

M/s Rajdeep & Company Infra Pvt. Ltd. and another
V/s
Suresh Kumar Sharma
Appeal No. 7/HP/2021

Present: Shri Rishi Kaushal, Advocate, ld. counsel for the appellant.

Shri Rohit Sharma, Advocate, ld. counsel for the respondent.

{The aforesaid presence is being recorded through video conferencing}

Ld. counsel for the appellant states that he does not press his application for waiver of the condition of pre-deposit. The same may be dismissed as withdrawn.

Ordered accordingly.

Ld. counsel for both the parties have filed the joint application for deciding the appeal on account of mutual settlement. This application is also supported by an affidavit of Shri Rajdeep Sharma, the Director of the appellant-company and respondent Shri Suresh Kumar Sharma. They have also placed on file the copy of the order dated 21.08.2021 passed by the ld. Himachal Pradesh Real Estate Regulatory Authority (Annexure A-1) and copy of mutual agreement (Annexure A-2). The documents placed on file shows that the parties have settled the issue regarding the refund of amount alongwith interest for a payment of Rs. 14,75,299/- in full and final settlement to the respondent-allottee by the appellant-promoter. Ld. counsel for the respondent has acknowledged that the payment as per mutual agreement has been made vide demand draft dated 08.10.2021. Thus, the issue regarding refund has been settled amicably between the parties. Therefore, ld. counsel for the appellant states that he does not press the present appeal with respect to direction no. (i) & (ii) issued by the Ld. Authority. He stated that he will now press the appeal only qua direction no. (iii). So, the present appeal qua direction no. (i) & (ii) stands

dismissed as withdrawn as a result of the amicable settlement between the parties.

As per the direction (iii), the appellant has been directed to pay a penalty of Rs. 3 lacs for contravention of provisions of Section 3 & 4 of the Real Estate (Regulation and Development) Act, 2016 (in short Act).

Heard on the issue of compliance of Section 43(5) of the Act.

Keeping in view of the facts and circumstances of the case and the plea raised by the ld. counsel for the appellant that the appellant has been burdened with penalty in ten cases by the ld. Authority running into several lacs. So, we take the lenient view and the appellant is directed to deposit a 50% of the amount of penalty i.e. Rs. 1,50,000/- with the Ld. Authority within two weeks from the date of this order. Receipt of the deposit of the penalty be produced on the next date of hearing.

Now to come upon 03.12.2021 to see the compliance of proviso to Section 43 (5) of the Act.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh

Anil Kumar Gupta
Member (Technical)

12.11.2021
rajni