

Chand Ram Chanchia and another
Vs
DSS Buildtech Pvt. Ltd.
C.M No.1190 of 2023
In Appeal No.581 of 2023

Present: Mr. Rajan Kumar Hans, Advocate,
for the appellant.

Mr. Hans contends that appellant was issued allotment letter for a unit in a project allotted by the promoter (DSS Buildtech Pvt. Ltd.). Appellant-allottees deposited a total amount of Rs. 19,15,168/-. His grouse is that the stage of Builder Buyer's Agreement was never arrived as the promoter never took any steps in that direction. Appellant-allottees, thus, sought to surrender the unit on 21.08.2015. For refund of the amount, they had to file a complaint in the year 2020. According to him, their plea was allowed on 18.07.2023 and respondent-promoter was directed to refund the amount after deduction of 10% as earnest money of the basic sale consideration of Rs. 76,06,800/-,

According to counsel, the impugned order in so far it directs deduction of 10% amount, is erroneous as neither the structure is complete nor the promoter has any Occupation Certificate. The amount deposited by the appellant-allottees could only be treated as advance amount and not the earnest money. He further contends that the Authority while passing the impugned order has placed reliance on regulations framed under Section 85 of the Real Estate (Regulation and Development) Act, 2016 (Para 38). According to him, under Section 85 of the Act, Regulations if any, could have been framed within three months of the establishment of the Authority. This apart no Regulations

which are in violation of the Act or the settled law are sustainable. He has also brought to our notice that Regulations framed by the Authority have no approval of the Government.

Mr. Hans has made an oral prayer for a direction to the Authority to consider whether the regulations in question need to be revisited.

Appeal be registered.

Issue notice for 05.02.2024.

Process be issued for this purpose.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)

14.12.2023
Rajni