

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

115

**CWP no.14547 of 2022
Date of Decision:12.07.2022**

Sanjay Singh Tanger and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Rahul Makkar, Advocate,
for the petitioners.

AMOL RATTAN SINGH, J. (ORAL)

Vide this petition, the petitioners challenge the resolution/policy dated 26.08.2019 (Annexure P-1), issued by the Executive Director, Haryana Real Estate Regulatory Authority, Panchkula.

Learned counsel submits that the said resolution/policy is in contravention of Section 59 of the Real Estate (Regulation and Development) Act, 2016, which reads as follows:-

59: Punishment for non-registration under section 3.

(1) If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent. of the estimated cost of the real estate project as determined by the Authority.

(2) If any promoter does not comply with the orders, decisions

or directions issued under sub-section (1) or continues to violate the provisions of section 3, he shall be punishable with imprisonment for a term which may extend up to three years or with fine which may extend up to a further ten per cent. of the estimated cost of the real estate project, or with both.”

Notice of motion to respondents no.1 and 3 only at this stage.

Mr. Ankur Mittal, learned Addl. A.G. Haryana, accepts notice at the asking of the court on behalf of the respondent no.1, with Mr. Shobit Phutela, Advocate (instructing with learned Addl. Solicitor General of India) accepting notice on behalf of respondent no.2.

Mr. Mittal first submits that the payment for late registration as is to be charged in terms of Schedule-1, is not in derogation of but in addition to the penalty stipulated in Section 59, which is imposed for non-registration of a project that is required to be registered in terms of Section 3 of the said Act; and is seen to be leviable upto the extent of 10% of the estimated cost of the real estate project in question.

He next points to the fact that in the said decision itself is also stated as follows:-

“4. The Authority after consideration decided that in such cases where the promoters have filed their application beyond the last date as prescribed under the Act, the Authority may charge late fee on the following lines/policy as adopted by the Haryana Real Estate Regulatory Authority, Gurugram.

- i. Payment of Normal fee – Normal fee as prescribed in Schedule-I of the Haryana Real Estate (Regulation & Development) Rule, 2017, shall be applicable in respect of the ongoing real estate projects where the application for

registration of the projects have been received by the Authority before 28.10.2018.

- ii. Liability to pay Late fee -- Where the application have been submitted by the promoters on or after 28.10.2018, the promoters/developers, shall be liable to pay the prescribed registration fee along with late fee at the rate of 50% of the registration fee as prescribed in Schedule-I for the first six months, thereafter, the late fee shall be increased to 50% of the registration fee for every next six months or part thereof.”

He thereafter next points to Rule 3 (2) of the Haryana Real Estate (Regulation and Development) Rules,2017, which reads as follows:-

“3. Application for registration, Section 4, --”

XXXXX

XXXXX

XXXXX

“(2) The promoter shall pay a registration fee at the time of application for registration by way of a demand draft or a banker(s) cheque in favour of “Haryana Real Estate Regulatory Authority” drawn on any Scheduled bank or through online payment mode, as the case may be, for a sum calculated at the rate mentioned in Schedule-1.”

He thus submits that the decision is only in terms of the aforesaid rule and in any case the petitioners have already filed a complaint before the Real Estate Regulatory Authority, Panchkula, in respect of the same grievance, i.e. non-registration of its project by respondent no.4.

That fact is not denied by learned counsel for the petitioners.

In view of the above, we disposed of this petition with a direction to the Real Estate Regulatory Authority, Panchkula, to go into the complaint of the

petitioner and since that decision would possibly affect a large number of projects existent in Haryana, as have not been registered but which are required to be registered in terms of Section 3 of the Act of 2016, a decision be taken within a period of five months from today, naturally after hearing all parties concerned in the complaint filed by the petitioner.

(AMOL RATTAN SINGH)
JUDGE

July 12, 2022
dinesh

(LALIT BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes