

**UTTARAKHAND REAL ESTATE APPELLATE TRIBUNAL,
DEHRADUN**
ORDER SHEET

Misc. Application . No. 14 of 2020

Dewan Housing Finance Corporation Ltd.....Appellant (s)

Versus

UK RERA & Others.....Respondent(s)

01.03.2021.

Present: Sri Nitesh Walia, Advocate for the appellant.

Sri Amit Kumar and Sri Devendra Kumar Dubey, Advocates
for Respondent No.2.

This appeal has been filed against the order of Real Estate Regulatory Authority (for short, RERA) dated 20.11.2020, wherein on the basis of an agreement between the builder/promoter (Respondent No.3) and the buyer (Respondent No.2), RERA has shifted the liability of repayment of the loan taken from the appellant, without affording a proper opportunity of hearing to the appellant.

Ld. Authority below issued a letter dated 09.10.2020 to three Financial Institutions, including the appellant, requesting them to recover the sanctioned home loan from the Respondent No.3, instead of Respondent No.2, while, as per the tripartite agreement executed between the appellant and Respondent No. 2 and Respondent No.3, the liability of repayment was of Respondent No.2. This letter was received by the appellant on 19.10.2020 and it came up with a review petition before RERA on 20.11.2020, but on that very day, RERA issued the impugned order, whereby its review petition was rendered infructuous and the appellant had to withdraw the review petition.

On 05.01.2021, this Tribunal had ordered notices to be issued to Respondents No. 2 & 3, on admission. Respondent No. 2 has appeared through Counsel, while notice sent to Respondent No.3 has been returned with the endorsement that the

addressee has refused to accept the notice. Respondent No.3 is, accordingly, deemed served by refusal.

We have heard Ld. Counsel for both the parties. This Tribunal is of the view that Ld. Authority below should have heard the appellant by impleading it as party respondent. Perusal of the impugned order reveals that, though letter dated 09.10.2020 was issued to all the three Financial Institutions, but none of them has been impleaded as party respondent before Ld. Authority below. This Tribunal, therefore, comes to the conclusion that the order impugned should be set aside, the same being against the principles of natural justice and, the matter should be remanded back to the Ld. Authority below for disposal according to law, after impleading the appellant as party respondent.

The appeal preferred by the appellant is, accordingly, disposed of at the admission stage by setting aside the impugned order dated 20.11.2020 and by directing the Ld. Authority below to pass a fresh order, in accordance with law, after impleading the appellant as party respondent.

The stay application filed by the appellant also stands disposed of.

Let a copy of this order tion 44 of be sent to RERA for information and necessary action, in terms of Sub Section (4) of SecAct, 2016.

(RAJEEV GUPTA)
MEMBER(A)

(JUSTICE U.C.DHYANI)
CHAIRPERSON

VM