

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-337/2023

M/S ALPHA CORP DEVELOPMENT PRIVATE LIMITED

.....Appellant

Versus

HIRDESH DURGA

.....Respondent

Counsel for Appellant

ABHISHEK KHARE

VIKASH VERMA

Counsel for Respondent

AMIT YADAV

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

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

Heard Mr. Abhishek Khare learned counsel for the applicant and Mr. Amit Yadav, learned counsel for respondent no.3 on the issue that the applicant is not a promoter but merely a Development Manager in pursuance to the agreement dated 15.05.2019.

Learned counsel for the applicant drawn our attention to the various Clauses of the agreement dated 15.05.2019 and on examining the same, it is evident that apart from working as Development Manager marketing and sale is also being done by the applicant. Mr. Amit Yadav, learned counsel for the respondent no.2 drawn our attention towards Clause 5.5 of the agreement, wherein it has been specifically mentioned that the project shall be specifically developed by the Development Manager and it is agreed between the parties that development of the project will be carried out as per mutually agreed business plan and design etc.

The learned counsel for the respondent no.1 submitted that he may be granted reasonable time to file objection on the issue as to whether the applicant falls under the category of Promoter/Project Manager or not though the project may have been registered under RERA in the name of respondent no.2.

Appreciating the submissions of the learned counsel for the parties we have to first examine that the status of the applicant, as to whether applicant is as Promoter of the project in question or applicant is merely a Development Manager and whether applicant is required to make compliance of the provisions of Section 43(5) of the Act.

We grant a week's time to the respondent no.1 for filing objections/response on the issue. Respondent is directed to send a soft copy of the objections on e-mail ID of the applicant and its counsel within a week. Reply, if any, will be send within a period of one day.

List this defective appeal on **15.05.2022** for orders/hearing.

(K.K. Jain)

(D.K. Arora)

Dated: 02.05.2023
VIJAYKUMAR