

(2015) 02 SC CK 0120

In the Supreme Court Of India

Case No : C.A. No. 1962 of 2015 (Arising out of SLP(C) No. 2256 of 2015)

Anupam Chakraborty and Others

APPELLANT

Vs

Supertech Ltd. and Others

RESPONDENT

Date of Decision : 16-02-2015

Acts Referred:

Noida Building Regulations, 2010 — Regulation 24.1.2(6)

Citation : (2015) 3 SCALE 130

Hon'ble Judges : H.L. Dattu, C.J.; Arjan Kumar Sikri, J.

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Permission to file the special leave petition is granted. Delay condoned. Leave granted.

2. This appeal is directed against the impugned judgment and order passed by the High Court of judicature at Allahabad in Writ-C No. 65085 of 2012, dated 11.04.2014.

3. The Appellants-herein are co-allottees of Flat No. 3-3, Ceyane Tower being built by the Respondent No. 1-Company. The Respondent No. 1 was allotted a part of Plot No. 4 measuring 48,263.00 Square meters in Sector 93 by the Respondent No. 4-NOIDA Authority on 23.11.2004 for development of Emerald Court Group Housing Society. The layout plan was approved and sanctioned by the Respondent No. 4. By way of an supplementary lease deed an additional area of 6,556.51 square meters was allotted to Respondent No. 1. The map and revised building plan was sanctioned by the Respondent No. 4 and approval to construct Tower-16 (Ceyane) and Tower-17 (Apex) being 24 storeyed buildings was granted.

4. After being satisfied by the necessary approvals the Appellants-herein booked Unit No. 303 in Tower-16 (Ceyane), in the meanwhile, Respondent No. 1 purchased additional floor area and got the map revised vide sanction dated

02.03.2012 and was permitted to raise the heights of the Tower-16 (Ceyane) and Tower-17 (Apex) from 24 floors to 40 floors.

5. The Respondent No. 2-Resident Welfare Association of Supertech Emerald Court challenged the revised sanctioned plan before the High Court by filing a Writ Petition. The High Court by its impugned judgment and order has directed demolition of Tower-16 (Ceyane) and Tower-17 (Apex) on the ground that the sanction plan was violative of minimum distance requirements between building blocks as per Regulation 24.1.2(6) of the Noida Building Regulations, 2010. The High Court further directed the Respondent No. 1 to refund the consideration received from the private parties who have booked apartments/flats in Tower 16 and Tower 17 along with interest at the rate of 14 per cent. Aggrieved by the judgment and order passed by the High Court the Appellants are before us in this appeal.

6. A limited prayer is made in this appeal, though by looking into the record of the case, it appears that the Appellants are questioning the aforementioned judgment and order passed by the High Court. 8. At the time of hearing of the appeal, Learned Counsel for the Appellants submits that pursuant to the order passed by the High Court the Appellants were offered to choose one of the three options made by the Respondent No. 1 herein vide option letter dated 19.04.2014, namely;

"(a) If the buyer wants refund of his deposited money, the Company shall refund his/her received consideration alongwith 14% interest compounded annually on such consideration.

(b) If the buyer wants to swap with some other unit in any other projects of the Company, then the Company shall shift that Buyer to that Project duly considering the consideration received from the buyer till date, in proportion to the total cost of the unit in his/her allotment document, the percentage of which shall be applied on the rack rate price of Apex/Ceyane as on date to arrive at the credit value for the swapping in the some other project of Supertech.

(c) Buyer who want to have their own flats in Apex/Ceyane Tower, shall continue with the project."

7. He further submits that pursuant to the offer made, the Appellants had accepted the first option that is made in the option letter, wherein they have claimed refund of the amount deposited by them with 14 per cent interest compounded annually, The Respondent No. 1 after receipt of the option so made by the Appellants, had in fact calculated the amounts payable by the Respondent No. 1 to the Appellant(s).

8. Since Respondent No. 1 itself had made an offer by giving options to the Appellants and that offer has been accepted by the Appellants-herein by choosing the first option, in our opinion, now the Respondent No. 1 cannot deny to accept the first option made by the Appellants.

9. In that view of the matter, we now direct the Respondent No. 1.-herein to refund the amount of deposit made by the Appellants as reflected in the memorandum of calculation. The principal amount shall be refunded by the Respondent No. 1 within thirty days from today and the interest on the aforesaid amount shall be refunded within sixty days from today. With these observations and directions, the appeal is disposed of.