



2025:DHC:4688-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 03.03.2025

Pronounced on: 30.05.2025

+ **RERA APPEAL 1/2024 & CM APPL. 2810/2024,
CMAPPL. 2812/2024**

M/S REVANTA MULTISTATE CGHS LTDAppellant

Through: Mr.FanishK.Jain, Adv.

versus

SUNNY SAPEN

..... Respondent

Through: Mr.Asif Ali, Mohd.Aarif, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

NAVIN CHAWLA, J.

1. This appeal has been filed by the appellant, under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (in short, 'RERA Act'), challenging the Order dated 16.08.2023 (hereinafter referred to as the 'Impugned Order') passed by the Real Estate Appellate Tribunal, NCT of Delhi (in short, 'Appellate Tribunal') in RERA Appeal No. 13/REAT/2021, whereby the appeal of the appellant herein against the Order dated 22.01.2021 passed by the Real Estate Regulatory Authority for the National Capital Territory of Delhi (in short, 'RERA Authority') in Comp. No.64/2019, was dismissed.

Brief Facts:-

2. The appellant herein is a Society registered under Section 7 of the Multi-State Cooperative Societies Act, 2002 (in short, 'Societies



Act') *vide* Registration Certificate dated 02.06.2014, issued by the office of the Central Registrar of Cooperative Societies, New Delhi.

3. It is the case of the appellant Society that it was formed with the objective of providing affordable housing to its members, keeping in view the Land Pooling Policy as per the Delhi Master Plan, 2021 (in short, 'Master Plan') notified by the Delhi Development Authority (in short, 'DDA') on 05.09.2013. The role of the appellant Society was to purchase the land from the contributions of its members and to ensure a planned and well managed platform to facilitate land pooling of land parcels at L-Zone, as per the guideline mentioned in the Master Plan.

4. It is the case of the appellant Society that it had a target to purchase 50 acres of land for the Society for surrendering the same to DDA. Thereafter, DDA was to return 60% of the developed land to the Society in terms of the Notification dated 05.09.2013, and the housing project for the members of the Society was to be constructed on the said developed land allotted to the Society. The members were asked to give their respective choices regarding the flats so as to determine their contribution towards the purchase cost of the land. The contributions to be collected from the members were based on a 'Construction Link Plan'.

5. It is the case of the appellant Society that, at its first stage, it invited applications from the individuals for becoming member of the appellant Society by submitting an application form, and by depositing the membership fee of Rs.1,000/- and annual operation charges of Rs.9,900/-. The respondent herein was also one such



applicant who had applied for the membership of the appellant Society *vide* the membership form bearing no. SR70161 dated 28.05.2015, and deposited the requisite fee.

6. The respondent, while becoming a member, also submitted a choice in respect of the category of flat *vide* the Housing Scheme Application Form, wherein, the respondent opted for a 3BHK unit, for which he was to contribute Rs. 1,350 per Sq. Ft. as the land cost.

7. It is the case of the appellant Society that DDA started accepting the submission of the land parcels only on 05.02.2019.

8. The appellant Society started assembling the land for surrendering it, and submitted the purchased land to DDA on 23.06.2019. However, the DDA failed to take further action as per the Land Pooling Policy till the time 70% of the total land available in the concerned Sector is not submitted to the DDA.

9. The appellant Society contends that since there is no land allocated to the appellant Society by the DDA, and till now it has merely collected the funds from its members for the purchase of the land to surrender the same to the DDA, the appellant Society is not subject to the provisions of the RERA Act.

10. On the other hand, it is the case of the respondent that the appellant Society has *malafidely* received various payments from the respondent and other persons, by showing them as members of the appellant Society, on the pretext of providing a well-furnished fully constructed flat. The appellant Society made approximately 6000 members, including the respondent, and collected approximately



Rs.400 Crores from them, however, neither the respondent nor the other members got any flat.

11. The respondent contends that the DDA, *vide* its letter dated 02.05.2019, addressed to one of the members of the appellant Society, has clarified that it has not given any license or approval to any of the developer/builder/society, including the appellant Society, under the Land Pooling Scheme.

12. It is the case of the respondent that he has paid a total amount of Rupees 13,27,500/- to the appellant by way of three cheques dated 30.05.2015, 01.06.2015, and 10.07.2015, out of the total cost of the flat fixed as Rs.48,46,250/-, at the time of booking of the flat. At the time of booking the Flat in May 2015, the respondent was assured that the construction work relating to the project would start within the next six months, that is, by December 2015.

13. It is contended by the respondent that in February 2019, the appellant Society circulated minutes of its meeting held on 17.02.2017, asking the members to make a choice among the three options, namely, reduction in the size of the dwelling unit, or payment of additional land-cost of Rs.400 per sq. ft., or giving a written consent authorizing the Society to dispose of the land and to distribute the money received from the sale of land.

14. The respondent contends that there has been no progress in commencement of work till date, nor was there any positive response from the appellant Society to the repeated calls and e-mails by the respondent.



15. Being aggrieved of the above, the respondent filed a complaint against the appellant Society before the learned RERA Authority, being Complaint No.64/2019, titled ***Shri Sunny Sapen v. M/s. Revanta Multistate Cooperative Group Housing Society Ltd.***, seeking a refund of Rs.13,27,500/- paid by him to the appellant Society towards the booking and other costs relating to a 3 BHK flat (admeasuring 1475 sq. ft.).

16. The appellant Society, *inter alia*, contended that it being a Multi-State Cooperative Society, would not fall within the jurisdiction of the RERA Act. The appellant Society further submitted that the complaint of the respondent is liable to be rejected for not being in the proper prescribed format under the RERA Act.

17. The learned RERA Authority, *vide* its Order dated 22.01.2021, *inter alia* held that the appellant Society is covered within the meaning of the term 'Promoter' as defined in Section 2(zk) of the RERA Act. It held that the appellant Society, being in violation of Section 12 of the RERA Act and also having admitted its liability, is liable to refund to the respondent the entire amount of Rs.13,27,500/- along with interest @9.30% per annum from the date of each payment.

18. The appellant Society challenged the said Order of the learned RERA Authority before the learned Appellate Tribunal *vide* the above appeal.

19. The said appeal of the appellant Society has been dismissed by the learned Appellate Tribunal *vide* the Impugned Order, *inter alia*, holding that the appellant Society being an active player in the real



estate sector, having enrolled very large number of buyers as its members, and being a ‘promoter’ within the definition of the said term in Section 2(zk) of the RERA Act, was subject to the provision of the RERA Act.

Submissions of the learned counsel for the appellant:

20. The learned counsel for the appellant submits that the RERA Authority and the Appellate Tribunal have erred in holding that the appellant Society, which is registered under the Societies Act, falls under the ambit of the word ‘Promoter’ as defined in Section 2(zk) of the RERA Act. He submits that the provisions of the RERA Act are not applicable to the appellant Society.

21. He submits that for a Society to fall under the ambit of Section 2(zk) of the RERA Act, it must be an Apex State Level Cooperative Housing Finance Society or a Primary Housing Society, and must construct apartments or buildings for its members or for the allottees of such apartments or buildings. He submits that neither of the two ingredients are fulfilled by the appellant Society.

22. He submits that the appellant Society has not purchased any land for development and construction of the apartments for sale, rather the appellant Society has collected the land parcels for pooling the same under the Land Pooling Scheme of the DDA. As the DDA is yet to allot developed land to the appellant Society in exchange of the land surrendered by the appellant Society to the DDA, the finding of the learned Appellate Authority that the appellant Society has purchased the land for development and construction of apartments,



and that such activity makes the appellant Society amenable to the RERA Act and for the prior Registration of the project, is erroneous.

23. He states that the stage for RERA registration, as shown in the flow chart appended with Land Pooling Policy, is stage No. 17, and the appellant Society has reached only at a stage 2 and 3, therefore, the appellant Society, at this stage, cannot be governed by the RERA Act.

24. He submits that the DDA has not even issued the commencement certificate required for RERA Registration under Section 4(2)(c) of the RERA Act, therefore, the requirement of RERA Registration of the appellant Society, as stipulated by the Authority and the Tribunal below, is completely misconceived.

25. The learned counsel for the appellant submits that even otherwise, the Complaint was not maintainable before the Authority, but was maintainable only before the Adjudicating Officer under Section 71 of the RERA Act read with Rule 34 of the National Capital Territory of Delhi Real Estate (Regulation and Development) (General) Rules, 2016 (hereinafter referred to as, 'the RERA Rules') and the Form 'N' appended thereto.

Submissions of the learned counsel for the respondent:

26. On the other hand, the learned counsel for the respondent submits that the RERA Authority and the learned Appellate Tribunal has rightly held that the appellant Society, being an active player in the real estate sector and having enrolled very large number of buyers as members, would be a 'promoter' within the definition of the said



term as provided in Section 2(zk) of the RERA Act, and therefore, would fall within the ambit of the RERA Act.

27. He submits that the appellant Society has issued a Brochure, a Plan, and a related payment schedule annexed thereto, to the respondent, clearly stating that the Unit/flat booked by respondent will have a built-up area of 1475 sq. ft., and has, in fact, even provided a breakup of the cost of the flat. Therefore, the payment made by the so-called members of the appellant Society is, in fact, for the purchase of the flat, making the appellant Society subject to the provisions of the RERA Act.

28. He submits that at the time of booking the apartment in May 2015, the respondent was given a false assurance and statements by the appellant Society that the construction work relating to the project would start within the next six months, that is, by December 2015, however, the construction work has not started till date. Therefore, the appellant Society has violated the provisions of Section 12 of the RERA Act.

29. He submits that the learned RERA Authority and Appellate Authority has rightly directed the appellant Society to refund the entire amount paid by the respondent with interest according to the Sections 18 and 31 of the RERA Act.

30. He submits that the jurisdiction of the RERA Authority was rightly invoked by the respondent.

Analysis and findings:

31. We have considered the submissions made by the learned counsels for the parties.



32. From the above submissions of the learned counsels for the parties, it would be apparent that this appeal is premised on the following two objections of the appellant:

- (a) The appellant is not a ‘promoter’ as defined in Section 2 (zk) of the RERA Act and, therefore, the RERA Authority and, in turn, the Appellate Tribunal had no jurisdiction to entertain the complaint filed by the respondent; and,
- (b) The RERA Authority had no jurisdiction to entertain the complaint of the respondent under Rule 33 of the RERA Rules, and the exclusive jurisdiction for the same, even assuming the RERA Act to be applicable, vests only with the Adjudicating Officer.

33. As far as the first of the above two objections is concerned, we shall first consider the scheme of the RERA Act.

34. The RERA Act has been enacted for regulation and promotion of the real estate sector, and to protect the interest of consumers in the real estate sector. We reproduce the preamble of the Act as under:-

“An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.”



35. Section 2 (zn) defines the term ‘real estate project’ as under:

““real estate project” means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;”

36. A reading of the above definition would show that the development of a building for purpose of selling apartments or plots shall constitute as ‘real estate project’.

37. Section 2 (zk) of the RERA Act defines the term ‘promoter’ as under:

““promoter” means,—

- (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or*
- (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or*
- (iii) any development authority or any other public body in respect of allottees of—
 - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or*
 - (b) plots owned by such authority or body**



- or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or*
- (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or*
 - (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or*
 - (vi) such other person who constructs any building or apartment for sale to the general public.*

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the person who sells apartments or plots are different person, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified under this Act or the rules and regulations made thereunder;”

38. From the reading of the above Clause, it is clear that a primary cooperative housing society would fall within the definition of the term ‘promoter’.

39. In the present appeal, it is the case of the appellant that it is merely a Society which was formed for collecting land and offering the same to the DDA under the Land Pooling Policy, and on being allotted the developed land by the DDA in return, it would construct flats for its members. The learned counsel for the appellant has vehemently submitted that as, at the present stage, the appellant has merely pooled the land and given it to the DDA and is yet to receive



back the developed land, it cannot be termed as a ‘promoter’, as defined in Section 2 (zk) of the RERA Act.

40. We are unable to accept the above submission of the learned counsel for the appellant.

41. In the present case, we find that the alleged membership of the appellant Society is only a facade created by the appellant Society to hide behind its real identity of being a ‘real estate developer’. Admittedly, the appellant Society issued a brochure calling upon persons to invest in it as ‘clients’. We quote from the brochure as under:

“Revanta is a vibrant realty society with a vision of quality and on-time delivery. We turn people's dreams into reality. Within a short span of time, we have experienced tremendous growth, thanks to our workforce and the faith of our clients. We are built on customer centric approach and uncompromising business values.

We are a well established Multi State CGHS Society with a proven experience in delivering incredible housing projects. Our upcoming projects in the L-Zone of Delhi have been envisioned to match the international standards. We offer all types of apartments catering to all income groups. Our mission is to take care of all the members. The search for a perfect dream home ends with us.

Our society is registered under Central Registrar of Cooperative Societies, Government of India and our Registration Certificate No: MSCS/CR/1049/2014.

Why to Invest

If you want to buy a spacious apartment with top notch facilities, we offer you an investment deal for a lifetime. The main focus of our project is the satisfaction of our clients. With a



proven record and experience in this field of real estate, we stand out from the rest.

We are completely dedicated to client satisfaction. Our society has a provision of a servant's quarter with an attached washroom which is extremely hard to find in a Group Housing Society.

Our main desire is to fulfil people's dream of owning a house in Delhi by offering quality housing at affordable prices in the capital city. The prices offer better valuation than prices in areas like Noida, Greater Noida, Kundli and Bhiwadi which starts from Rs.3500-4500 per-Sq Ft minimum) with a Delhi address and just next to South Delhi, Airport and Dwarka Subcity."

42. Alongwith the brochure, the appellant Society also gave a payment plan which also clearly shows that it was acting as a real estate developer. We reproduce the payment plan offered by the appellant Society as under:

Payment Plan

Plan-I (Rs.150/Sq. Ft. discount)

Size (Sq. Ft.)	Land Cost @ 1200 per sq. ft. (in ₹)	Construction Cost @ 1800 per sq. ft.(in₹)	Car Parking (in ₹)	Total Cost of Apartment (in ₹)	Total Cost per sq. ft. (in ₹)
975	11,70,000	17,55,000	2,00,000	31,25,000	3,205
1,175	14,10,000	21,15,000	2,00,000	37,25,000	3,170
1,475	17,70,000	26,55,000	2,00,000	46,25,000	3,136
1,675	20,10,000	30,15,000	2,00,000	52,25,000	3,119
2,100 (2 Car	25,20,000	37,80,000	4,00,000	67,00,000	3,190



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Parking Mandatory)					
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**In Plan- I Land Cost is to be paid within 45 days of becoming housing member.*

Plan-II

Size (Sq. Ft.)	Land Cost @ 1350 per sq. ft. (in ₹)	Construction Cost @ 1800 per sq. ft. (in ₹)	Car Parking (in ₹)	Total Cost of Apartment (in ₹)	Total Cost per sq. ft.(in ₹)
975	13,16,250	17,55,000	2,00,000	32,71,250	3,355
1,175	15,86,250	21,15,000	2,00,000	39,01,250	3,320
1,475	19,91,250	26,55,000	2,00,000	48,46,250	3,286
1,675	22,61,250	30,15,000	2,00,000	54,76,250	3,269
2,100 (2 Car Parking Mandatory)	28,35,000	37,80,000	4,00,000	70,15,000	3,340

**Construction cost and car parking charges are tentative and will be charged as per construction linked payment plan.*

**Any other charges levied by any competent authority will be charged proportionately from members."*

43. We may also note that the appellant Society also offered various amenities to the persons who would be investing in the flats, which we reproduce hereinunder:



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Features



Amenities

- Freehold Property with Registry
- Smart swimming pool with solar heating panels
- Smart 3 Tier international standard security with CCTV and video doorphones
- Smart home with 24x7 Wi-Fi connection
- Smart elevators provisioned in each tower
- Power back-up
- Provision for piped gas
- Rainwater harvesting
- Fire protection systems
- Reception and waiting lounge in each tower
- Fully fitted with high end home appliances**
- Well maintained gardens with playgrounds
- Outdoor amphitheatre and games area
- Fully Equipped Gymnasium



Smart swimming pool
with solar heating panels

Living Room / Dining Room

- POP punning with plastic emulsion (velvet touch) paint
- Flooring would be a mix of Italian / Spanish Marble**
- Doors and Window frames shall be of Ivory Coast Teak
- Elegantly designed entrance door**

Bedrooms

- POP punning with plastic emulsion (velvet touch) paint
- Flooring would be of Italian marble or imported wood**
- Designer wardrobes, cupboards, almirahs**
- Doors and Window frames shall be of Ivory Coast Teak
- High quality fittings of Indian / imported makes**

Bathroom

- Single lever C.P fittings Grohe / Hans Grohe / Jaguar or equivalent make**
- Glass on patch fitting or cubical bathtub as per specially designed scheme**
- Chinaware, imported / high class wall hung W.C. and matching wash basin
- Fitted with exhaust fan, mirror, towel rack / rod and accessories**
- Geysers of Venus heavy duty or equivalent make in all attached bathrooms**



Smart security with CCTV
& video phones

Kitchen

- Italian modular kitchen**
- Fully fitted with high end cooking appliances; Microwave oven, Refrigerator, R.O. System, Dishwasher, Washing Machine with dryer etc**
- Chimney with exhaust fan**
- Geysers of Venus heavy duty or equivalent make in kitchen**
- Designer / Modular woodwork and fittings**
- Floor / Walls shall feature a combination of high quality granite
- Counters shall feature Italian marble**
- Double bowl stainless steel sink with drain board
- Single lever hot and cold water
- Provision for piped gas supply
- Doors and Window frames shall be of Ivory Coast Teak

Balconies

- Italian marble flooring**
- External walls in texture paint with stone finish



44. In view of the above, merely because, along with the application form, the appellant Society also called upon the persons investing in the flats to be constructed by them, to fill up a member application form of the society, would not, in any manner, denude them of the status of being a ‘promoter’ of a real estate project.

45. Similarly, only because the real estate project being developed by them required the land to be collected, which shall be surrendered to the DDA for further development, and the DDA would thereafter allot developed land to the appellant Society depending upon its entitlement under the Land Pooling Policy, would not again denude the appellant of its status of being a ‘promoter’, as far as the respondent is concerned. The charade of being a society cannot be used by the appellant Society to escape its obligations and legal requirements of being a promoter of a real estate project under the RERA Act.

46. Even assuming that the stage of registration of the project under the Land Pooling Policy has not come, however, that would also not denude the appellant Society of its status as a promoter, having collected money from the prospective buyers for the prospective flats that it intends to develop once the land is allotted to it by the DDA. In fact, the appellant Society has violated the terms of the RERA Act by not only advertising the project, but also collecting money thereagainst from unsuspecting consumers.

47. We may also note that Section 3 of the RERA Act contains a prohibition on a promoter to advertise, market, book, sell or offer for



sale or invite persons to purchase, in any manner, any plot, apartment or building in any real estate project or part of it, in any planning area, without registering the real estate project with the RERA Authority. We reproduce Section 3 of the RERA Act as under:

“Prior registration of real estate project with Real Estate Regulatory Authority.—

(1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or



eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Explanation.—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.”

48. In the present case, as mentioned hereinabove, the appellant Society has openly marketed its project and the amenities which it proposes to offer to the buyers of the Flat, like the respondent herein, through various brochures and advertisements. The appellant Society, under the garb of being a Society, cannot flout the provisions of the RERA Act and advertise the real estate project as a promoter, and then contend that it is not subject to the provisions of the RERA Act merely to avoid fulfilling its obligations towards the *bona fide* purchasers of the Flats of the real estate project.

49. At this point, we may also note that the Societies Act has been promulgated to regulate cooperative societies with objects not confined to one State, and serving the interests of members in more than one State, to facilitate the voluntary formation and democratic functioning of the cooperatives as people's institutions based on self-



help and mutual aid, and to enable them to promote their economic and social betterment and to provide functional autonomy to them.

50. Under Section 5 of the Societies Act, only the following societies can be registered as a Multi-State Co-operative Society:-

“5. Multi-State co-operative societies which may be registered.—(1) No multi-State co-operative society shall be registered under this Act, unless,—

(a) its main objects are to serve the interests of members in more than one state; and

(b) its bye-laws provide for social and economic betterment of its members through self-help and mutual aid in accordance with the co-operative principles.”

51. Chapter V of the Societies Act contains provisions for the direction and management of Multi-State Cooperative Societies.

52. Chapter VII of the Societies Act provides for management of the properties and funds of such Societies.

53. A reading of the above provisions would show that a Multi-State Cooperative Society is constituted for the common aim to promote the economic and social betterment of its members. It has a democratic functioning and its funds cannot be utilised but in accordance with the Societies Act.

54. In the present case, however, in the charade of being a Multi-State Cooperative Society, the appellant is acting only as a promoter *qua* its so-called members who are nothing but the customers booking the flats in the project being developed or promised to be developed by the appellant Society. In fact, the appellant Society, on our asking, has placed certain documents to show that it is managing its affairs in



a democratic manner. These documents, however, do not further the said submission of the appellant Society at all. Therefore, the appellant Society cannot also take a shield behind the dispute adjudication process provided under Section 84 of the Societies Act.

55. As far as the submission of the learned counsel for the appellant Society that it was only the Adjudicating Authority which had the jurisdiction to entertain the complaint filed by the respondent is concerned, we, again, do not find any merit in the same.

56. Section 31 of the RERA Act provides that any aggrieved person may file a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of the Act.

57. Rule 33 of the RERA Rules prescribes that any aggrieved person may file such complaint before the RERA Authority in Form 'N'. It also prescribes the procedure under which the Authority would undertake for inquiring into the complaint. Rule 34 of the RERA Rules states that an aggrieved person may file with the Adjudicating Officer a complaint for interest and compensation as provided under Sections 12, 14, 18, and 19 of the RERA Act, in format of the Form 'N' appended thereto. Sub-rule 2 of Rule 34 of the RERA Rules prescribes the procedure to be followed by the Adjudicating Officer for inquiring into such complaint. We quote Rules 33 and 34 of the RERA Rules as under:

“33. Filing of complaint with the Authority and inquiry by Authority.- (1) Any aggrieved person may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder,



save as those provided to be adjudicated by the adjudicating officer, in Form 'M', in triplicate, until the application procedure is made web based, which shall be accompanied by a fees of one thousand rupees in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favour of Authority and payable at the branch of that bank at the station where the seat of the said Authority is situated or through online payment, as the case may be.

(2)The Authority shall for the purposes of deciding any complaint as specified under sub-rule (1), follow summary procedure for inquiry in the following manner, namely:-

(a)upon receipt of the complaint, the Authority shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;

(b)the respondent against whom such notice is issued under clause (a) of sub-rule (2), may file his reply in respect of the complaint within the period as specified in the notice;

(c)the notice may specify a date and time for further hearing and the date and time for the hearing shall also be communicated to the complainant;

(d)on the date so fixed, the Authority shall explain to the respondent about the contravention alleged to have been committed in relation to any of the provisions of the Act or the rules and regulations made thereunder and if the respondent,-

(i) pleads guilty,

the Authority shall record the plea, and pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the rules and regulations, made thereunder;

(ii) does not plead guilty and contests the complaint, the Authority shall demand an explanation from the respondent;

(e)incase the Authority is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;



(f) in case the Authority is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by it;

(g) the Authority shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;

(h) the Authority shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any documents which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry, and in taking such evidence, the Authority shall not be bound to observe the provisions of the Indian Evidence Act, 1872 (11 of 1872);

(i) on the date so fixed, the Authority upon consideration of the evidence produced before it and other records and submissions is satisfied that,-

(i) the respondent is in contravention of the provisions of the Act or the rules and regulations made thereunder, it shall pass such orders including imposition of penalty as it thinks fit in accordance with the provisions of the Act or the rules and regulations made thereunder;

(ii) the respondent is not in contravention of the provisions of the Act or the rules and regulations made thereunder, the Authority may, by order in writing, dismiss the complaint, with reasons to be recorded in writing;

(j) if any person fails, neglects or refuses to appear, or present himself as required before the Authority, the Authority shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

(3) The procedure for day to day functioning of the Authority, which have not been provided by the Act or the rules made thereunder, shall be



as specified by regulations made by the Authority.

(4) Where a party to the complaint is represented by an authorised person, as provided under section 56, a copy of the authorisation to act as such and the written consent thereto by such authorised person, both in original, shall be appended to the complaint or the reply to the notice of the complaint, as the case may be.

34. Filing of complaint with the adjudicating officer and inquiry by adjudicating officer.- (1) Any aggrieved person may file a complaint with the adjudicating officer for interest and compensation as provided under section 12, 14, 18 and 19 in Form 'N', in triplicate, until the application procedure is made web based, which shall be accompanied by a fees of one thousand rupees in the form of a demand draft or a bankers cheque drawn on a scheduled bank in favour of the Authority and payable at the branch of that bank at the station where the seat of the said Authority is situated or through online payment, as the case may be.

(2) The adjudicating officer shall for the purposes of adjudging interest and compensation follow summary procedure for inquiry in the following manner, namely:-

(a) Upon receipt of the complaint, the adjudicating officer shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;

(b) The respondent against whom such notice is issued under clause (a) of sub-rule (2) may file his reply in respect of the complaint within the period as specified in the notice;

(c) The notice may specify a date and time for further hearing and the date and time for the hearing shall also be communicated to the complainant;

(d) On the date so fixed, the adjudicating officer shall explain to the respondent about the contravention alleged to have been committed in relation to any of the provisions



of the Act or the rules and regulations made thereunder and if the respondent,-

(i) pleads guilty, the adjudicating officer shall record the plea, and by order in writing, order payment of interest as specified in rule 15 and such compensation as he thinks fit, as the case may be, in accordance with the provisions of the Act or the rules and regulations, made thereunder;

(ii) does not plead guilty and contests the complaint, the adjudicating officer shall demand and explanation from the respondent;

(e) in case the adjudicating officer is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint;

(f) in case the adjudicating officer is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by him;

(g) the adjudicating officer shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions;

(h) the adjudicating officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any documents which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry, and in taking such evidence, the adjudicating officer shall not be bound to observe the provisions of the Indian Evidence Act, 1872 (11 of 1872);

(i) on the date so fixed, the adjudicating officer upon consideration of the evidence produced before him and other records and submissions is satisfied that the respondent is,-

(i) liable to pay interest and compensation, as the case may be, the adjudicating officer may, by order in writing, order payment of interest as specified in rule



15 and such compensation as he thinks fit, as the case may be, in accordance with the provisions of the Act or the rules and regulations, made thereunder; or

(ii) not liable to any interest and compensation, as the case may be, the adjudicating officer may, by order in writing, dismiss the complaint, with reasons to be recorded in writing;

(j) if any person fails, neglects or refuses to appear, or present himself as required before the adjudicating officer, the adjudicating officer shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

(3) The procedure for day to day functioning of the adjudicating officer, which have not been provided by the Act or the rules made thereunder, shall be as specified by regulations made by the Authority.

(4) Where a party to the complaint is represented by an authorised person, as provided under section 56, a copy of the authorisation to act as such and the written consent thereto by such authorised person, both in original, shall be appended to the complaint or the reply to the notice of the complaint, as the case may be."

58. Interpreting the *pari materia* Rules, the Supreme Court in ***Newtech Promoters and Developers Private Limited. v. State of Uttar Pradesh & Ors.***, (2021) 18 SCC 1, has held that a harmonious reading of the above rules would show that when it comes to a complaint seeking refund of the amount paid to the promoter and interest thereon, or directing payment of interest for delayed delivery or possession or penalty and interest thereto, it is the RERA Authority which has the power to examine the complaint. On the other hand, the Adjudicating Officer has the exclusive power to determine and



adjudicate on a complaint seeking compensation and interest thereon.

We quote from the Judgment as under:

“74. *Learned counsel further submits that in order to give full effect to the letter and spirit of the right to refund in the context explained above, there can be no doubt that the determination of the right to refund must be left to the authority whereas the adjudication for adjudging compensation with the adjudicating officer as reflected under Section 71 of the Act. According to the learned counsel, the authority is fully seized with the standard agreements entered into between the promoters and the allottees, and therefore, is best equipped to determine the extent of delay, if any. Therefore, refund claims can most conveniently and effectively be dealt with by the authority and interest on refund is available at the rate prescribed by the appropriate Government. In the instant batch of matters, the prescribed rate of interest is (MCLR + 1%), which has been notified by the Government of Uttar Pradesh.*

75. *The legislature in its wisdom has made a specific provision delineating power to be exercised by the regulatory authority/adjudicating officer. “Refund of the amount” and “compensation” are two distinct components which the allottee or the person aggrieved is entitled to claim if the promoter has not been able to hand over possession with a nature of enquiry and mechanism provided under the Act. So far as the claim with respect to refund of amount on demand under Sections 18(1) and 19(4) of the Act is concerned, it vests within the jurisdiction of the regulatory authority. Section 71 carves out the jurisdiction of the adjudicating officer to adjudge compensation under Sections 12, 14, 18 and 19 after holding enquiry under Section 71(3) of the Act keeping in view the broad contours referred to under Section 72 of the Act.*



80. The further submission made by learned counsel for the appellants that if the allottee has defaulted the terms of the agreement and still refund is claimed which can be possible, to be determined by the adjudicating officer. The submission appears to be attractive but is not supported with legislative intent for the reason that if the allottee has made a default either in making instalments or made any breach of the agreement, the promoter has a right to cancel the allotment in terms of Section 11(5) of the Act and proviso to sub-section 5 of Section 11 enables the allottee to approach the regulatory authority to question the termination or cancellation of the agreement by the promoter and thus, the interest of the promoter is equally safeguarded.

81. The opening words of Section 71(1) of the Act make it clear that the scope and functions of the adjudicating officer are only for “adjudging compensation” under Sections 12, 14, 18 and 19 of the Act. If the legislative intent was to expand the scope of the powers of the adjudicating officer, then the wording of Section 71(1) ought to have been different. On the contrary, even the opening words of Section 71(2) of the Act make it clear that an application before the adjudicating officer is only for “adjudging compensation”. Even in Section 71(3) of the Act, it is reiterated that the adjudicating officer may direct “to pay such compensation or interest” as the case may be as he thinks fit, in accordance with provisions of Sections 12, 14, 18 and 19 of the Act. This has to be seen together with the opening words of Section 72 of the Act, which reads “while adjudging the quantum of compensation or interest, as the case may be, under Section 71, the adjudicating officer shall have due regards” to the broad parameters to be kept in mind while adjudging compensation to be determined under Section 71 of the Act.



82. The further submission made by the learned counsel for the appellants that if the authority and the adjudicating officer either come to different conclusions on the same questions or in a single complaint, the person aggrieved is seeking manifold reliefs with one of the relief of compensation and payment of interest, with the timelines being provided for the adjudicating officer to decide the complaint under Section 71 of the Act. At least, there is no provision which could be referred to expedite the matter if filed before the regulatory authority. The submission may not hold good for the reason that there is a complete delineation of the jurisdiction vested with the regulatory authority and the adjudicating officer. **If there is any breach or violation of the provisions of Sections 12, 14, 18 and 19 of the Act by the promoter, such a complaint straightaway has to be filed before the regulatory authority. What is being referable to the adjudicating officer is for adjudging compensation, as reflected under Section 71 of the Act and accordingly rules and regulations have been framed by the authority for streamlining the complaints which are made by the aggrieved person either on account of violation of the provisions of Sections 12, 14, 18 and 19 or for adjudging compensation and there appears no question of any inconsistency being made, in the given circumstances, either by the regulatory authority or the adjudicating officer.**

83. So far as the single complaint is filed seeking a combination of reliefs, it is suffice to say, that after the rules have been framed, the aggrieved person has to file complaint in a separate format. If there is a violation of the provisions of Sections 12, 14, 18 and 19, the person aggrieved has to file a complaint as per form (M) or for compensation under form (N) as referred to under Rules 33(1) and 34(1) of the Rules. The procedure for inquiry is different in both the



set of adjudication and as observed, there is no room for any inconsistency and the power of adjudication being delineated, still if composite application is filed, can be segregated at the appropriate stage.

84. *So far as submission in respect of the expeditious disposal of the application before the adjudicating officer, as referred to under sub-section (2) of Section 71 is concerned, it pre-supposes that the adjudicatory mechanism provided under Section 71(3) of the Act has to be disposed of within 60 days. It is expected by the regulatory authority to dispose of the application expeditiously and not to restrain the mandate of 60 days as referred to under Section 71(3) of the Act.*

85. The provisions of which a detailed reference has been made, if we go with the literal rule of interpretation that when the words of the statute are clear, plain and unambiguous, the Courts are bound to give effect to that meaning regardless of its consequence. It leaves no manner of doubt and it is always advisable to interpret the legislative wisdom in the literary sense as being intended by the legislature and the Courts are not supposed to embark upon an inquiry and find out a solution in substituting the legislative wisdom which is always to be avoided."

(Emphasis Supplied)

59. In the present case, the respondent had filed his complaint seeking the refund of the amount paid by him along with the interest. The same was, therefore, correctly filed in Form 'M' and has been rightly adjudicated by the RERA Authority. We, therefore, find no merit in the objection raised by the appellant Society on this account.



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Conclusion:

60. For the reasons stated hereinabove, we find no merit in the present appeal. The same is dismissed with costs quantified at Rs.50,000/-, to be paid by the appellant Society to the respondent within a period of four weeks from today. The pending applications also stands disposed of.

NAVIN CHAWLA, J.

SHALINDER KAUR, J.

MAY 30, 2025/rv/VS

Click here to check corrigendum, if any