IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Item No.110 **RERA-APPL-193-2026 (O&M)**
Date of Decision: 02.09.2026

Ashok Kumar Soni and others **…Appellants**

Versus

M/s Tata Housing Development Company Limited **…Respondent**

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Aditya, Advocate and
Mr. Anjani Kumar Mishra, Advocate for the appellants
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JAGMOHAN BANSAL, J. (Oral)

1. The appellants through instant appeal under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (for short '**2016 Act**') are seeking setting aside of order dated 25.09.2025 whereby learned Haryana Real Estate Appellate Tribunal, Chandigarh (for short '**Appellate Tribunal**') has dismissed their appeal.

2. The respondent-company is a promoter of a real estate project. The respondent allotted an apartment in its project namely '*Premanti*' situated at Sector 72, Gurugram to the appellants for a consideration of ₹2,77,74,702/-. An Apartment Buyer's Agreement was executed on 16.08.2014. The respondent offered possession of the apartment on 28.06.2017. The appellants came to know that respondent has sold 10 flats to Oriental Bank of Commerce for an amount of ₹2.18 Crores each. The appellants filed a complaint before Haryana Real Estate Regulatory Authority (for short '**Adjudicating Authority**') alleging overcharging of

consideration and seeking refund of ₹66,00,000/-. The complaint came to be disposed of vide order dated 07.02.2019. The appellants were granted possession and delayed possession charges. The appellants preferred an appeal before Tribunal which was dismissed as withdrawn. The appellants reserved their rights to raise issue of compensation before the Adjudicating Authority on account of non-availability of promised facilities. The appellants filed complaint before Adjudicating Officer seeking compensation for financial loss, mental agony as well as physical loss. The Adjudicating Officer vide order 15.09.2021 dismissed their complaint. They preferred an appeal before Tribunal which was again withdrawn. They filed second complaint before Adjudicating Officer who vide order dated 13.01.2025 dismissed appellants' complaint. Operative portion of the order dated 13.01.2025 reads as:

> *"22. Although the complainant has sought compensation on the ground that the promoter/respondent has changed site plan of the project, copy of which was provided to him i.e. complainant. Complainant did not adduce any evidence to prove said fact. Even copy of site plan claimed to have been provided to him by the respondent or the copy of actual site plan are not put on record. The complainant claims that respondent changed main entrance of Tower-II and shifted to revenue road adjoining to private property or the existing road as provided by respondent is passing through some private land i.e. road but no evidence is shown to establish all this. Needless to say that respondent has denied having changed any such site plan.*
>
> *23. In this way, the complainant has failed to prove his case. Complaint in hand is thus dismissed.*
>
> *24. As mentioned above, although respondent has requested to initiate proceedings against the complainant for misleading this forum, due to pendency of so many cases, I do*

not think proper to initiate any such proceedings and to increase burden of litigation upon this forum. Request in this regard is declined."

3. The appellants filed appeal before Appellate Tribunal which vide impugned order dated 25.09.2025 has dismissed their appeal on the ground that appellants preferred Complaint No.241 of 2021 before Adjudicating Officer claiming that an apartment of same size was sold to Oriental Bank of Commerce for ₹2.18 Crores whereas they were compelled to pay ₹2.77 Crores. The Adjudicating Officer dismissed said complaint vide order dated 15.09.2021. They preferred appeal before Appellate Tribunal which came to be dismissed as withdrawn vide order dated 31.03.2023. They again preferred complaint before Adjudicating Officer seeking compensation on account of material changes in the site plan and promised facilities. It shows that on almost similar grounds appellants filed multiple complaint but remained unsuccessful. They did not disclose this fact before the Adjudicating Officer. It amounted to suppression of facts.

4. Learned counsel for the appellants submits that respondent filed application seeking dismissal of complaint as per Order II Rule 2 of Code of Civil Procedure, 1908 (for short '**CPC**'). The said application was dismissed vide order dated 23.08.2023 passed by Adjudicating Officer. The same Authority while passing final order relied upon Order II Rule 2 of CPC and dismissed the complaint. Learned Appellate Tribunal has followed the suit.

5. Heard the arguments and perused the record.

6. From the perusal of record as well impugned order, it is quite evident that appellants, at the first instance, approached Adjudicating Authority with respect to their grievance *qua* afore-stated flat. They were

claiming that there is delay in possession and they should be refunded already deposited amount along with interest. They also pointed out deficiency in services as well as sale of flat to them at higher rate. The complaint was adjudicated by Adjudicating Authority. They preferred appeal against order passed by Adjudicating Authority which was withdrawn with liberty to approach Adjudicating Officer. They approached Adjudicating Officer claiming compensation. The compensation was claimed with respect to same flat *qua* which complaint was filed before the Authority. The Adjudicating Officer dismissed their complaint. They preferred appeal before Appellate Tribunal which was withdrawn. The appeal was withdrawn without any liberty though respondent pointed out that appellants have filed another complaint before the Adjudicating Officer. The Adjudicating Officer dismissed their second complaint on the ground of principle of *res judicata* and bar created by Order II Rule 2 of CPC. As per Section 89 of 2016 Act, it has overriding effect, however, Section 88 provides that provisions of 2016 Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force. It means principles of CPC are applicable to proceedings under 2016 Act. In case of conflict between any provisions of CPC and 2016 Act, the provisions of CPC are bound to be ignored.

7. Concededly, the appellants were well aware of their grievances while filing first as well as second complaint still they filed their sequential complaints. They cannot be permitted to file repeated and multiple complaints because it is against the public policy.

8. In the wake of above discussion and findings, this Court does not find any factual or legal infirmity in the impugned order passed by

learned Appellate Tribunal. The appeal being bereft of merits deserves to be dismissed and accordingly dismissed.

9. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

02.09.2026
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No