

Charu Basin V/s BPTP Ltd.
Appeal No. 50/2018

Present: Sh. Nitin Kant Setia, Advocate, ld. counsel for the appellant.
Sh. Himanshu Monga, Advocate, Ld. counsel for the respondent.

Ld. counsel for the respondent has filed an affidavit in Appeal No. 09 of 2018 that the respondent M/s BPTP Ltd. has filed the Civil Writ No. 37039/2019 titled 'BPTP Ltd. Vs. Union of India and others', which was listed before the Division Bench of the Hon'ble High Court on 19.12.2019 in which the Hon'ble High Court was pleased to issue notice of motion for 13.02.2020 with the interim order directing this Tribunal not to pass the final order in the present cross appeals, which are listed before this Tribunal today. Ld. counsel for the respondent has also stated at bar that the respondent has already sent a demand draft of Rs. 10,000/- to the appellant for payment of the costs imposed by this Tribunal. Sh. Nitin Kant Setia, Advocate ld. counsel for the appellant say that he will verify this fact.

As per the affidavit filed by the respondent, the Hon'ble High Court has directed this Tribunal not to pass the final order in the present appeal. Thus, there is no impediment for passing the interim order. The present appeal was put up before this Tribunal for the first time on 28.09.2018. Shri. Hemant Saini, Advocate has appeared on behalf of the respondent on 07.12.2018. This appeal has been fixed for numerous times for arguments. On most of the dates, the case has to be adjourned due to the request made by the Ld. counsel for the respondent. Finally, we have tried to find out a middle path so that the order could have been passed to deliver the possession of the unit to the appellant on deposit of the part amount which is evident from our order dated 20.05.2019. Even that effort did not bear any fruit and the case was again listed for arguments. On 10.10.2019, ld. counsel for the appellant has given the offer that the appellant is ready to take possession on deposit of part amount of Rs. 2 Lakh subject to the decision of this appeal. We have found that the said offer to be

justified. Shri. Hemant Saini, Advocate Id. counsel for the respondent has undertaken to convey this offer of the appellant to the respondent. The order dated 15.11.2019, further depicts that Shri. Hemant Saini, Id. counsel for the respondent has stated that he wants that the litigation between the parties should come to an end amicably and he had undertaken to call Sh. Rohit Mohan, the Vice President of the respondent company alongwith Senior Officer dealing with this project.

Shri. Rohit Mohan has appeared before this Tribunal on 21.11.2019 and sought a date to put the proposal to the other Directors of the respondent company for finalisation of the amicable settlement. In the meanwhile the respondent had approached the Hon'ble High Court and obtained the interim direction not to pass the final order in the present appeal. So, the case was adjourned to 18.12.2019 for giving the information regarding amicable settlement and for awaiting further orders of the Hon'ble High Court. On 18.12.2019, no information was supplied to this Tribunal regarding the amicable settlement. Rather Id. counsel for the respondent has stated that they had filed some Misc. Application in Civil Writ Petition No. 12237 of 2019 which is likely to be listed before the Hon'ble High Court.

The units were allotted to the allottees in the year 2009. The possession of the unit was to be delivered within 42 months as per the terms and conditions of the agreement. At the most this date will go up to the year 2013. Now we are at the end of the year 2019 and the allottees have yet not been able to get the possession of the unit. Though, the offer of the possession was given by the respondent on 21.03.2018 but there was some dispute and the possession could not be taken. Thereafter the litigation between the parties started. The final disposal of the appeal will still take time. Thus, in the interest of justice and in the fitness of the things the respondent promoter is hereby directed to deliver the possession of the unit allotted to the

appellant within thirty days of the deposit of the amount of Rs. 2 Lakhs in lump sum with the respondent/promoter subject to the final decision of this appeal.

Now to come up on 17.02.2020 for awaiting the further orders of the Hon'ble High Court.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
23.12.2019

Inderjeet Mehta
Member (Judicial)
23.12.2019

Anil Kumar Gupta
Member (Technical)
23.12.2019