

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

APPEAL-489/2020

M/S LAUREATE BUILDWELL PVT. LTD.

.....Appellant

Versus

KV BUILDESTATE LLP

.....Respondent

Counsel for Appellant
SUCHITA SINGH

Counsel for Respondent
RAJAT GANGWAR
NIRMIT SRIVASTAV

Hon'ble Mr. T.B. Singh, Judicial Member
Hon'ble Mr. K.K. Jain, Technical Member

Case called on.

Counsel Smt. Shuchita Singh appeared on behalf of appellant, and counsel Sri Rajat Gangwar appeared on behalf of respondent.

During the course of argument, learned counsel for the appellant submitted that appellant is aggrieved only with the order passed under point No. 2 which relates to penal interest of Rs. 5 per sq. feet for the period from 16.07.2015 to 30.04.2016 and MCLR +1% interest from 01.05.2016 till obtaining of OC/CC or offer of possession, whichever is earlier. Counsel for the appellant further submitted that appellant is not legally entitled to give rate of interest during the zero period from 14.08.2013 to 28.10.2019. As per BBA, respondent was under obligation to give possession of the flat in question within 36 months from the date of allotment which is in the year July, 2012, but as per Clause 5 of the BBA, the builder-company was entitled to get further extension period to hand over the possession of the flat in question to the respondent. She further submitted that her case is fully covered with Clause-5 of the BBA. Counsel for the appellant also submitted that she has already mentioned everything in her list of dates and events in detail and the same should be taken into consideration while writing the judgment. At last she submitted that builder-company is not on fault and not entitled to give any penal interest.

Counsel for the respondent submitted that Annexure-6 of the memo of appeal, which relates to zero period is not applicable in this case and appellant has not submitted any proof to substantiate that her case is fully covered with NGT. Counsel for the respondent further submitted that at page-90 of the memo of appeal (Annexure No. 3) list of Urban Area Falling within Proposed Eco Sanctuary Zone of Okhla Bird Sanctuary, U.P. Counsel for the respondent further submitted that according to this list the appellant's project is not covered under NGT, hence argument as submitted by the counsel for the appellant is not sustainable at all. Counsel for the respondent further submitted that

appellant had given undertaking to give possession of the flat in question by December, 2020, but failed to do so and the case of appellant is also not covered by Hon'ble Apex Court verdict given on 04.11.2019 because project of the appellant was already completed on 31.05.2019 as it is already admitted by the appellant in Annexure Nos. 5 & 6 of the memo of appeal. He further submitted that he has already mentioned everything in list of dates and events which has already been filed.
Judgment reserved.

(K.K. Jain)

(T.B. Singh)

Dated: 14.12.2021
PRADEEPKUMAR