the Authority.
7. That apart we are unable to accept the plea of penalty being excessive for the simple reason that the developer is indeed in default in compliance of provisions of law and merely because the appellant perceives the penalty as excessive can be no ground for interference and a reason to substitute our opinion in preference to the one by the Authority. The quantum of penalty ought to be interfered with only if it is shown to be highly disproportionate to the default. In the instant cases penalty of the amounts noticed in foregoing paras cannot be termed to be perverse or aggravated to warrant an interference. These appeals are therefore, dismissed.
8. We do however find some merit in the plea of the appellant that it would be desirable to apply a yardstick in imposition of penalty proportionate to the defaults and the amount so imposed should not seem whimsical. The Authority would do well to formulate through an internal mechanism some methodology to establish unanimity or near uniformity in the impositions of such penalties. We are also unable to appreciate the rational in imposing the penalty in graded fashion as has



APPEAL No.59 & 60 OF 2023

4

been done by the Authority in the numerous cases. It would thus be eminently desirable that the authority to adopt a methodology of near unanimity or uniformity. Thus the appeal is dismissed as above.

In Appeal No.60 of 2023

9. In Appeal No.60 of 2023 even though the appellant appeared through his counsel to apprise the Authority of being compliant by 03.05.2023, yet it does not absolve him entirely of the default.
10. The Authority has imposed a penalty in a graded manner and taken into account the facts of it being complaint to be slightly more accommodating towards the appellant than in the earlier Appeal No.59 of 2023. We therefore, do not find any ground to interfere on account of the same reasoning which we have adopted in Appeal No.59 of 2023 and the present appeal is also disposed of with the similar observations.



Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

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

Certified To Be True Copy

Shamshad Kaur
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh

19/02/2024

February 8th, 2024
SR

M