

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

104

RSA No.3274 of 2010 (O & M)
Date of Decision:06.07.2018

Bohar Singh and others

...Appellants

Versus

Surjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Chopra, Advocate
for the appellants.

Mr. Sandeep Khunger, Advocate
for the respondents.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below while ordering refund of the earnest money paid under an agreement to sell executed by the defendants in favour of the plaintiffs. As per agreement to sell, defendants, who were owners, had undertaken to discharge all the liabilities/charge on the property and thereafter transfer clear title to the plaintiff.

Both the Courts have found that the defendants-appellants failed to discharge the liability and were not in a position to hand over clear title of the property.

Counsel appearing for the appellants has submitted that the Courts below have not examined whether the plaintiffs-respondents were ready and willing to perform their part of the contract or not.

In the considered opinion of this Court, such examination was not necessary keeping in view the fact that the defendants-appellants have failed to perform their part of the contract.

In such circumstances, plaintiffs were justified in seeking refund of the earnest money and courts were correct in ordering refund of the amount.

In view thereof, there is no scope for interference.

Regular second appeal is dismissed.

06.07.2018
sheetal

(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No