

**Court No. - 17**

**Case :- SECOND APPEAL No. - 248 of 2021**

**Appellant :-** U.P. Awas Evam Vikas Parishad Thru.Housing Commissioner,Lko.

**Respondent :-** U.P.Real Estate Appellate Tribunal,Lko.Thru.Pres.Officer&Ors

**Counsel for Appellant :-** Shikhar Srivastava

**Counsel for Respondent :-** Anurag Arora

**Hon'ble Saurabh Lavania,J.**

**(Order on the memo of Appeal)**

Heard Mr. Shikhar Srivastava, learned Counsel for the appellant in support of the motion to admit this appeal to hearing as also Sri Anurag Arora, learned counsel for the respondent No.3.

The following substantial questions of law arise for consideration in this appeal :

(i) Whether a complaint by an allottee can be entertained under the provisions of Section 18 of the Real Estate (Regulation and Development) Act, 2016 after the execution of a sale deed and handing over of possession by the Promoter including the appellant as defined under Section 2 (zk) of the Real Estate (Regulation and Development) Act, 2016, to the allottee?

(ii) Whether delay interest on the deposited amount can be given to allottees, once they have accepted the terms of the conveyance deed and taken possession of the flat/residential unit without any protest?

(iii) Whether the allottee is entitled to interest, if he has been handed over possession of the flat with delay, but on the agreed commercial price?

(iv) Whether the allottee would be entitled to interest w.e.f. the date of enforcement of Act or from the proposed date of completion of project?

Admit.

Issue notice.

Notice is made returnable on 23.12.2021.

Summon the lower court records from the U.P. Real Estate Appellate Tribunal, Lucknow, at once.

Steps to serve the respondents be taken both ways, within a week.

**List alongwith Second Appeal No.230 of 2021 on 23.12.2021 amongst top ten cases**, along with a report regarding service and the postal track attached. On the said date, the lower court records shall be annexed to these motion papers.

**(Order on C.M. Application No. 159439 of 2021)**

Issue notice, returnable on the date fixed.

Until further orders, operation of the impugned order dated 03.09.2021 passed by the U.P. Real Estate Appellate Tribunal, Lucknow in Appeal No. 160 of 2020, (U.P. Avas Evam Vikas Parishad vs. Soran Sahi), shall remain stayed.

**Order Date :- 1.12.2021/Vinay/-**