

BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

(1) Appeal No.198/2025

In Complaint No.RAJ-RERA-C-N-2024-7469

Air Force Naval Housing Board, Air Force Station, Race Course, New Delhi- 110003
through its Project Director, Khasra No. 55/1, Benar Road, Village _ Boyatawala, Jaipur,
Rajasthan- 302012.

....Appellant

Versus

Subey Singh Jat, Tatarpur, Mandawar, Alwar, Tatarpur, Mundawar, Khairthal- Tijara,
Alwar, Rajasthan- 301404.

.....Respondent

(2) Appeal No.63/2026

In Complaint No. Complaint No.RAJ-RERA-C-N-2024-7469

Subey Singh Jat, Tatarpur, Mandawar, Alwar, Tatarpur, Mundawar, Khairthal- Tijara,
Alwar, Rajasthan- 301404.

....Appellant

Versus

Air Force Naval Housing Board, Air Force Station, Race Course, New Delhi- 110003
through its Project Director, Khasra No. 55/1, Benar Road, Village _ Boyatawala, Jaipur,
Rajasthan- 302012.

.....Respondent

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For Appellant/Respondent-AFNHB : Mr. Mahendra Singh Yadav, Advocate

For Respondent/Appellant-Subey Singh : Ms. Unnati Vijay, Advocate

ORDER

Reserved on 07th July, 2026:

Pronounced on 14th July, 2026:

Per: Justice Madan Gopal Vyas, Hon'ble Chairperson

The impugned-order is common and both the appeals are also related to common project in the name and style of Jaipur Phase-II "Jal Vayu Tower", therefore, both are being decided by this common order.

2) The captioned appeals have been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act, 2016") against the impugned order dated 18/09/2025 passed by the Rajasthan Real Estate Regulatory Authority), Jaipur (hereinafter referred to as the "Regulatory Authority") in Complaint No: RAJ- RAJ-RERA-C-N-2024-7469. The operative portion of the said order is reproduced hereunder:-

"9. In view of the above facts and record and looking to the delay in completion of the project and handing over the possession the claim of complainants for interest on delay period deserve to be allowed. The interest will be paid on the amount deposited by each complainant till 31.12.2017.

(ii) Complaint No.RAJ-RERA-C-N-2024-7469

The respondent is directed to pay delay period interest to the complainant from the expected date of delivery i.e. 01.01.2018 till date of obtaining partial occupancy certificate i.e 20.06.2022 excluding moratorium period from 01.11.2021 to 22. 06.2022. The delay interest would be calculated at the rate prescribed in the RERA Rules, 2017 i.e. 10.90% per annum (Highest SBI MCLR 8.90% + 2%).

10. Delay interest amount if refunded to the complainants or adjusted @ 3% per annum earlier, will be set off/ adjusted against the accrued interest as allowed above in para 9 (i), (i) & iii).

Any amount if remains surplus after such adjustments, will be refunded/ payable to the other respective parties.

11. *The order is to be complied with within 45 days from its uploading on the web-portal of the Authority.”*

3) Hence, in Appeal No.198/2025, it is prayed for, as under:-

“(a) quash and set aside the impugned Order dated 18.09.2025 (Anx.-A/1) passed by the Authority and consequently dismiss the Complaint of the complainant against the appellant with cost and further be pleased to allow the period of 22 months 28.09.2015 to 26.07.2017) to be excluded from paying the delay interest as the construction work remained stopped due to "Stop Work" notices by JDA;

(b) in the alternative modify the impugned order dated 18.09.2025 (Anx.-A/1) and allow the appellant to 3% p.a. as offered by the pay delay interest @ appellant itself in place of 10.90% (8.90% +2%) p.a. to the complainant.;

(c) this Hon'ble Tribunal may further be pleased to restrain the Registry of this Hon'ble Tribunal not to disburse the amount deposited under Section 43(5) of the Act of 2016 in the light of Order dated 10.01.2025 (Anx.-12) of the Hon'ble High Court.”

4) In Appeal No.63/2026, it is prayed for as under:-

“1. Allow the present Appeal and modify the impugned Order dated 18.09.2025 passed by the Ld. RERA Authority in Complaint No. RAJ-RERA-C-N-2024-7469, to the extent it restricts the statutory entitlement of the Appellant:

2. Direct the Respondent to pay delayed possession interest on the entire amount deposited by the Appellant, without any artificial or arbitrary restriction linked to date of deposit or any cut-off date;

3. Award costs of the present Appeal in favour of the Appellant”.

5) Mr. Mahendra Singh Yadav, learned counsel appearing for the Air Force Naval Housing Board (AFNHB) argued that AFNHB is a welfare organisation registered under the Act of 1860 with objective of providing residential houses to the Retired Air Force and Naval Personnel & Widows; and it is rendering services only on “No profit No loss” basis under Self-financed housing scheme. The AFNHB does not possess any funds to its own and it is completely run by the contributions collected from allottees of various housing projects in the country. He further submitted that firstly the construction

work was delayed on account of "Stop Work" Notices issued by the JDA and termination of contract with M/s. VIPL-MIPL for almost 03 years (2015 to 2018) and secondly the construction work was delayed on account of imposition of restrictions due to COVID-19 for 01 year since the labourers and material were not available during Lock Down period. Both the causes of delay were unforeseen and fall under *Force Majeure*.

Learned counsel for the AFNHB further contends that the delay in handing over possession was bona fide and caused by unforeseen circumstances beyond its control. Although not legally obligated, it voluntarily offered 3% interest as a goodwill gesture to existing allottees who continued with the project. The complainant chose to continue with the project, accepted possession, and executed the Sale Deed. It is further submits that the allotted unit has been completed, the necessary completion and occupancy certificates have been obtained, all project facilities are operational, and the project has been handed over to the registered Residents Welfare Association (RWA) in compliance with RERA. Learned counsel further prayed for exclusion of 22 months period due to stop work notice and alternatively, allow appellant for 3% p.a. delay interest as offered by AFNHB.

6) *Per contra*, Ms. Unnati Vijay, learned counsel appearing for the complainant submitted that the AFNHB is enjoying interest @10-12% from the money deposited by the allottees, whereas the allottees are being provided only 3% interest and it thus clearly demonstrated the oblivious and nonchalant attitude of the AFNHB, which is raising money from the allottees without the maps getting approved. Learned counsel

submitted that the AFNHB launched the scheme in Jaipur in 2011, whereas maps were approved from the competent authority on 27/06/2013. Learned counsel further submits that it was obligatory on the part of the AFNHB to grant delay interest as the complainants cannot be made to suffer due to fault on the part of the Promoter for the project being delayed. Hence, the complainant is entitled to get the delay interest without any artificial or arbitrary restrictions as per statutory entitlement of appellant.

7) We have heard learned counsel for the parties and with their assistance, perused the entire material available on record.

8) Facts relevant to decide these appeals in brief are that AFNHB is a welfare organization registered under the societies Registration Act, 1860 with objective of providing residential houses to the Retired Air Force and Naval Personnel and Widows of the Personnel of these Services only on “*No profit No loss*” basis under **Self-financed housing scheme**. The AFNHB does not possess any funds to its own and it is completely run by the contributions collected from allottees of various housing projects in the country. In the present matter, the AFNHB launched a group housing project, in the name & style of Jaipur, Phase-II in year 2011 and after getting sufficient amount from allottees as per policy, AFNHB issued allotment letters to some of the allottee/complainants. The AFNHB launched the project with revised cost and specifications at Village-Byotawala in Jaipur for developing 444 flats (DUs) in 11 towers on 10 acres land with proposed height of 30.5 meters and after approval of building plans on 27th June, 2013 from JDA, work order was awarded to one contractor M/s. VIPL-MIPL with PDC of 30 months and work is to be completed by the end of 2017 in which

withdrawal from scheme only be permitted if waiting list exist (Clause-12) and tentative date of completion was end of year 2017 (Clause-17). Thereafter, the AFNHB has obtained a partial Completion Certificate (CC) for towers C, D, E, F, H, J & L and Community Hall on 28th October, 2021 and partial Occupancy Certificate (OC) for said towers on 20th June, 2022. The allottees of this project have formed association and registered on 18th May, 2022. Notices for paper's/physical possession was issued to allottee/complainants.

In the present case, Unit No.J 701 was allotted to the complainant Subey Singh for the total sale consideration of Rs.41,45,000/-, which was totally paid by the complainant. The expected date of the unit was December, 2017. Partial Completion Certificate was issued on 28/10/2021 & the Partial Occupancy Certificate was issued on 20/06/2022 and the Sale-deed was executed on 10/12/2022. The possession letter was issued by the respondent offering possession of the unit on 25/02/2022, which is before the obtaining of partial completion certificate on 20/06/2022 but, after the issuance of completion certificate on 28/10/2021.

8.1 So far as argument of the learned counsel for the AFNHB regarding awarding 3% delay interest to the present complainant and to allow the period of 22 months (28.09.2015 to 26.07.2017) to be excluded as prayed for by the AFNHB in Appeal No.198/2025 is concerned, these issues have already been dealt with and decided while framing three questions of law by this Tribunal in Appeal No.139/2024 : Air Force Naval Housing Board Vs. Arpita Jain Garg & 8 other similar appeals on 25.10.2024 as follows:-

“Question No.1:-

As to whether, complainants/allottees-Ms. Arpita Jain Garg and LRs. of late Mr. Balinder Lal, have unqualified right to seek refund on demand and entitled to refund of entire deposited amount under Sections 18(1)(a) and 19(4) of the Act of 2016?”

This Question No.1 was decided against above allottees and in favour of the AFNHB”.

8.2 It is noted that in Complaint No. RAJ-RERA-C-N-2024-7469, the possession was already taken by the complainant-appellant Subey Singh, therefore, the question of refund of total deposited amount was not claimed and also not relevant in both these appeals.

“Question No.2:-

Whether, AFNHB is entitled to, exclude the period of 22 months due to stop work notice by JDA, and termination of contract and also moratorium of 12 months period due to Covid-19 as notified by the learned Regulatory Authority on 13th May, 2020?”

This question was framed on the basis of two-fold prayer of the AFNHB:-

(i) for exclusion of 22 months period due to stop work notices issued by the JDA & (ii) for exclusion of 12 months period due to Covid-19 pandemic situation. The detailed reasoning was mentioned in earlier order passed by this Tribunal on 25/10/2024 in Appeal No.139/2024 but conclusion of above questions may be produced, as under:-

First prayer for exclusion of 22 months period due to stop work notices issued by the JDA was declined by this Tribunal because it was owing to own negligence/fault of the AFNHB as the plan of the AFNHB was wrongly approved without due application of mind by the JDA being contrary to the prevailing guidelines. Hence, it was opined that “Therefore, AFNHB is not entitled to get any benefit owing to its own negligence and can’t be treated as “Force De Majeure” defined in Section 6 of the Act of 2016. The impugned-orders were not sustainable to this extent in which, exclusion of 22 months period was accepted for the purpose of computing interest, in the eyes of law.

Second prayer for exclusion of 12 months period due to Covid-19 pandemic situation was accepted because of the fact that on 01/05/2017, the Act of 2016 was promulgated and AFNHB got the project registered with the RAJ-RERA Authority and obtained registration No: RAJ/P/2017/553 on 18/12/2017 as an “ongoing” project. Meanwhile, due to Covid-19 pandemic, one order was passed by the learned Regulatory Authority on 13/05/2020 granting extension of 12 months period to the estimated finish dates and validity of registration to those real estate projects, which were registered and not already completed, lapsed or revoked as on 19/03/2020. Since the project of AFNHB was incomplete on the very said date; therefore, it was opined that the AFNHB can claim exclusion of moratorium period while computing the interest on the ground of delay.

Hence, this Question No.2 was partially decided thereby; **(i)** declining prayer of the AFNHB for exclusion of 22 months period due to stop work notices issued by the JDA and **(ii)** accepting the prayer of exclusion of 12 months moratorium period due to Covid-19 pandemic situation”.

“Question No.3:-

Whether, complainants/allottees are entitled for delay interest @3% as unilaterally decided by AFNHB or at the rate prescribed by the Rules of 2017 i.e. SBI highest MCLR+2% from, 01st January, 2018/ 01st, November, 2019 till date of possession or the date of offer of possession or till complete occupation certificate?”

The above question with regard to award of 3% delay interest was decided, as under:-

“It is pertinent to mention here that when 3% interest declared by the AFNHB; at that time, AFNHB was registered on 26/12/2017 with RAJ-RERA and accordingly, the provisions of the Act of 2016 and the Rules of 2017 were applicable to the AFNHB; in which, rate of interest is prescribed i.e. MCLR+2% as provided by the learned Regulatory Authority to the other complainants except above mentioned three complainants-appellants.

It is noted that rate of 3% interest was unilaterally decided by the AFNHB without assigning any reasons, justifications or support of any Rules & Regulations. It is evident from the record that AFNHB is charging rate of interest for delay instalments, which is near about 9-10% along with equalisation charges. The complainants annexed the documents of financial institutions, which show that the complainants are paying 9.5% and above rate of interest on the Home Loan taken from different financial institutions.

It is pertinent to mention here that the interest was claimed by the claimants/allottees after enactment of the Act of 2016 in which, the AFNHB was registered as a ‘promoter’. Therefore, the respondent-AFNHB is not empowered to deviate from the mandate of the Act of 2016 as well as the Rules of 2017.

It may be treated a welfare and bonafide action of AFNHB before enactment of the Act of 2016 to compensate the allottees because there is no provision to provide delay interest in Regulations (Master Brochure, 2012) but after registration as promoter, the AFNHB is not at liberty to deviate from the provisions of the Rules of 2017 as per the directions given by the Hon'ble Apex Court in the case of Newtech Promoters and Developers Pvt. Ltd. (supra) and in other cases as cited by counsel for complainants-appellants. Therefore, all above three complainants are entitled to get delay interest as prescribed in the Rules of 2017 i.e. highest MCLR + 2%."

Thus, this Question No.3 was decided and answered in favour of the complainants".

8.3 Both the appeals are squarely covered by the findings recorded by this Tribunal in Appeal No.139/2024 as above. Therefore, the prayer of AFNHB for exclusion of 22 months period due to stop work notice issued by the JDA cannot be excluded and prayer for exclusion of 12 months moratorium period due to Covid-19 pandemic situation is already excluded by the learned Regulatory Authority by the impugned-order. Further, as per finding of Question No.3 in earlier decided Appeal No.139/2024 on 25/10/2024, the appellant-AFNHB is also not competent to deviate from the provisions of the RERA Rules, 2017. Resultantly, alternative prayer regarding award of 3% delay interest is also not acceptable. Since AFNHB already provided interest @3% p.a. to the complainant, therefore, the learned Regulatory Authority rightly directed to set-off/adjusted against the occurred interest.

Therefore, all the findings and directions of learned Regulatory Authority regarding possession and entitlement of delay interest @SBI highest MCLR + 2% i.e. 8.80% + 2.00% = 10.80% w.e.f. the expected date of delivery of possession till the date of obtaining partial occupancy certificate i.e. 20/06/2022 excluding the period of moratorium as notified by the Regulatory Authority from 01/11/2021 to 22/06/2022, are applicable to the present case too.

8.4 It is also observed in the S.B. Civil Miscellaneous Appeal No.5098/2024 filed by the respondent promoter Air Force Naval Housing Board, the Hon'ble Rajasthan High Court, while considering the stay applications filed by the respondent, restrained the Rajasthan Real Estate Appellate Tribunal from remitting or releasing the amount deposited by the respondent in all appeals, by order dated 10/01/2025.

8.5 The sole intention of the provisions of Section 43(5) of the Act of 2016 is to safeguard the interests of the parties, on being decided by the regulatory authority/adjudicating officer and it is always subject to appeal before the Tribunal under Section 43(5) provided, condition of mandatory pre-deposit, which can be further challenged in appeal before the High Court under Section 58 of the Act and thus, the legislature has put reasonable restriction, which safeguards at all stages.

8.6 In the light of above discussion, Appeal No.198/2025 preferred by AFNHB deserves to be dismissed.

8.7 The complainant-allottee Subey Singh also prayed to get the delay interest as per entitlement of the appellant. It is evident from the record that in the present matter, possession letter was issued by the respondent for allotted unit on 25/02/2022 after issuance partial completion certificate on 28/10/2021 but before issuance of partial occupancy certificate on 20/06/2022. Ultimately, the sale deed was executed on 10/12/2022. In such situation, the learned Regulatory Authority provided delay interest to the complainant from the expected date of delivery i.e. 01/01/2018 till the date of obtaining partial occupancy certificate on 20/06/2022 excluding moratorium period as

per its jurisdiction provided by law, therefore, the order passed by the learned Regulatory Authority does not require any interference. Therefore, Appeal No.63/2026 also deserves to be dismissed.

9) In view of the aforesaid observations, Appeal No.198/2025 filed by AFNHB and Appeal No.63/2026 filed by complainant-Subey Singh are hereby dismissed and the impugned-order dated 18/09/2025 passed by Regulatory Authority in Complaint No.RAJ-RERA-C-N-2024-7469 is affirmed.

10) Registry of this office is directed to handover the amount to the allottee-respondent deposited in Appeal No.198/2025 under Section 43(5) of the RERA Act, 2016, after expiry of limitation period of appeal in the light of the order passed by the Hon'ble Rajasthan High Court in SBCMA No.5098/2024 on 10/01/2025.

11) Pending interim order(s)/application(s) if any, stand closed.

12) A copy of this order be transmitted to the counsel for the parties and RAJ RERA, Jaipur and also be kept on record in every appeal.

13) There is no order as to costs.

Files be consigned to record.

Yudhishtir Sharma,
Member (Judicial)

Justice Madan Gopal Vyas,
Chairperson