

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-113/2022

U.P. AWAS EVAM VIKAS PARISHAD

.....Appellant

Versus

AJAY YADAVAJAY YADAV

.....Respondent

Counsel for Appellant

N N PANDEY

Counsel for Respondent

BHAIRAV DUTT SHARMA

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

Hon'ble Mr. Sanjai Khare, Judicial Member

Sri N.N.Pandey, learned counsel for appellant submitted that the impugned order dated 28.07.2021 of the Regulatory Authority with respect to interest from 29.02.2018 till issuance of the offer of possession dated 29.12.2020 at the rate of MCLR+1% is only assailed in the instant appeal.

The appellant though taken various grounds but only pressing ground Nos.H & I.

Learned counsel for appellant submitted that in the impugned order at page-32 it has been observed by the Regulatory Authority that no interest will be applicable for either side from 25.03.2020 to 25.09.2020 due to force majeure on account of Covid-19 but in the direction no.3 that benefit of said period has not been granted.

Sri Bhairav Dutt Sharma, learned counsel for respondent while opposing the submission of learned counsel for appellant submitted that the observation of the Regulatory Authority relied by the appellant is in fact misread by him as the policy decision was taken by the Regulatory Authority for giving extension of 6 months to all the on-going projects for completion on account of Covid-19 pandemic and the interest from 25.03.2020 to 25.09.2020 was not to be claimed or charged from either side whereas the completion certificate has been received by the appellant on 27.12.2019 but the final demand for offer of possession was given after one year on 29.12.2020 and, therefore, the benefit given for completion of project is not applicable in the instant case.

Learned counsel for respondent further submitted that completion certificate was filed before the Regulatory Authority on 01.02.2021 asking for possession and execution of conveyance deed. During the proceedings before the Regulatory

Authority on 05.07.2021, the deed was executed but the possession was not given and during the pendency of the instant appeal in pursuance to the order of this Tribunal dated 23.05.2023, the possession of the unit in question was given to the respondent. Hence looking into the conduct of the appellant despite having received completion certificate on 27.12.2019 not offering the possession in time and subsequently not executing the conveyance deed and after execution of the conveyance deed giving the possession in pursuance to the order of this Tribunal in May, 2023, warrants that this appeal not only be dismissed but it should be dismissed with heavy cost.

A query was made from Sri N.N.Pandey, learned counsel for appellant regarding violation of the provisions of the Act, Rules or Regulations in passing the impugned order by the Regulatory Authority and the judgment relied in favour of his submissions as well as grounds taken to challenge the impugned order, learned counsel for applicant submitted that there is no violation of the provisions of Act but the respondent has not acted in pursuance to Clause-1 and 9.1 of the registration booklet and he does not want to place reliance of any judgment in support of his case.

Judgment reserved.

(Sanjai Khare)

(D.K. Arora)

Dated: 04.03.2024

MOHDIRKHAN