

Pivotal Infrastructure Pvt. Ltd.

Vs.

Rohit Kumar Kaushik

Appeal No.89 of 2021

Present: Shri Rohan Gupta, Advocate, Ld. counsel for the appellant.

{The aforesaid presence is being recorded through video conferencing}

Office report perused.

Appeal be registered.

Ld. counsel for the appellant states that he does not press the application for waiver of the condition of pre-deposit. As per the impugned order, no amount is payable to the respondent-allottee. Rather, the appellant has held to be entitled to recover a sum of Rs.1,52,746/- from the respondent-allottee. So, the application moved by the appellant for waiver of the condition of pre-deposit is hereby dismissed as withdrawn.

There is delay of 14 days in filing the present appeal.

The present appeal has been filed on 15th March, 2021 against the Order dated 23rd December, 2020, which was uploaded on the website of the Ld. Authority on 31st December, 2020. As per provisions of Section 44 of the Real Estate (Regulation and Development) Act, 2016 (for short 'the Act'), the appeal should have been filed by 01st March, 2021. So, the case of the appellant is covered by the directions of the Hon'ble Apex Court in Suo Moto Writ Petition (C) No.3 of 2020. The directions given by the Hon'ble Apex Court are reproduced as under:

"1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation

remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.”

These directions were further modified by the Hon’ble Apex Court vide Order dated 27th April, 2021 which read as under:-

“We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.”

In view of the aforesaid directions given by the Hon’ble Apex Court, the delay in filing the present appeal stands condoned.

Ld. counsel for the appellant contended that the Ld. Authority has no jurisdiction to deal with the complaint filed by the respondent, the Ld. Authority has wrongly calculated the amount of interest on delayed possession. He further contended that agreement between the parties was executed before the enforcement of the Act. Thus, the provisions of the Act were not applicable.

Let notice of the present appeal be issued to the respondent for 23rd August, 2021 on filing the copies of paper book and registered cover etc. within three days.

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

30.06.2021
Gaurav