

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 1299 of 2017****Date of Decision: 09.02.2024**

Surinder Singh Chauhan and Another

... Appellant(s)

Versus

Haryana Urban Development Authority and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Akshay Jindal, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. This regular second appeal has been filed by the plaintiffs to challenge the correctness of the judgment and decree passed by the First Appellate Court.

3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The plaintiffs have purchased the commercial site No. 1-P, Transport Nagar, Sector 25, HUDA, Panipat, measuring 525 square yards on 20.02.2004 for a sum of ₹63,83,000/-. Subsequently, they filed a suit for the grant of decree of declaration with consequential relief of permanent injunction. In substance, the plaintiffs claim that the plot in question is not a corner plot and the defendants have failed to provide zoning plan/standard design to enable the plaintiffs to utilize the property and, therefore, they have suffered a lot.

Hence, they are not liable to pay the interest on the instalments.

4. Though the trial Court decreed the suit, however, the First Appellate Court found that the commercial site was sold in a public auction. The plaintiffs have purchased the property after examining its location . Now they cannot take a u-turn and claim reduction in price because it is not a corner plot. The First Appellate Court further found that the payment could be made in lump-sum or in instalments with interest. The aforesaid interest is liable to be paid in accordance with the allotment letter. Thus, the appeal was accepted.

5. The learned counsel representing the appellant submits that the respondents have admitted that 10% extra amount was charged being a corner plot.

6. This Court has considered the submissions of the learned counsel representing the appellant.

7. The reserved price of the plot was ₹57,94,000/-. The plot bearing No. 1-P was specifically put to auction. The plaintiffs have purchased it in an open auction. After having purchased the plot and making the part payment, the plaintiffs cannot, now, take a u-turn for reduction of the price.

8. Keeping in view the aforesaid facts, no ground is made out to interfere with the judgment and decree passed by the First Appellate Court. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

February 09, 2024
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No