

**BEFORE THE WEST BENGAL REAL ESTATE APPELLATE TRIBUNAL  
KOLKATA - 700 075**

**WBREAT / APPEAL No. – 013/2024**

- Present: 1. Justice Rabindranath Samanta  
          Hon'ble Chairperson
2. Shri Gour Sundar Banerjee  
          Hon'ble Judicial Member
3. Dr. Subrat Mukherjee  
          Hon'ble Administrative Member

**Yes Bank Limited** ..... Appellant

- Vs -

**B PCS Properties Pvt. Ltd.** ..... Respondent

Mr. Sourjya Roy, Advocate **For the Appellant**

**Order No. 01 dated 28/08/2024**

The Appeal is taken up for hearing on admission.

Mr. Sourjya Roy, learned Advocate for the Appellant submits that the impugned order was passed by the West Bengal Real Estate Regulatory Authority on 7<sup>th</sup> June, 2024. His client applied for certified copy of the impugned order on 01/08/2024 and the certified copy was received on 16<sup>th</sup> August, 2024. In such context, Mr. Roy submits that the appeal has been preferred within time.

Section 44 of the Real Estate (Regulation and Development) Act, 2016, *inter alia*, provides as under:

“1) The appropriate Government or the Competent Authority or any person aggrieved by any direction or order or decision of the Authority or the Adjudicating Officer may prefer an appeal to the Appellate Tribunal.

2) Every appeal made under Sub-section (1) shall be preferred within a period of 60 days from the date on which a copy of the direction or order or decision made by the Authority or the Adjudicating Officer is received by the appropriate Government or the Competent Authority or the aggrieved person and it shall be in such form and accompanied by such fee, as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of 60 days if it is satisfied that there was sufficient cause for not filing it within that period”.

Rule 28(3) of the West Bengal Real Estate (Regulation and Development) Rules, 2021 enjoins that each Memorandum of Appeal shall be accompanied by the certified copy of the impugned order appealed against and such of the documents as may be required to support grounds of objection mentioned in the Memorandum.

Therefore, in terms of Rule 28(3) of the West Bengal Real Estate (Regulation and Development) Rules, 2021, the Memorandum of Appeal shall be accompanied by the certified copy of the impugned order. In the absence of the certified copy of the impugned order, the appeal preferred by presenting a Memorandum of Appeal may not be entertained.

What we find, the impugned order was passed by the learned West Bengal Real Estate Regulatory Authority (hereinafter referred to as the Regulatory Authority) on 7<sup>th</sup> June, 2024. As section 44(2) of the Act provides, the appeal ought to have been filed by 7<sup>th</sup> August, 2024.

The Appellant applied for certified copy of the impugned order on the 1<sup>st</sup> August, 2024 and the certified copy of the order was delivered to the Appellant on 16<sup>th</sup> August, 2024.

Therefore, in our view, the Appeal has been filed within time.

We have perused the certified copy of the impugned order dated 7<sup>th</sup> June, 2024 passed by the learned Regulatory Authority in Complaint No. WBRERA / COM 000887.

Admit the appeal.

Having heard learned Advocate for the Appellant and after perusing the impugned order as well as the documents on record we think that for proper adjudication of the appeal the company namely Ideal Real Estates Private Limited should be added as a Respondent to the appeal as a necessary party.

Therefore, Ideal Real Estates Private Limited, 50, Jawahar Lal Nehru Road, P.S. Shakespeare Sarani, Kolkata – 700 071 is added as the Respondent No. 2 to the Appeal.

The office is directed to incorporate the name of the Respondent No. 2 in the Memorandum of Appeal.

The Appellant is directed to file the amended copy of the Memorandum of Appeal by the returnable date.

The Appellant is directed to serve notice along with a copy of the amended Memorandum of Appeal upon the Respondents by speed post with acknowledgement due within 15 days from date.

Mr. Roy, learned Advocate submits that his client be given liberty to file an application for stay of the impugned order.

If any application for stay is filed on behalf of the Appellant, the Appellant serve a copy of the application for stay upon the Respondents also by speed post with acknowledgment due immediately after filing the same.

List the appeal on 18<sup>th</sup> September, 2024 at 11.30 A.M. for appearance of the Respondents, hearing the parties and for passing necessary order.

The Appellant is directed to file the affidavit of service on the returnable date on 18<sup>th</sup> September, 2024.

Communicate this Order to the learned Advocate for the Appellant by e-mail immediately.

Sd/-  
JUSTICE RABINDRANATH SAMANTA  
Chairperson  
West Bengal Real Estate Appellate Tribunal

Sd/-  
GOUR SUNDAR BANERJEE  
Judicial Member  
West Bengal Real Estate Appellate Tribunal

Sd/-  
Dr. SUBRAT MUKHERJEE  
Technical/Administrative Member  
West Bengal Real Estate Appellate Tribunal