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BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.39/2025

In : Complaint No.RAJ-RERA-C-N-2022-5961

Mahendra Singh Saini S/o Shri Kishan Singh Saini, aged about 46 years, permanent resident of 382/11, Fatehpur Road, Near Gayatri Mandir, Sikar, Rajasthan currently residing at Plot No.47, F-1, Puranbadi, Model Town, Jaipur, Rajasthan.

.....Complainant-Appellant

Versus

1. M/s. Manglamhome Construction Company LLP, through its Partners, having its registered office at 7th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015 Rajasthan.
2. Mr. Vinod Kumar Goyal, Partner, M/s. Manglamhome Construction Company LLP, having its registered office at 7th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015 Rajasthan.
3. Mr. Sanjay Gupta, Partner, M/s. Manglamhome Construction Company LLP, having its registered office at 7th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015 Rajasthan.
4. Mr. Ajay Gupta, Partner, M/s. Manglamhome Construction Company LLP, having its registered office at 7th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015 Rajasthan.
5. Jaipur Development Authority, through its Commissioner having its office at Ram Kishor Vyas Bhawan, Indra Circle, Jawaharlal Nehru Marg, Jaipur-302004, Rajasthan.
6. Real Estate Regulatory Authority, 2nd & 3rd Floor, RSIC Building, Udyog Bhavan, Tilak Marg, C-Scheme, Jaipur-302005.

.....Respondents

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For complainant-appellant : Mr. Mohit Khandelwal, Advocate

For respondents No.1 to 4 : Mr. Prashant Daga, Advocate assisted by
: Ms. Khushi Kabra, Advocate

ORDER

Reserved on 16th July, 2026

Pronounced on 23rd July, 2026

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Per : Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

Appellant has preferred the captioned appeal under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act 2016") assailing the impugned-order dated 13/02/2025, passed by the Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter referred to as the "Regulatory Authority"), whereby Complaint No.RAJ-RERA-C-N-2022-5961 filed by the complainant-appellant was disposed of.

2) The facts giving rise to the filing of this appeal in brief are that complainant booked a Villa bearing No.B-005 in the project of the promoter-Anantara - The Villas and complainant paid a sum of Rs.2,00,000/- on 23/02/2021 against the total consideration of Rs.84,00,000/-. Thereafter, respondents No.1 to 4 submitted a Map Revision Application bearing No.RAJ-RERA-APP-MR-2021-75 dated 19/07/2021 for registration of additional 40 Villas, which brought the total 50 Villas bearing Nos.B-01 to 06, B-09 to 20, B-43 to 64 and B-91 to 100 in the said project before respondent No.6-RERA for approval, which was allowed vide approval dated 24/08/2021. The respondents No.1 to 4 written in the 'remarks' column that there are no bookings in the additional 40 Villas proposed in the project. Respondents No.1 to 4 thereafter issued a letter of cancellation dated 15/03/2022 (Anx.9) along with cheque of Rs.2,00,000/- towards refund of booking amount.

2.1 The appellant filed complaint before the learned Regulatory Authority seeking the following relief:-

"(i) To allow the present complaint filed by the complainant under Section 31 of the Act.

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(ii) *The respondents may be directed to adhere to the commitments they have made and deliver to the buyers what they have advertised.*

(iii) *If, at all respondents No.1 to 4, are not in a position to fulfil what they have promised, the said Project may be stayed and the complainant may either be refunded the entire payment along with the interest.*

(iv) *Penalty under Section 61 may separately be levied upon the respondents for contravening the provisions of section 3,11,12,14 and 19 of the Act being 5% of the estimated cost of the real estate project.*

(v) *Specify the name of the respondent firm and its partner in the list of defaulters and display the photographs of the directors on the website of the RERA.*

(vi) *Ad-interim relief as desired.*

(vii) *Cost may be granted to the complainant.*

(viii) *Any other order direction as authority deemed fit and proper”.*

2.2 The learned Regulatory Authority disposed of the complaint vide order dated 13/02/2025, the operative part of which read, as under:-

“9. *In light of above facts and discussions, the respondent is directed to pay interest at prescribed rate of 9.10% (highest MCLR of SBI) + 2% = 11.10% on Rs. 2,00,000/- for the period it remained with the respondent promoter. Compliance of above order is to be made within a period of 45 days from the date of uploading of this order on the web portal of the Authority.*

10. *With above directions, the complaint is disposed of. A copy of this order is to be placed in the concerned file”.*

2.3 The respondent-promoter thereafter filed a Rectification Application before the Regulatory Authority in Complaint No.RAJ-RERA-C-N-2022-5961 for rectification in the original impugned order dated 13/02/2025, which was allowed by the learned Regulatory Authority vide order dated 13/05/2025 and which merged into the order dated 13/02/2025. The operative part of the rectification order dated 13/05/2025 reads, as under:-

“5. *Since section 39 of the RERA Act provides rectification of the order only for the purpose of factual or any mistake apparent from the record, the application of the applicant-respondent for rectification is allowed. Para 8 and 9 of the said order is replaced as under:-*

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Para 8 : During the arguments, the counsel of respondent mentioned that amount of Rs.2.00 lacs deposited for the booking of the Villa has already been refunded by the respondent through cheques but it was not encashed by the complainant and returned to the respondent.

Para 9 : In the light of above facts and discussions, the respondent is directed to refund Rs.2.00 lac to the complainant and pay interest at prescribed rate of 9.10% (highest MCLR of SBI) + 2% = 11.10% on Rs.2,00,000/- for the period it remained with the respondent promoter. Compliance of above order shall be made within a period of 45 days from the date of uploading of this order on the web portal of the Authority.

6. With the abovementioned directions, the rectification application stands disposed of. Compliance of authority's order dated 13.02.2025 read with this order, should be made accordingly".

2.4 The appellant also filed another Complaint No.RAJ-RERA-C-N-2022-5962 before the learned Adjudicating Officer seeking compensation, which was dismissed by the learned AO vide order dated 02/04/2025, which is not under challenge in this appeal. However, for the sake of brevity, the relevant paras thereof read, as under:-

"6. Once the unit is cancelled, the relationship between the allottee and the promoter does not exist. Therefore, after cancellation, such person is ousted from the definition of 'allottee'. In the present case, admittedly, the booking was cancelled vide letter dated 15.03.2022 by the respondents. The remedy against such cancellation was available under Section 11 of the RERA Act. The complainant has filed the complaint before the Hon'ble RERA Authority but vide order dated 13.02.2025 the Hon'ble RERA Authority has not observed that the cancellation was wrong nor any order for revival of the booking has been passed. Therefore, the cancellation made on 15.03.2022 has become absolute and as such has attained the finality."

"9. In view of the above, the complainant is not entitled to get any relief in the present complaint. Accordingly, the same is dismissed".

3) Hence, this appeal with the following prayer:-

- "1. The impugned order dated 13.02.2025 passed by Real Estate Regulatory Authority, Rajasthan in Complaint No.RAJ-RERA-C-2022-5961 titled as "Mahendra Singh Saini V/s M/s Manglamhome Construction Company LLP & Ors.' may be quashed and set aside; the complaint of the Appellant may kindly be allowed;
2. That Respondents may be directed to adhere to the commitments they have made and deliver to the buyers what they have advertised.
3. That penalty under Section 59 may separately be levied upon the Respondents for contravening the provisions of Section 3 of the Real Estate (Regulation and Development) Act 2016, being up to 10% of the estimated cost of the real estate project.

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4. *That penalty under Section 60 may separately be levied upon the Respondents for contravening the provisions of Section 4 of the Real Estate (Regulation and Development) Act, 2016, being up to 5% of the estimated cost of the real estate project.*
5. *That penalty under Section 61 may separately be levied upon the Respondents for contravening the provisions of Section 11, 12, 14 and 19 of the Real Estate (Regulation and Development) Act, 2016, being up to 10% of the estimated cost of the real estate project.*
6. *The Appellants may be compensated for the mental, emotional and financial trauma that the Appellants have been going through from last 3 years.*
7. *Any other relief that this Hon'ble Tribunal may deem fit and proper to serve the ends of justice".*

4) Mr. Mohit Khandelwal, learned counsel appearing for the complainant-appellant argued that the RERA Authority approved the said Map Revision Application dated 19/07/2021 vide approval dated 24/08/2021. Thereafter, another Map Revision Application bearing No.RAJ-RERA-APP-MR-2022-128 dated 08/03/2022 was submitted by respondents No.1 to 4 before respondent No.6-RERA for registration of 84 more villas in the project bringing the villas to 134 bearing Nos.B-01 to 06, B-09 to 113, B-115 to 126 and B-140 to 148. When the appellant visited the site, he realised the connecting road from Jaipur-Ajmer Highway was only 10-15 feet wide, whereas the respondents No.1 to 4 advertised in the brochure for 40 feet wide road. The respondents thereafter asked the appellant for executing the Agreement for Sale for which, the appellant was ready. But the respondents issued demand letters dated 29/07/2021 and 04/09/2021 vide Anx.7. Appellant thereafter served upon the respondents-firm a legal notice dated 11/09/2021 Anx.8 asking for a written confirmation to make available the project site as advertised and registered under the RERA Act, 2016.

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4.1 Respondents No.1 to 4 thereafter issued a letter of cancellation dated 15/03/2022 (Anx.9) issuing a cheque of Rs.2,00,000/- in favour of the complainant towards refund of booking amount but the appellant did not accept the cheque because it was the promoter's failure to fulfil its obligations.

4.2 The appellant replied the letter of cancellation vide communication dated 09/04/2022 (Anx.10) requesting the promoter to give him back the booked villa as per terms & conditions agreed between the parties but the promoter instead of adhering to the said letter, again sent a legal notice to the appellant dated 24/05/2022 (Anx.11) reiterating the same one sided facts, which are not accepted by the appellant.

4.3 Respondent promoter in their application for map revision have clearly stated in remarks column that there are no bookings in the additional 40 villas proposed in the project. The map revision application was approved on 24/08/2021, whereas booking was accepted by the promoter on 23/02/2021 i.e. 6 months prior to this application. The application was approved by the Authority on the basis of the wrong facts put forth by the promoter before the Authority that respondents No.1 to 4 should not have accepted any booking prior to approval of the revision of maps application dated 24/08/2021.

4.4 Learned counsel further argued that the promoter violated the provisions of the RERA, 2016 by accepting booking for an unregistered project, therefore, a penalty upto 10% of the project should have been imposed upon the promoter.

4.5 Learned Authority erred in law while holding that amount of Rs.2,00,000/- has already been refunded to the complainant, whereas there was no proof regarding

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acceptance of the said amount. However, on rectification application being moved by the respondent-promoter, the learned Regulatory Authority rectified the order dated 13/02/2025 in this regard.

4.6 The promoter issued arbitrary demand letters in respect of the villa in question without fulfilment of the commitment made by the promoter. The promoter adopting unfair trade practices, misrepresented their project solely to extract money from prospective buyers including the complainant.

5) *Per contra*, Mr. Prashant Daga, learned counsel appearing for promoter-respondents No.1 to 4 has raised preliminary submissions that:-

5.1 The appellant has concealed the material fact that he has filed Complaint No.RAJ-RERA-C-O-2022-5961 seeking compensation before the learned Adjudicating Officer against respondent Nos.1 to 5 claiming similar relief as prayed for in this appeal and in this regard, learned counsel has placed reliance upon the table enumerated in Para 2.4 of the Preliminary Submissions. This appeal preferred by the appellant is a mechanical reproduction of Complaint No.RAJ-RERA-C-O-2022-5961 only with a view to harass the promoter.

5.2 Another preliminary submission has been raised that the appellant is pressing for the fresh relief, which was not pleaded before the Regulatory Authority. Learned counsel placed reliance upon the judgment of the REAT Punjab in **Harnek Singh Vs. Punjab Urban Planning and Development Authority : Appeal No.219 of 2020**. On the strength of this judgment, learned counsel argued that the fresh relief/prayers and/or

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pleadings, which were not previously pleaded before the RERA Authority cannot be entertained at the appellate stage.

5.3 The promoter already issued Cheque No.676368 dated 06/02/2021 for Rs.2,00,000/- in favour of the complainant-appellant without deducting 10% of the sale consideration but the complainant did not encash the same. Thus, the relationship between the allottee and the promoter does not exist.

5.4 All the contentions, submissions and averments made by the appellant in this appeal are false, frivolous, baseless and vexatious. The impugned order is well reasoned, factual and lawful determination, passed after considering all the arguments, documents and evidences put forth by both the parties. Impugned order does not prejudice the appellant and is passed after due application of mind. The order is just and proper taking into account interest of all the parties. Complaint No.RAJ-RERA-C-O-2022-5962 seeking compensation was also dismissed by the learned Adjudicating Officer vide order dated 02/05/2025 on the ground the cancellation letter dated 15/03/2022 has attained finality as the order dated 02/04/2025 has not been challenged in this appeal. Since the issue of 'cancellation of unit' is already set at rest by the learned Adjudicating Officer vide order dated 02/04/2025; hence, the present appeal assailing the issue of 'cancellation of unit' is not maintainable. The appellant has failed to establish any ground warranting exercise of appellate jurisdiction of this Tribunal. The appellant seeks to introduce and press fresh relief, which were neither pleaded nor pursued before the Authority.

5.5 Learned counsel further argued that the appellant did not produce on record a single document showing that width of the connecting road was promised to be 40 feet. The entire story of the appellant is based on conjectures and surmises. In absence of any documentary proof, therefore, Section 12 of the RERA Act, 2016 does not attract. Section 19 of the RERA Act, 2016 casts a duty on the allottee to make timely payments towards sale consideration and in case of failure on the part of the allottee, the allottee is liable to pay interest at the prescribed rate to the promoter. It is a matter of record that the only instalment paid by the appellant was of Rs.2,00,000/- at the time of booking.

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

7) It is admitted fact between the parties evident from the record that appellant-complainant booked one Villa bearing No.B-005 in respondent-promoter's project Anantara – The Villas and an amount of Rs.2,00,000/- was deposited on 23/02/2021 out of total basic sale consideration of Rs.84,00,000/- at the time of booking. It is also admitted that the promoter-respondent issued demand letters dated 29/07/2021 and 04/09/2021 for outstanding instalments and, thereafter, issued a letter for cancellation of the unit dated 15/03/2022 and one cheque of Rs.2,00,000/- was also issued in favour of the complainant, which was not encashed by the appellant-complainant. One legal notice was also served by the appellant-complainant to the promoter regarding non-compliance of commitments made in the brochure and advertisement including 40 feet wide road connecting from Jaipur Ajmer Highway.

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7.1 In the above factual matrix of the matter, the learned Regulatory Authority vide initial order dated 13/02/2025 provided delay interest and, thereafter, upon one application preferred by the respondent-promoter, the learned Regulatory Authority rectified the order dated 13/02/2025, vide order dated 13/05/2025 and granted refund of Rs.2,00,000/- including delay interest for the period the amount remained with the respondent-promoter.

7.2 It is well settled proposition of law that the fresh pleadings or prayers incorporated in appeal, which were not previously pleaded or prayed for before the lower court, cannot be entertained in the appeal. It is revealed from the initial Complaint No.RAJ-RERA-C-N-2022-5961 preferred by the appellant-complainant that it was preferred specifically for three-fold of relief, as under:-

“(ii) The respondents may be directed to adhere to the commitments they have made and deliver to the buyers what they have advertised.

(iii) If, at all respondents No.1 to 4, are not in a position to fulfil what they have promised, the said Project may be stayed and the complainant may either be refunded the entire payment along with the interest.

(iv) Penalty under Section 61 may separately be levied upon the respondents for contravening the provisions of section 3,11,12,14 and 19 of the Act being 5% of the estimated cost of the real estate project”.

It is crystal clear from Relief Clause Nos.(ii) & (iii) that if the respondent-promoter is not in a position to fulfill what they have promised then, the complainant prayed for refund of the entire payment along with interest. The main relief prayed by the appellant-complainant is already granted by the learned Regulatory Authority regarding refund of entire deposited amount along with interest vide impugned-order dated 13/02/2025 and rectified order dated 13/05/2025. There are no specific documents available on the record

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to establish that connecting road was required to be 40 feet wide or violated the second plea of RERA Act, 2016 during registration of the project. Further, the Authority is free to exercise its jurisdiction under Sections 59, 60 & 61 of the RERA Act, 2016 if any provisions of the RERA Act, 2016 or RERA Rules, 2017 are violated by any promoter in appropriate cases.

8) In the light of above discussions, the appeal fails hence dismissed and the initial order passed by the Regulatory Authority on 13/02/2025 and subsequent rectified order dated 13/05/2025 passed in Complaint No.RAJ-RERA-C-N-2022-5961 are affirmed.

9) There is no order as to costs.

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

File be consigned to record.

Yudhishtir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson