



**ODISHA REAL ESTATE APPELLATE TRIBUNAL
BHUBANESWAR**

OREAT APPEAL NO.66(T)/2020
(Arising out of C.C. No.185/2019 of ORERA, Bhubaneswar)

M/s. Citicon Engineers Ltd. & Another Appellants.

Versus

Mr. Umakanta Pahi & Another Respondents.

Order No.31

Dated 16.09.2022

OREAT APPEAL NO.66(T)/2020

Due to Covid-19 pandemic, the appeal is taken up through video conferencing.

Heard Mr.B.Panda, learned counsel appearing for the appellant-promoter and Mr.G.Sethi, learned counsel appearing for respondent No.1-allottee.

Being aggrieved with the order dt. 20.11.2019 & 21.11.2019, the promoter/appellant filed this appeal praying therein to set aside the ex parte order dt. 20.11.2019 and 21.11.2019 passed in Complaint Case No.185/2019 by the Odisha Real Estate Regulatory Authority, Bhubaneswar.

The allottee/complainant approached the Odisha Real Estate Regulatory Authority, Bhubaneswar stating therein that he was allotted with one flat in the project of the promoter namely "Prestige project", after execution of one Agreement for sale with the promoter. He had also made part payment in respect of the allotted flat and as the project was much delayed in its completion, he stopped payment of further instalments and thereafter he asked to refund the money already deposited by him.

On the other hand, the promoter took exception to the claim of the complainant and further submitted that the Authority without hearing the promoter/appellant passed the orders directing the appellant to refund the money with interest to the complainant as prescribed under law.

During the course of hearing, learned counsel for the appellant submitted that the Authority made him ex parte and proceeded with hearing vide order dt. 13.11.2019. The matter was heard on the next date i.e. on 14.11.2019 and posted to 20.11.2019 for order. On 20.11.2019, the appellant appeared through his Advocate before the Authority and filed a petition praying to recall the ex parte order passed on dt. 14.11.2019 and to hear the matter from both the sides. On the

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same day another petition was moved for granting time for hearing on the matter, as the learned counsel for the appellant busy in a meeting at the Bar. The authority on the same day rejected the petition and proceeded with the case. The order dt. 20.11.2019 is as follows :

"Member-I is on leave. Order is not ready. Put up on 21.11.19 for order. Advocates Biswajit Panda & his associates file vakalatname for the Respondent and file a petition praying to recall the order dt. 14.11.19 passed by this Authority and also file a petition praying for time. Copies are not served on the Complainant. The case has been posted for order after conclusion of hearing in absence of the Respondent. Since copy of the petitions have not been served on the other side and the case stands posted for order, this Authority is not inclined to allow the above petitions. Accordingly, both the petitions stand rejected. Put up on the date fixed for order."

Ultimately, on the next date i.e. on 21.11.2019 order was passed to refund the total amount received from the allottee with interest @ 10.50% per annum compounded quarterly w.e.f. the date of payment of respective instalments.

Learned counsel for the appellant further submits that such order passed by the Authority does not stand good as the appellant has not got any opportunity to put forth his case and only the matter having been heard from the side of the complainant has been decided. Legal jurisprudence makes it clear that both the parties should be heard before disposal of the matter to render justice to both the parties.

On perusal of the order sheet, it appears that the order passed by the Authority on dt. 20.11.2019 and 21.11.2019 are not sustainable in the eye of law and therefore the orders passed on the above dates are set aside and the matter is remitted back to the Authority for disposal after hearing from both the sides afresh.

The amount deposited by the appellant towards statutory deposit alongwith accrued interest thereon be returned in favour of the appellant.

The LCR be returned to the Authority forthwith.

Sd/-

Justice S. C. Parija
Chairperson

Sd/-

Shri I. K. Das
(Judicial Member)

Sd/-

Shri M. Chatterjee
(Tech./Admn. Member)

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Memo No. _____ / Dt _____

Copy of the order dt.16.09.2022 & LCR in C.C.No.185/2019 with reference to your Letter No.3637, dt.24.08.2022 are forwarded to the Secretary, ORERA, Block-A/1, 3rd Floor, Toshali Bhawan, Satya Nagar, Bhubaneswar, Dist- Khurda for information of the Authority and the receipt of the same may be acknowledged.

REGISTRAR
OREAT, BHUBANESWAR

Memo No. 1180 / Dt 17-09-2022

Copy of the order dt.16.09.2022 is forwarded to Srii Antaryami Badu, M/s. Citicon Engineers Limited; Chairman cum Managing Director & Muktikanta Badu, Director & VP, M/s. Citicon Engineers Limited, At- Plot No.540, Sahid Nagar, PO/PS- Sahid Nagar, Bhubaneswar, Pin-751007 for information.


17-09-22

REGISTRAR
OREAT, BHUBANESWAR

Memo No. _____ / Dt _____

Copy of the order dt.16.09.2022 is forwarded to Umakanta Pahi, Qrt. No.D/65, ITPS Colony, Banaharpali, Dist- Jharsuguda, Pin-768234 for information.

REGISTRAR
OREAT, BHUBANESWAR