

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-162/2022

AJAY JOSHI

.....Appellant

Versus

M R MITTALS INFRATECH PRIVATE LIMITED
INFRATECH PRIVATE LIMITED

.....Respondent

Counsel for Appellant
ABHISHEK KHARE
AAHUTI AGARWAL

Counsel for Respondent
SIDDHARTH NANDWANI

Hon'ble Mr. Justice Suneet Kumar, Chairman

Hon'ble Mr. Devindar Singh Chaudhry, Technical Member

1. Heard Sri Vasudev Trivedi, Advocate, holding brief of Sri Abhishek Khare, learned counsel for appellant and Sri Siddharth Nandwani, learned counsel for respondent.
2. The appellant allottee is raising challenge to the order dated 18.06.2020, passed by the Regulatory Authority at Gautam Budh Nagar, in Complaint No.NCR145/06/1003/2019, whereby a direction came to be issued directing the respondent to handover possession of the unit, along with, delay interest till OC/CC or offer of possession, whichever is later.
3. The appellant has assailed the impugned order seeking delay interest at the rate of 24% w.e.f. 22.03.2015 till 16.01.2020 i.e. the date of actual physical possession.
4. The sole question that arises for consideration is as to whether appellant allottee is entitled to delay interest w.e.f. 22.03.2015 to 16.01.2020 at the rate of 24% instead of at MCLR+1%.
5. The appellant applied for a residential flat bearing No.E903 in the project 'Rajnagar Residency', situated at NH-58, Raj Nagar Extension, Ghaziabad.

An application came to be filed by the appellant on 29.08.2012 by depositing Rs. 4 lacs. The sale consideration of the unit was at Rs.23,96,375/- excluding other charges. The builder buyer agreement (BBA) came to be executed on 22.05.2013, as per clause-13 the project was to be completed and handed over within 36 months i.e. on or before 21.05.2016. It is not in dispute that the project got delayed. Partial occupancy/completion certificate (OC/CC) came to be issued by the competent authority on 20.05.2019. Offer of possession, thereafter, came to be issued to the appellant on 01.06.2019. The lease/conveyance deed came to be executed on 17.01.2020 on the allottee satisfying the admissible outstanding dues.

6. Learned counsel for appellant allottee submits that the partial OC/CC dated 16.01.2020, does not pertain to the Tower in which the unit of the appellant is situated.
7. Learned counsel for respondent has drawn our attention to the sanctioned map/permit issued on 10.02.2017, wherein, the competent authority has approved the map referring to Blocks (Towers). The document reflects that Tower E, in which the unit of the appellant is situated, is referable to Block-4. In this backdrop, the partial OC/CC was issued in respect of Block-1, 4 and 18 convenience shops. In view thereof, the submission of learned counsel for appellant lacks merit. Partial OC/CC pertains to Block-4 (Tower E) wherein, the unit of the appellant is situated.
8. On specific query, learned counsel for appellant is unable to show as to how the appellant is entitled to interest for the period w.e.f. 22.03.2015, whereas, as per terms and conditions of the BBA the declared date of completion was 21.05.2016. The offer of possession came to be issued on 01.06.2019 and thereafter on satisfying the outstanding dues the sale deed came to be executed on 17.01.2020. In these circumstances it cannot be said that the unit

was withheld by the respondent promoter without any cause or for default. In view thereof, the appellant would be entitled to interest until 01.06.2019 i.e. offer of possession and not thereafter.

9. Learned counsel is unable to show as to how the appellant allottee would be entitled to interest at 24% for the delayed period. The appellant has not referred to any document pertaining to computation made by the respondent to show that after enforcement of the Real Estate (Regulation and Development) Act, 2016 (for short Act 2016), the respondent has charged interest from the appellant at 24% for delayed deposit of the instalment towards sale consideration. In the circumstances, the appellant would be entitled to interest at the prescribed rate at MCLR+1% for the period w.e.f. 22.05.2016 till offer of possession i.e. 01.06.2019. The question is accordingly answered.

10. Having due regard to the facts and circumstances of the case and for the reasons stated herein above, the appeal being devoid of merit is accordingly **dismissed.**

11. No order as to cost.

(Devindar Singh Chaudhry)

(Suneet Kumar)

Dated: 20.05.2025
IRFAN