

INFORMATION MEMORANDUM:

Punjab RERA Tribunal holds that RERA Authority is empowered to reduce the completion period declared by the Promoter during registration of its project.

**M/s. Parador Promoters Amritsar Private Limited vs. Real Estate
Regulatory Authority, Punjab**

Decided on 3rd July, 2020

If the period of completion declared by the Promoter during registration of project is found to be arbitrary and unreasonable, the Authority has the power to reduce such period.

Facts of the case:

The Promoter obtained license on 13.06.2019 to develop a residential colony within a period of 5 years. The period commenced from 13.06.2019 and ended on 12.06.2024 with a stipulation that the development work must be completed within the said period.

The Promoter applied to the Real Estate Regulatory Authority, Punjab for registration of the project.

Order passed by Punjab Authority:

The Authority accepted the registration of the project but allowed the timeline for completion

of the project up to 12.06.2023 i.e a period of 4 years instead of 5 years.

The Punjab Authority observed that even though the license to develop the colony is valid up to 12.06.2024, the license of the Promoter is valid only up to 19.12.2022 .

Secondly, though Change of land use is for 93.265 Acres, only 70.264 Acres is proposed to be developed in Phase I. Balance 23.001 Acre is proposed in Phase 2. Since the Promoter is not taking up the entire Group Housing in one phase, the date of completion should be 12.06.2023.

Aggrieved by the said order of the Authority, the Promoter filed appeal before the Punjab RERA Appellate Tribunal.

Issue before Appellate Tribunal:

Whether the Act entitles the Authority to reduce the completion period of the project while registering the project?

Promoter's contentions:

1. Promoter relied on section 5(3) of the Real Estate (Regulation and Development) Act, 2016. It challenged the ability of the RERA authority to vary the period applied by the promoter in the application.
2. Reference was also made to section 6 of the RERA Act stating that a license granted to the Promoter for 5 years could not have been varied to its disadvantage while registering the project. It necessarily had to be commensurate with the period prescribed in the license. Any other interpretation would render the provision of section 6 of the Act illusory.
3. Promoter claimed that it has now been deprived of the right to seek extension which had it not been restricted to 4 years

by the Authority, would have given the Promoter 6 years by including the extended period of one year.

4. Referring to *Neelkamal Realtors Suburban Pvt. Ltd. and Ors v. Union Of India*¹, it stated that the observations of this judgment can only be applied to ongoing projects.
5. Promoter lastly contended that no reasoning was given by the Authority while reducing the period and hence decision has to be revisited.

Authority's contentions:

The Authority opposed the Promoter's appeal stating:

1. Under Section 18 of the Act the Authority may, based on facts of each case and for reasons recorded in writing, extend the registration granted to a project.
2. That extension of registration is not a matter of right but it is dependent on circumstances that the Promoter has to establish to be beyond his control i.e due to force majeure.

¹ 2018 (1) ABR 558

3. Reliance was placed on the judgement of *Neelkamal Realtors Suburban Pvt. Ltd. and Ors v. Union Of India (supra)* holding that in case the promoter mentions unreasonable period to complete construction, certainly the authority would not register such an application of the promoter, taking into consideration the facts of each case.

Key Principles:

1. Authority is entitled to vary the completion period of the project than one declared by Promoter, if it finds that the said period is unreasonable and arbitrary.
2. No requirement under RERA that the period of license and the declaration made by the Promoter in terms of section 4(2)(1)(c) have to be co-terminus.

Verdict of Appellate Tribunal:

The Appellate Tribunal upheld the order of Authority in reducing the period of completion of project and dismissed the appeal of the Promoter. It observed that:

- (i) The Authority is not bound by the declaration of the Promoter under section 4(2)(1)(c). It placed reliance on *Neelkamal Realtors Suburban Pvt. Ltd. and Ors v. Union Of India (Supra)* and stated that Authority is not powerless if the promoter's declaration is arbitrary and unreasonable. Promoter cannot be given free run in deciding time for completion of a project thereby adversely impacting the interest of the prospective Allottees.
- (ii) The Tribunal rejected the Promoter's contention that the observation of the judgement of Neelkamal case is only applicable to the ongoing project. The tribunal stated that no such distinction manifests from the provisions of Act or the observation of the judgment.
- (iii) The RERA Act does not specifically say that the period of license and the declaration made by the Promoter in terms of section 4(2)(1)(c) have to be co-terminus.
- (iv) The Tribunal held that the one-line reason given by the authority for reducing the time period is sufficient. Merely because it is not set out in detail cannot ipso facto be a ground to hold it a non-speaking order.

Acelegal Analysis:

This order of the Appellate Tribunal will have a far reaching and adverse impact on the Real estate industry. It gives a discretionary and unbridled power to the Authority to decide the time period for completion of a project on behalf of the promoter thereby transgressing into the commercial aspects of the project.

The Promoter specifies the period of completion of project by keeping in mind several uncertain delays and obstacles. The period is mentioned considering the delay in obtaining various permissions from the competent authority.

If the flat buyer is agreeable with the completion date of the project as provided by the Promoter, then why should RERA authority seek to curtail it. The Authority is altering a potential contractual agreement between the flat buyer and the Promoter. It appears that the RERA authorities are taking their role of implementing welfare legislation a little too seriously thereby transgressing in the commercial aspects of the project. Such unbridled power being usurped under RERA can seriously impact the industry.

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