



CGHC010215202025 2026:CGHC:37725-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 105 of 2025

1 - M/s. Fortune Resources And Properties Llp Through Its Partner, Rajesh Agrawal, S/o. Late Ramchandra Agrawal, Aged About 52 Years, Office At High Street Swarnbhoomi, Vidhan Sabha Road, Aamasewni, Tehsil And District - Raipur (C.G.) (Respondent No. 1)

... Appellant

versus

1 - M/s. Y.P. Goel And Associates Through Its Partner Shri Y.P. Goel, S/o. Ramvilas Agrawal, Aged About 40 Years, R/o. Post - Titlagarh, Dist. Bolangir, Odisha - 767033 (Complainant)

2 - M/s. Rama Real Estate Pvt. Ltd. Through Its Managing Director, Office At Rama House, Shrikant Marg, Tehsil And District - Bilaspur (C.G.) (Respondent No. 2)

---- Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Ankit Singhal, Advocate with Mr. Ashish Mittal, Advocate
For Respondent No.1	:	Mr. Manay Nath Thakur, Advocate
For Respondent No.2	:	Mr. Arpit Agrawal, Advocate

Division Bench
Hon'ble Shri Parth Prateem Sahu, Judge
Hon'ble Shri Sachin Singh Rajput, Judge

Order On Board

Per Parth Prateem Sahu, Judge

21.08.2026

1. This miscellaneous appeal U/s. 58 of the Real Estate (Regulation and Development) Act, 2016 is filed against the order dated 04.04.2025, passed by the Real Estate Appellate Tribunal, Chhattisgarh (hereinafter referred to as " the REAT") in Appeal No.318 of 2025, whereby learned

REAT allowed the appeal filed by respondent No.1 and set aside the order dated 31.07.2024 of Real Estate Regulatory Authority Chhattisgarh (Hereinafter referred to as “the RERA”).

2. The facts relevant for the disposal of the present appeal are that Respondent No. 1/applicant filed a complaint before the RERA against the non-applicants, alleging that the appellant/non-applicant had entered into an oral agreement to sell Shop No. J-03, admeasuring 1,280 sq. ft., situated in “Rama World” at High Street, Swarn Bhoomi, Raipur, with Respondent No. 1 for a total sale consideration of Rs. 75,00,000/-. It was alleged that Respondent No. 1 paid a booking amount of Rs. 5,00,000/- to the appellant on 31.12.2020 through cheque, followed by a further payment of Rs. 10,00,000/- on 03.02.2021 through cheque and another payment of Rs. 10,00,000/- on 06.09.2022. It was further alleged that, despite receipt of the aforesaid amounts, the appellant/non-applicant failed to hand over possession of the said shop to respondent No. 1 and did not execute any sale deed in his favour. Respondent No. 1/applicant thereafter issued a legal notice to the appellant/non-applicant on 05.04.2024. Subsequently, respondent No. 1/applicant came to know that the said shop had been taken by Non-Applicant No. 2 and the amount paid by respondent No. 1/applicant to appellant had been illegally returned to him. It was also alleged that respondent No. 1/applicant had paid a total amount of Rs. 25,00,000/- to the appellant towards the purchase of the said shop. However, after a period of approximately three years, the appellant/non-applicant returned the said amount to respondent No. 1/applicant instead of providing possession of the aforesaid shop or executing the sale deed in his favour.

3. The allegations made by respondent No. 1/applicant in the complaint were specifically denied by the appellant/non-applicant. It was stated that complaint had been filed on false and fabricated grounds, with the ulterior motive of securing an illegal benefit. It was further submitted that respondent No. 1 had not approached the RERA with clean hands and had suppressed material facts. The claim of respondent No. 1/applicant was false, baseless and frivolous. It was specifically denied that any oral agreement to sell had ever been entered into between the appellant and respondent No. 1/applicant in respect of the said shop. It was further stated that no shop was allotted to Respondent No. 1/applicant and no sale agreement of any kind oral or documentary was even executed with him in respect of any shop.

4. After hearing both parties and considering the documents on record, the RERA dismissed the complaint filed by respondent No. 1/applicant vide order dated 31.07.2024 holding that there was no written agreement between the parties. It was held that there is no clear evidence to show that any sale consideration had been paid for the said transaction. The RERA further held that the complaint filed before it was not within the jurisdiction of the RERA under the provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the “Act, 2016”).

5. Being aggrieved by the order passed by the RERA, respondent No. 1/applicant preferred an appeal before the learned REAT. Learned REAT, vide impugned order, allowed the appeal and set aside the order passed by the RERA holding that an oral agreement could be considered under the scheme of the RERA and that respondent No.

1/applicant was an aggrieved person within the meaning of the Act, 2016. Learned REAT, accordingly, remitted the matter to the RERA for fresh consideration and decision in accordance with law. Hence, this appeal is filed.

6. Learned counsel appearing for the appellant would submit that the impugned order passed by the learned REAT is contrary to law, based on an erroneous appreciation of the facts and material available on record, and is therefore perverse and unsustainable in law. It is further submitted that the learned REAT has failed to properly appreciate the pleadings and documents placed before it and has arrived at an erroneous finding. It is contended that the learned REAT failed to consider Section 2(d) of the Act, 2016, which defines an “allottee” as a person to whom a plot, apartment or building is allotted, sold or transferred by the promoter. It is contended that merely depositing money does not make a person an “allottee” under Section 2(d) of the Act, 2016 as there must first be an application or request, its acceptance by the promoter, and a consequential allotment of the plot, apartment or building. It is further contended that learned REAT also erred in presuming the existence of an oral agreement to sell on the basis of photocopies of a self-serving balance sheet and entries therein, which do not establish any contractual obligation between the parties regarding the alleged shop. It is contended that learned REAT erred in accepting the photocopies of balance sheet filed by respondent No. 1/applicant while rejecting the documents filed by the appellant in reply, without properly considering the same. He next contended that appellant had specifically disputed existence of any oral agreement between the parties. Therefore, the matter involves highly

disputed questions of fact and law, which could not have been properly decided in summary proceedings.

7. Learned counsel appearing for respondent No. 1/applicant opposes the submission advanced by learned counsel for appellant and supports the impugned order. He submits that, pursuant to the oral agreement between the parties, respondent No. 1 had paid a total sum of Rs.25,00,000/- to appellant at different intervals towards the sale consideration of alleged shop. It is further submitted that said payments were duly reflected in the balance sheet of respondent No.1, which supports his claim regarding the transaction and the amount paid to the appellant towards purchase of the said shop. Appellant failed to discharge and perform its obligations arising out of the oral agreement/understanding between the parties. He further submits that the learned REAT has rightly held that the existence of a written agreement or contract for sale is not a prerequisite for attracting the provisions of the Act, 2016. Learned REAT, after considering the balance sheet produced by respondent No. 1, showing payment of Rs. 25,00,000/- to the appellant towards the purchase of the said shop, rightly held that there was an agreement between the parties for the sale and purchase of the shop rightly remitted the case/complaint to the RERA for proper adjudication. The finding arrived at by the learned REAT does not call for any interference.

8. We have heard learned counsel for parties and also perused the records of this appeal.

9. From the documents available in record in particular Annexure A-1 and A-2, it is apparent that respondent No.1 herein has filed an application

before the RERA under Section 31 of the Act of 2016 alleging that applicant had deposited sum of Rs.25,00,000/- on different dates. Non-applicant entered into an oral agreement for allotment of shop No.J-3 of the project A-type for consideration of Rs.75,00,000/-, out of which Rs.25,00,000/- was deposited by respondent No.1/applicant out of which Rs.20,50,000/- has been paid by cheque/banking transaction, however, the sale deed could not be executed and after three years, the advance amount has been returned back. Objections was raised by non-applicant therein that in absence of any written agreement and allotment of any shop or property in writing, applicant will not fall within the definition of allottee, therefore, application U/s. 31 of the Act of 2016 would not be maintainable. RERA upon receipt of objection has dismissed the application observing that subject matter of application filed under Section 31 of the Act, 2016 will not fall within the jurisdiction of RERA and accordingly dismissed the application.

10. Before proceeding further we would like to extract the relevant provision applicable to the facts of the case. Section 31 of the Act, 2016 talks of filing of complaint with the authority or the adjudicating officer. Sub-section (1) of Section 31 of the Act, 2016 mentions that any aggrieved person may file a complaint with the authority or the adjudicating officer for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent as the case may be. Section 35 of the Act, 2016 deals with the powers of authority to call for information, conduct investigations. Sub-section (1) of Section 35 of the Act, 2016 provides that where the authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules or

regulations made thereunder it may by order in writing and recording reasons therefore call upon any promoter or allottee or real estate agent as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the authority may require and appoint one or more persons to make an inquiry in relation to the affairs of any promoter or allottee or the real estate agent as the case may be. Sub-section (2) of Section 35 of the Act, 2016 provides that while exercising the powers under sub-section (1), the authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely

> "(i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the authority
>
> (ii) summoning and enforcing the attendance of persons and examining them on oath,
>
> (iii) issuing commissions for the examination of witnesses of documents and
>
> (iv) any other matter which may be prescribed."

11. The RERA has only taken into consideration the definition of allottee as provided under Section 2 (d) of the Act, 2016 and dismissed the claim observing that there is no written agreement of allotment of shop as pleaded in the application and further that there is no proof of payment of amount in lieu of real estate, therefore, it is not possible for RERA to

adjudicate upon the issue that transaction between the parties is with reference to the real estate.

12. In the application/complaint filed under Section 31 of the Act, 2016, complainant has pleaded about payment of amount of Rs.20,50,000/- through banking transaction and further applicant in the pleadings has pleaded that amount so deposited by complainant has been returned back. From the aforementioned plea of the parties, it is apparent that amount has been deposited by complainant/applicant with non-applicant. It is further case of non-applicant as is reflecting from the contents of the order passed by RERA that after deposit of the part payment, applicant has not made any effort with regard to allotment of shop. From the aforementioned facts of the case it is apparent that there was transaction between the parties of depositing of amount with respect to allotment and sale of real estate (shop) as mentioned in the complaint.

13. In the aforementioned facts of the case whether complainant would be entitled for the relief as prayed for or not can only be by way of enquiry as provided under the Act and the Rules framed thereunder. RERA only on the basis of the reply received has come to the conclusion that it cannot be ascertained that amount deposited and returned is with regard to real estate and had dismissed the complaint holding that RERA is not having jurisdiction which prima facie appears to be erroneous. The conclusion arrived at by RERA in para-5 is self contradictory as on the one hand, it records that it is not proved that any payment is made by plaintiff and further in the same paragraph it records that complainant had accepted that the amount deposited is

returned and further records that therefore, it is not possible to arrive at a conclusion that money transaction is with regard to real estate.

14. In the impugned order, RERA has not discussed as to any enquiry as provided under Rule 35 (3) of the Chhattisgarh Real Estate (Regulation and Development) Rules, 2017 (In short 'the Rules, 2017') was initiated. The satisfaction recorded under Rule 35 (2) (d) of the Rules, 2017 is contrary to the facts of the case as pleaded by the parties.

15. In the facts of the case, RERA ought to have adopted the procedure as prescribed under Rule 35 (e) of the Rules, 2016 of ordering production of documents or sought evidence on the date and time fixed.

16. RERA fell into error in considering only definition of allottee under Section 2 (d) of the Act of 2016 and not the provision under Section 31 of the Act, 2016, which provides for filing of complaint by any aggrieved person and Rule 35 of the Rules, 2017, which also provides for filing of complaint by any aggrieved person before the authority and the enquiry by the authority. The word "aggrieved person" used under Section 31 of the Act, 2016 and under Rule 35 of the Rules, 2017, who can file complaint is very wide, therefore, only because no written document to show the allotment of any real estate or any agreement between the parties in itself will not oust the jurisdiction of the RERA.

17. Learned Tribunal had considered the entire facts and circumstances of the case in particular the payment of amount of Rs.25,00,000/- reflected in the balance sheet copies of which is produced before the Tribunal and word aggrieved person used U/s.31 (1) of the Act, 2016 have rightly come to the conclusion that applicant/respondent No.1 is an aggrieved person.

18. It is made clear that observation made in this order is restricted for disposal of this appeal only, and it will not having any bearing on the merits of the case.

19. For the foregoing discussions we do not find any substantial questions of law involved in this appeal for admitting the same. Accordingly the appeal is dismissed. However, it is observed that RERA while considering the complaint filed shall decide the same strictly in accordance with the directives issued by REAT in Para-55 of the impugned order without being influenced by any other observation made by REAT in other paragraphs and to decide the complaint in accordance with law.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge

Balram