BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.104/2022

In : Complaint No. F.3(809)RAJ/RERA/C/2018

Nagar Parishad Pali through Commissioner, Office of Lal Bahadur Shastri Town Hall, Near Surajpol, Pali, Rajasthan.

....Appellant

VERSUS

Rajasthan Real Estate Regulatory Authority Jaipur through Registrar Office of 2nd & 3rd Floor, RSIC Wing, Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur, Rajasthan.

....Respondent

CORAM

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

Mr. Yudhisthir Sharma, Hon'ble Member (Judicial)

PRESENT:

For appellant : Mr. Saurabh Tiwari, Advocate

For respondents : Mr. Vikram Pratap Singh, Advocate

O R D E R

Reserved on 30th April, 2026:

Pronounced on 07th May, 2026:

Per: Justice Madan Gopal Vyas, Hon'ble Chairperson

The present appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act, 2016") by the appellant-Nagar Parishad Pali, challenging the order dated 17.06.2022 passed by the learned Real Estate Regulatory Authority, Jaipur (herein after referred as "Regulatory Authority) in suo motu proceedings. The operative portion of the said order is reproduced hereunder:-

> *"In light of the aforesaid observations, a penalty against the promoter upto the tune of Rs. 50,000/- is imposed and directed to submit an application for extension of validity of registration of project after depositing aforesaid penalty and requisite fee within 30 days from upload the copy of the order on Website of the Authority".*

2) Facts in brief of the case are that the appellant is a government body under the State of Rajasthan and is engaged as an employer in the construction of EWS and LIG housing units under the Chief Minister Jan Awas Yojana, 2015, at Village Punayata, District Pali. The project is duly registered with the RERA under Registration No.RAJ/P/2018/752.

3) Hence, this appeal has been filed seeking the following prayer:-

> *"(i) To accept and allow the present appeal and be further pleased to quash and set aside the impugned order dated 17.06.2022 passed in comp.no. F.3(809)RAJ/RERA/C/2018 and allow the application/letter dated 25.11.2021 for extension of validity of project."*

4) Mr. Saurabh Tiwari**,** counsel appearing for the appellant argued that a contract dated 04/08/2017 was executed between the appellant and M/s.NCCF of India for execution of the project. Although, in the agreement, the completion date was incorrectly recorded as 21/08/2020 as the applicable bid conditions provided a construction period of 48 months, thereby making the correct completion date viz.21/08/2021. This discrepancy was rectified through a corrigendum issued on 21/10/2021 by the Empowered Committee. Further, in light of the COVID-19 pandemic, the Rajasthan RERA, vide order dated 13/05/2020, granted a general extension of 12 months to the registered projects, thereby extending the project's validity up to 21/08/2022.

Counsel further argued that the respondent issued a notice dated 05/02/2021 proposing penalty under Section 61 read with Section 11(4)(b) and Section 8 of the RERA Act, 2016, alleging lapse of registration as on 21/08/2020, without considering the COVID-19 extension order. The appellant submitted a detailed reply on 21/10/2021 clarifying that the project timeline stood extended for a total period of 60 months (48 months due to correction of completion period and 12 months due to COVID-19 relief). Subsequently, the appellant also filed an application on 25/11/2021 seeking formal extension of registration in accordance with the Government notification dated 20/01/2020. However, the Regulatory Authority despite all this, passed an *ex parte* order dated 17/06/2022 imposing a penalty of ₹50,000 without considering the appellant's reply, the corrigendum, COVID-19 extension granted by the Authority itself and the pending application for extension already submitted by the appellant.

5) *Per contra*, Mr.Vikram Pratap Singh counsel for the RERA vehemently denied the claim of the appellant stating that although, a 12-month extension for RERA-registered projects was provisionally granted due to COVID-19 (up to 21/08/2022), but the appellant failed to comply with the mandatory requirement under the RERA order dated 13/05/2020. Specifically, the appellant did not submit an application in Form-F with the prescribed fee by 31/03/2021, as required under Condition 5 and, therefore, the appellant ineligible for the extension.

Counsel further argued that the appellant's application cannot be treated as valid since it did not follow the prescribed procedure. Under Sections 6 & 61 of the RERA Act, 2016, non-compliance and non-payment of the required fee attract penalties. Additionally, Section 89 of the RERA act, 2016 gives an overriding effect on any other law. Hence, the notification dated 20/01/2020 issued by the Rajasthan Urban Development & Housing Department is not applicable to the Act and, therefore, Section 61 of the Act shall prevail.

Counsel further argued that despite issuing several notices to the appellant on multiple dates to appear before the Authority, the appellant did not appear. Consequently, after providing sufficient opportunity of hearing, the Authority passed an order imposing a penalty of ₹50,000 on the appellant.

6) We have heard for both the parties and perused the material available on record.

7) The impugned order was passed *ex-parte* on 17/06/2022. Accordingly, the appellant-Nagar Parishad, has argued certain new facts at the appellate stage, which were not considered by the Regulatory Authority. These are set out below:-

i. That Regulatory Authority incorrectly recorded the completion date as 21.08.2020, the correct date was 21.08.2021 and a corrigendum issued on 21.10.2021 by the Empowered Committee.

ii. That during Covid-19 pandemic, 12 months of extension was granted to registered project, thereby extending the project validity up to 21.08.2022.

iii. That, at starting the said project was under *Mukhya Mantri Awas Yojna* but it was converted into *Pradhan Mantri Awas Yojna* and thereafter, Central Government clearly extended the timeline up to 30.09.2026, while simultaneously directing that only incomplete but ongoing houses be finished within the stipulated period, and expressly clarifying that no additional financial assistance shall be granted by the Government of India beyond this deadline.

In such circumstances, it is appropriate to decide these issues regarding extension of validity, registration and penalty by the learned Regulatory Authority subject to the condition that the appellant–promoter shall deposit a sum of Rs.50,000/- as penalty under protest, if, in the event the appellant successfully establishes before the Regulatory Authority that no extension of validity was required. In that eventuality, the Regulatory Authority shall refund the penalty amount of Rs.50,000/- to the appellant–promoter. Accordingly, it is deemed appropriate to remand the matter to the Regulatory Authority to provide an opportunity to the appellant for fresh hearing.

8) In view of the above observations, the impugned order dated 17/06/2022 passed by the learned Regulatory Authority is quashed and set-aside and the matter is remanded back to the Regulatory Authority subject to the

condition that the appellant-promoter shall deposit the penalty amount under protest.

9) The Registry is directed to transmit the amount deposited by the Promoter with this Tribunal in compliance of Section 43(5) of the RERA Act, 2016 amounting to Rs.15,000/- (30%), in the bank account of RERA and remaining 70% of the amount will be deposited by the appellant-promoter with the RERA Authority within 15 days from the date of receipt of certified copy of this order.

10) The parties are directed to remain present before the Regulatory Authority on 25/05/2026.

11) Pending interim application or any other misc.application, if any, stands closed. The record of the RERA, if any received by the Registry of this Tribunal, be returned back.

12) A copy of this order be transmitted to the counsel for the parties and Raj-RERA, Jaipur.

File be consigned to record.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson

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