

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

APPEAL-170/2021

DEEPAK BICHHORIA

.....Appellant

Versus

M/S GAYATRI DEVELOPWELL PVT LTD

.....Respondent

Counsel for Appellant

ANUJ TANDON

Counsel for Respondent

SIDDHARTH NANDWANI

Hon'ble Mr. T.B. Singh, Judicial Member

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

Case called on.

Mr. Anuj Tandon, learned counsel for the appellant and Mr. Siddharth Nandwani, learned counsel for respondent are present.

Heard learned counsels for parties.

From perusal of the record it appears that the impugned judgment/order has been passed on 17.12.2020. It is obvious that a bunch of complaints were dismissed holding that complainants/allottees are not 'allottees' covered under the definition of Section 2(d) of the Real Estate (Regulation & Development) Act, 2016 vide judgment dated 05.12.2020. The judgment also reveals that no specific fact has been mentioned therein except that sale deed has been executed in favour of other buyer and only on the same ground the complaint has been rejected.

The Agreement/Allotment letter/Tripartite Agreement with the complainants/appellants are on record.

Learned counsel for appellant drew our attention to the complaint bearing no. **LKO/118/01/10003/2020 (Vikash Kumar vs. M/s Gayatri Developwell Pvt. Ltd.)** decided on 05.12.2020 wherein the learned Regulatory Authority has upheld that complainants are 'allottees' covered under definition of "allottee" as given under Section 2(d) of the Act, 2016. It is worth noting here that the facts of the instant appeal

are quite akin to the facts of the complaint case (Vikash Kumar vs. M/s Gayatri Developwell Pvt. Ltd. decided on 05.12.2020.

Learned counsel for respondent Mr. Siddharth Nandwani does not dispute the legal position involved in the instant appeal.

In view of the above, the instant appeal is remanded back to the learned Regulatory Authority for disposal afresh on merits after giving due opportunity of hearing to both the parties. The parties are directed to appear before the learned Regulatory Authority on 18.05.2022.

Let the record of this case be transmitted back immediately to the learned Regulatory Authority for further proceedings.

(K.K. Jain)

(T.B. Singh)

Dated: 06.04.2022
VIJAYKUMAR