

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I.A No. 1987 of 2020

IN

Comp. App. (AT) (Ins) No. 926 of 2019

In the matter of:

Flat Buyers Association Winter Hills 77

....Appellant

Vs.

Umang Realtech Pvt. Ltd. Through IRP & Ors.

....Respondents

Present:

Applicant: Mr. Rajiv Bansal, Senior Advocate with Mr. Gyanendra Kumar, Mr. L.C.N Shahdeo, Advocates for Applicant.

Appellant: Ms. Shweta Bharti, Mr. Shantanu Malik, Ms. Sabah Iqbal, Mr. Gajendra Khichi, Advocates for Original Appellant.

**Respondents: Mr. Manish Kumar Gupta (IRP)
Mr. Sumesh Dhawan, Ms. Vatsala Kak, Mr. Anuj, Advocates for Intervener.
Mr. Saurabh Gauba, Mr. Kapil Madan, Intervenor for allottee Mr. Anuj Mittal.
Mr. Shobit Nanda, Advocate (Intervenor for Ravinder Kr. Nanda, homebuyer)
Mr. Manoj K. Singh, Mr. Abhishek Srivastava, CS, Ms. Daizy Chawla, Mr. Vijay K Singh, Advocates for Uppal Housing (Intervenor)
Mr. Manhar Singh Saini, Mr. Kirat Singh Nagra, Mr. Pranav Vyas, Advocates (intervention for ICP Investments (Mauritius) Limited).**

Contempt Case (AT) No. 28 of 2020

IN

Comp. App. (AT) (Ins) No. 926 of 2019

In the matter of:

Pooja Mining & Marbles Pvt. Ltd.

....Appellant

Vs.

Umang Realtech Pvt. Ltd. through IRP & Ors.

....Respondents

Contd/-....

Present:

Appellant: Mr. Gautam Singh, Advocate.

Respondents: Mr. Manish Kumar Gupta, (IRP, R1)

Mr. Sumesh Dhawan, Ms. Vatsala Kak, Advocates for Intervener.

Mr. Abhishek Srivastava, CS, Ms. Daizy Chawla, Advocates for Uppal Housing (Intervenor)

ORDER

(Through Virtual Mode)

13.01.2021: Affidavit has been filed by 'Uppal Housing Pvt. Ltd.' in compliance with the order dated 14th December, 2020. The same is taken on record. On a cursory look at the Affidavit, we find that in para 4(iv), it is stated that possession has been taken by 532 number of allottees (including physical possession) whereas at para 4(v), it is stated that actual physical possession taken and keys handed over to 159 number of allottees. This gives rise to ambiguity, it being incomprehensible as to what is the distinction between the physical possession and actual physical possession. This classification is, *ex-facie*, misleading. We would, therefore, direct the Respondent to file a supplementary affidavit elucidating the aspect of handing over/delivery of possession to the allottees with specific numbers along with particulars of completion certificate. This be done within one week. Copy thereof shall be provided in advance to learned counsel for the original Appellant.

We also find in para 8 of the Affidavit that Respondent has sought further extension for period of six months for completion of the leftover works. After being taken through the 'Status of Work' at Annexure-A of the Affidavit, we find that the period required for completion of the project in terms of the order of this Appellate Tribunal is grossly exaggerated. We are of the considered opinion that a maximum period of two months would suffice to complete the project in all respects alongwith observance of all legal formalities.

Prayer in un-numbered I.A. filed under Diary No. 24632 by 'ICP Investments (Mauritius) Limited' seeking clarification/ appropriate directions and also seeking intervention and impleadment as party Respondent in Appeal No.926 of 2019 has to be summarily rejected as no appeal is pending consideration before this Appellate Tribunal and it is only the implementation of the directions given in terms of the order dated 4th February, 2020 that this Appellate Tribunal is seized of. Un-numbered I.A is accordingly dismissed.

This order however may not be construed as an expression of opinion with regard to the merits of I.A as learned counsel for the Applicant has tried to raise certain issues relating to *inter se* dispute between the management in respect whereof Mr. Manoj K. Singh, Advocate submitted that arbitration proceedings are pending.

Mr. Shantanu Malik, Advocate representing the original Appellant submits that an error has occurred in minutes of proceedings recorded on 14th December, 2020 in regard to appearance of the counsel. It is pointed out that appearance of “Mr. Rajiv Bansal, Senior Advocate alongwith Mr. Gyanendra Kumar, Advocate” has been recorded on behalf of Appellant whereas they were appearing on behalf of Applicant. Further that “Ms. Shweta Bharti, Mr. Shantanu Malik, Ms. Sabah Iqbal, Advocates” were appearing for original Appellant and not the Applicant. Abovementioned corrections be made in the appearance of the counsels in Order dated 14th December, 2020 and corrected version of order be issued.

List the matter ‘for orders’ on 27th January, 2021.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Justice Anant Bijay Singh]
Member (Judicial)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g