

BENCH NO.1.
Reserved

THE UTTAR PRADESH REAL ESTATE APPELLATE TRIBUNAL
AT
LUCKNOW.

Appeal No.164 OF 2023

Uppal Chadha Hi-Tech Developers Pvt.Ltd. Appellant.

Vs.

Kusum Respondent.

Hon'ble Mr. Justice Suneet Kumar, Chairman.

Hon'ble Mr. Sanjai Khare, Judicial Member.

Hon'b le Mr.Rameshwar Singh, Administrative Member.

1. Heard Sri Amit Yadav, learned counsel for the appellant and Sri Prasoon Kumar Anjor, learned counsel for respondent.
2. The instant appeal has been filed by the appellant/promoter assailing the order dated 25.08.2021, passed in Complaint No.NCR145/09/61461/2020, by the learned RERA Authority at Gautam Budh Nagar, only to the extent that interest at the rate of MCLR+1% shall be paid to the complainant from 28.08.2015 till the date of obtaining Occupancy/Completion certificate (OC/CC) or till the date of offer of possession whichever is later.
3. The facts, *inter se*, parties are not in dispute, briefly stated is that the respondent/allottee came to be allotted residential plot, being Plot No.547 ad-measuring 239.2 sq.yards in Sector-4 in 'Wave City' on 19.01.2013 by the appellant/promoter at Rs.20,10,428/-. The physical possession of the allotted plot could not be handed over to the respondent due to

agitation of farmers. It is submitted that the development work could not proceed due to civil disturbance on the plot/site of the project on account of continuous agitation of farmers/antisocial elements.

4. It is admitted that due to agitation of farmers, the construction work of the project/scheme got delayed. Further, it is submitted that the project got delayed due to the restrictions imposed by the National Green Tribunal (NGT). It is further submitted that an application was moved by the appellant to the Principal Secretary, Department of Housing and Urban Development, Government of U.P. requesting extension of time for completion/development of the project by further five years.
5. After enactment of Real Estate (Regulation and Development) Act, 2016 (for short RERA Act), the project was registered as an ongoing project.
6. In the afore-noted admitted facts it is submitted by the learned counsel for the appellant that the agitation of farmers which was primary cause for delay was beyond the control of the appellant/promoter and was an unforeseen circumstance, accordingly, it is submitted that the said period should be waived due to *force majeure*, in terms of Section 6 of RERA Act.
7. In rebuttal, learned counsel for respondent/allottee submits that the issue that is being raised is no longer *res integra*. Issue involved in the present appeal has already been decided by this Tribunal in the case of U.P.Avas Evam Vikas Parishad Vs. Arvind Chaudhary (Appeal No.101 of 2020), decided on 09.01.2024, whereby, the appeal of the promoter therein and other connected appeals came to be dismissed.
8. On being confronted with the afore-noted decision, learned counsel for appellant does not dispute the proposition that after enactment of RERA Act and that the project of the appellant being registered as ongoing project; in the event of delay of the project, the allottee would be entitled to delay interest at the prescribed rate as mandated under Section 18 of the RERA Act.
9. In view thereof the appeal being devoid of merit, is accordingly **dismissed.**

10. It is clarified that no other point/ground was pressed. Further, for the purpose of Section 6, the expression '*force majeure*' would not mean and include farmer agitation.
11. No order as to costs.

Dated :02.12.2024

Irfan

(Rameshwar Singh) (Sanjai Khare) (Suneet Kumar)