

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-195/2023

GLG CHIT FUND PVT LIMITED

.....Appellant

Versus

SOLARIS REALTECH PVT. LTD.SOLARIS REALTECH PVT. LTD.

.....Respondent

Counsel for Appellant

Counsel for Respondent

DIVYAM KRISHNA

Hon'ble Mr. Justice (Dr.) D.K. Arora, Chairman

Hon'ble Mr. K.K. Jain, Technical Member

Heard Shri Divyam Krishna, the learned counsel for the appellant.

The submission of learned counsel for the appellant is that the application for condonation of delay has been filed out of sheer precaution, whereas the instant appeal has been filed within the period of limitation as prescribed under the Act 2016. The learned counsel for the appellant further submitted that the appellant filed application for rectification under Section 39 of the Act 2016 against the order dated 21.09.2022, on 10.10.2022 and the same was rejected vide order dated 11.01.2023. Therefore, necessity arose to challenge the original order along with order passed on the application for rectification. The order dated 11.01.2023 passed on the application for rectification of the appellant was uploaded on the webpage of U.P. RERA on 17.01.2023 and also communicated to the parties on the same day. The limitation for filing the appeal against the said order was up to 18.03.2023, whereas the instant appeal was filed on 04.03.2023.

On examination of the facts and record, we are of the considered view that the instant appeal has been filed within the period of limitation. Accordingly, the application for condonation of delay is disposed of.

The grievance of the appellant is with respect to claim regarding refund of amount of Rs. 54,01,875/- in place of 29,50,000/-. The averments in the Article of Agreement mention regarding payment of Rs. 20,50,000/-. The Regulatory Authority neither while passing the impugned order dated 21.09.2022 nor while passing the order on the application for rectification, took into consideration the fact that amount has been paid by the appellant.

Let notice be issued to the respondent, returnable on 05.05.2023.

The Registry will generate a notice for 05.05.2023 and send the same through e-mail to the appellant and its counsel within 48 hours. The appellant after downloading the notice will send it through speed-post to the respondent annexing copy of memo of appeal and its annexures within three days. The appellant will also send the copy of memo of appeal and its annexures, annexing notice issued by the Tribunal through e-mail to the respondent within three days. The appellant will file an affidavit of service annexing copy of postal receipt and transaction report of e-mail sent to the respondent as well as copy of the track record of the postal department regarding service of notice upon the respondent.

On receipt of the notice, it is open for the respondent to send objections to the grounds of appeal to the appellant and its counsel through e-mail within 10 days. Reply, if any, will be sent by the appellant to the respondent within a week thereafter. The parties/legal representatives are directed to upload their respective objection/reply on the e-portal of the Tribunal immediately thereafter.

List this appeal for hearing on **05.05.2023**.

(K.K. Jain)

(D.K. Arora)

Dated: 24.03.2023
SYEDTANVEER