

In the High Court of Punjab and Haryana, at Chandigarh

1. RERA Appeal No. 6 of 2019 (O&M)

Mohd. Shaquib
... Appellant(s)

Versus

MG Housing Pvt. Ltd.
... Respondent(s)

2. RERA Appeal No. 7 of 2019 (O&M)

Nitin Kumar Chauhan
... Appellant(s)

Versus

MG Housing Pvt. Ltd.
... Respondent(s)

AND

3. RERA Appeal No. 9 of 2019 (O&M)

Rudra Pratap
... Appellant(s)

Versus

MG Housing Pvt. Ltd.
... Respondent(s)

DATE OF DECISION: 11.11.2022

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Nitin Kant Setia, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. These three connected appeals have come up for final disposal.

The challenge is to the correctness of an identical order passed, in all the cases, by the Haryana Real Estate Appellate Tribunal at Chandigarh

(hereinafter referred to as “the Tribunal”). The Tribunal, instead of deciding the appeal, has remitted the matter to the Adjudicating Officer, Panchkula, to decide the dispute, again, on the ground that it was decided by the Regulatory Authority, who was incompetent to decide the same.

2. Previously, at the time when the order of the Tribunal was passed, there was lack of clarity in answering the question, “Whether the appropriate authority to decide the dispute is the Haryana Real Estate Regulatory Authority, Panchkula (hereinafter referred to as “the Regulatory Authority”) or the Adjudicating Officer, Panchkula?”. Recently, the Supreme Court in *M/s Newtech Promoters and Developers Pvt. Ltd. v. State of Uttar Pradesh and Others (SLP (Civil) Appeal No. 6745-6749 of 2021)* and *M/s Sana Realtors Pvt. Ltd. v. Union of India and Others (SLP No. 13005 of 2020)* has held that such complaints are maintainable before the Real Estate Regulatory Authority and not before the Adjudicating Officer.

3. It has been brought to the notice of the Court that the Real Estate Regulatory Authority, on 17.02.2022, has held that in view of the judgment passed by the Supreme Court in *M/s Newtech Promoters and Developers’ case (supra)* and *M/s Sana Realtors’s case (supra)*, the matter which was, originally, decided by it, but was later remanded to the Adjudicating Officer by the order of the Tribunal, was validly decided by it i.e. the Regulatory Authority, at the first instance. Therefore, since the matter has already been decided, no fresh order is required to be passed by it on the ground that the order of remand, passed by the Tribunal, has become infructuous and now, the Authority to decide such dispute is the Regulatory

previous order passed by the Regulatory Authority shall stand revived.

4. Originally, the various complaints, filed by the different appellants in all the three appeals, were dismissed by the Authority. The appellants filed respective appeals before the Tribunal, which, as noticed above, were remitted to the Adjudicating Officer.

5. Keeping in view the aforesaid undisputed facts, this Court, while allowing all the appeals, is left with no other choice but to formally set aside the order passed by the Tribunal dated 02.05.2019. The various appeals filed by the appellants, against the order of the Regulatory Authority, before the Tribunal shall stand restored to their original number. The Tribunal is requested to decide the appeals on merit. The parties, through their learned counsels, are directed to enter appearance before the Tribunal on 05.12.2022.

6. The miscellaneous application(s) pending, if any, in all the appeals, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

November 11, 2022
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No