BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.283/2024
In : Complaint No.RAJ-RERA-C-N-2024-6993

Shailendra Singh Tak, R/o 106/22, Nawab Ka Beda, Ajmer- 305001, Rajasthan.

....Appellant

VERSUS

1. Govind Kripa Infratech Private Limited, 205-206, Prakash Deep, Near Mayank Trades Center, Station Road Jaipur- 302006.

2. Rajasthan Real Estate Regulatory Authority, 2nd & 3rd Floor, RSIC Wing, Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur, Rajasthan- 302005.

.....Respondents

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For appellant : Ms. Praneti Agarwal, Advocate

For respondents : Mr. Mitesh Rathore, Advocate

O R D E R

Reserved on 21st May, 2026:

Pronounced on 26th May, 2026:

Per: Justice Madan Gopal Vyas, Hon'ble Chairperson

The above mentioned appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act, 2016") challenging the impugned-order dated 05/08/2024 passed by the Rajasthan Real Estate Regulatory Authority), Jaipur (hereinafter referred to as the "Regulatory Authority") in Complaint No. RAJ-RERA-C-N-2024-6993.

2) Facts in brief of the case are that the appellant booked Flat No. 201 on the 2nd Floor of Tower-C having approx built up area of 952 Sq.ft. in the project "GKB

Grace at Omaxe City, Ajmer Road, Jaipur" developed by Govind Kripa Infratech Private Limited through an Agreement for Sale dated 20/07/2017. The agreed basic sale consideration of the flat was Rs.35,16,500/-. At the time of booking, the appellant paid Rs.1,00,000/- as booking amount and subsequently availed a home loan of Rs.30,00,000/- from PNB Housing Finance vide Loan Account No. HOU/JPR/0918/584102, out of which Rs.24,63,088/- was disbursed by the bank. Thus, a total amount of Rs.25,63,088/- has been paid by the appellant to the respondent-promoter till date. As per the terms of the Agreement for Sale, possession of the allotted flat was to be delivered within 36 months along with an additional grace period of 6 months, making the expected date of possession 19/10/2020. However, the respondent-promoter issued an offer of possession only on 07/04/2023, allegedly without obtaining the Completion Certificate and Occupancy Certificate. Upon visiting the project site, the appellant found that the project was incomplete and not ready for possession. Aggrieved by the delay and alleged violations, the appellant filed Complaint No.RAJ-RERA-C-N-2024-6993 before the learned Regulatory Authority seeking refund of the deposited amount along with interest from the date of each and every payment to the date and alleging violations under Sections 7 and 11 of the RERA Act, 2016.

3) The learned Regulatory Authority disposed of the complaint vide impugned-order dated 05/08/2024, the operative part of which is being reproduced, as under:-

> *"Since the project stands completed, the complainant is directed to take possession of the allotted unit as per the terms of the agreement and make the balance*

payment, if any. Since there has been an inordinate delay in offering possession, the respondent is directed to pay interest at the current highest MCLR of State Bank of India [9.00%] + 2% per annum w.e.f. the expected date of possession, i.e., 19.10.2020 till 28.06.2023 (the date on which completion was obtained). Compliance of this order be made within 45 days of the uploading of the copy of the order on the web page of the Authority."

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

1. *"Quash and dismiss the impugned order dated 05/08/2024 passed by the Hon'ble Authority.*
2. *The respondent-promoter shall be directed to refund the entire amount along with interest from the date of each deposit till the date of receiving of refund as per section 18 of the Act.*
3. *Respondent Promoter shall be subjected to a substantial penalty for violating the provisions of Section 11 of the Act, by failing to obtain the Completion and Occupancy Certificate prior to offering possession of the unit.*
4. *The Respondent Promoter be levied with heavy penalty for violation of section 7 of RERA, 2016."*

5) Ms. Praneti Agarwal, learned counsel for the appellant has argued that:-

(i) On 05/08/2024, the Regulatory Authority passed an order directing the Respondent Promoter to provide a valid offer of possession and to pay delay interest from 19/10/2020 to 28/06/2023. Thereafter, the respondent issued a demand letter dated 11/09/2024 demanding an additional amount of Rs.26,55,810/-, which the appellant has challenged as arbitrary, illegal, and unsupported by lawful justification.

(ii) The respondent wrongfully imposed additional charges relating to increased area and interest calculations that were never previously disclosed or agreed upon.

(iii) It was further submitted that under settled law, a builder must obtain a Completion Certificate and Occupancy Certificate before offering possession of a property.

6) *Per contra*, Mr. Mitesh Rathore, learned counsel for appearing for the respondent-promoter vehemently denied the facts stated by the counsel for the appellant and argued that:-

(i) Under the Agreement for Sale dated 24/09/2019, possession was to be delivered within 36 months with an additional grace period of 6 months, subject to *force majeure* conditions. It is argued that the timeline was not absolute and depended on circumstances beyond the respondent's control. The competent authority granted an extension for completion of the project till 30/06/2023. The delay occurred due to several unavoidable circumstances viz. **(i)** restrictions on sand and bajri mining, **(ii)** the impact of demonetization, **(iii)** implementation of RERA and GST, **(iv)** downturn in the real estate sector, **(v)** defaults made by the allottees in timely payments causing financial constraints & **(vi)** the COVID-19 pandemic, which halted construction activities and caused labour shortages.

(ii) The Regulatory Authority vide order dated 13/05/2020, recognized COVID-19 as *force majeure* and exempting liability for interest or compensation during the extended period.

(iii) An amount of Rs.13,65,724/- remains due, which is payable by the appellant and denies all contrary claims and all changes in maps or layout plans were carried out lawfully, with requisite approvals and proper disclosure to allottees.

(iv) Learned counsel for the respondent has relied on the judgment dated **25/09/2025** passed by this Tribunal in **Appeal No.282/2024 : Divya Goyal Vs. Govind Kripa Infratech Pvt.Ltd. & Anr.,** to argue that the refund was denied and appeal was dismissed, in the similar set of circumstances.

6) We have heard counsel for both the parties and perused the material available on record including the case law cited on the subject.

7) On the basis of the pleadings of the parties, the following Substantial Question of Law do arise for consideration of this Tribunal, as under:-

A. "Whether the appellant-allottee is entitled for refund of the entire deposited amount with delay interest from the each date of deposit?

Finding on Question A:-

It is pertinent to mention here that admittedly, the respondent-promoter obtained "Completion Certificate" for the project on 28/06/2023 and the "Occupancy Certificate" on 11/06/2024 but, as per Agreement for Sale dated 20/04/2017, possession was to be handed over within 36 months from the date of the Agreement i.e. by 19/04/2020 and including the grace period of 6 months, the unit was to be handed over by 19/10/2020 but offer of possession was given to the appellant belatedly on 07/04/2024 hence, there is delay in handing over the possession. So far as delay is concerned, according to the respondent-promoter,

delay was attributable to *force majeure* events including COVID-19 pandemic situation. The Regulatory Authority also issued one Circular dated 13/05/2020 for extension of one year due to Covid-19 excluding moratorium period while computing the interest. Since the project is complete, therefore, to protect the broader interest of real estate sector, learned Regulatory Authority rightly concluded by the impugned-order that the refund may not be allowed in the completed projects.

The appellant is entitled to receive delay interest as so rightly directed by the learned Regulatory Authority. The project is complete hence, the learned Authority has rightly issued directions under the impugned-order declining the claim of the appellant for refunding the deposited amount. So far as interest part is concerned, the learned Regulatory Authority has already directed for granting interest, which directions are in conformity with the guidelines laid down by the Hon'ble Apex Court in the matter of **M/s.Newtech Promoters & Developers Vs The State of Uttar Pradesh dated 11/11/2021.**

In light of the above observations, complainant-appellant is not entitled for refund of the entire deposited amount.

8) In view of the above findings, therefore, Question A is answered affirmatively.

9) In the result, the appeal fails and is dismissed. The impugned-order dated 05/08/2024 passed by the Regulatory Authority in Complaint No.RAJ-RERA-C-N-2024-6993 : Shailendra Singh Tak Vs. Govind Kripa Infratech Private Limited is affirmed.

10) Pending Interim application or any other application shall stand closed.

11) There is no order as to costs.

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

File be consigned to record.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas) J.
Chairperson

Anil Goyal-PS/Suppl.2