

BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

(1) Appeal No.24/2025

In : Complaint No. RAJ-RERA-C-N-2024-7260

SKG B3B LLP, having its registered office at 6, Rajiv Vihar, Gopalpura Bypass, Jaipur-302018 (Rajasthan), through its Authorized Signatory.

....Promoter-Appellant

Versus

1. Kailashi, wife of Shri Ramavtar Meena, aged about 42 years, resident of B-51, Shankar Vihar, Sawai Gatore, Jaipur (Rajasthan) – 302017.
2. Ramavtar Meena, son of Shri Gangasahay, aged about 51 years, resident of B-51, Shankar Vihar, Sawai Gatore, Jaipur (Rajasthan) – 302017.

....Complainant-Respondents

3. Yes Bank Limited, having its branch office at E-2, 1st Floor, Gautam Marg, Vaishali Nagar, Chitrakoot, Jaipur (Rajasthan) – 302021.

.....Respondent

(2) Appeal No.25/2025

In : Complaint No. RAJ-RERA-C-N-2024-7486

SKG B3B LLP, having its registered office at 6, Rajiv Vihar, Gopalpura Bypass, Jaipur-302018 (Rajasthan), through its Authorized Signatory.

....Promoter-Appellant

Versus

1. Kailashi, wife of Shri Ramavtar Meena, aged about 42 years, resident of B-51, Shankar Vihar, Sawai Gatore, Jaipur (Rajasthan) – 302017.
2. Ramavtar Meena, son of Shri Gangasahay, aged about 51 years, resident of B-51, Shankar Vihar, Sawai Gatore, Jaipur (Rajasthan) – 302017.

....Complainant-Respondents

3. Yes Bank Limited, having its branch office at E-2, 1st Floor, Gautam Marg, Vaishali Nagar, Chitrakoot, Jaipur (Rajasthan) – 302021.

.....Respondent

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For Appellant : Ms. Pryanshi Katta, Advocate
For Respondents No.1 & 2 : Mr. Krishna Singh, Advocate assisted by
: Mr. Ravindra Kumar, Advocate

ORDER

Reserved on 14th July, 2026:

Pronounced on 16th July, 2026:

Per: Justice Madan Gopal Vyas, Hon'ble Chairperson

Both these appeals have been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter be referred to as the "RERA Act, 2016") challenging the order dated 03/02/2025 commonly passed by the learned Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter be referred to as the "Regulatory Authority") in cross-complaints.

2) The facts in brief are that complainant Kailashi booked a Unit No.707, Block-A in the project of the promoter namely; "Saavyas" for the total sale consideration of Rs.13,78,253/- out of which, complainant has paid Rs.6,70,000/- and Agreement for Sale was also executed between the parties on 07/06/2018. Thereafter, the complainant obtained a Home Loan from respondent No.3-Yes Bank for an amount of Rs.10,00,000/- sanctioned vide sanction letter dated 06/06/2018 and accordingly, a Tripartite Agreement came to be executed between the parties. The said Tripartite Agreement provides that the remaining sale consideration after deducting the loan amount is to be remitted by the Borrower from his/her own contribution to the Developer. Since balance sale consideration

was not paid after payment of Rs.6,70,000/-, the promoter cancelled the unit vide communication dated 22/01/2022, which was communicated to the complainant. Respondent No.3-Yes Bank was also communicated vide communication dated 15/06/2022. Thereafter, complainant filed complaint before the Authority on 28/05/2024 for quashing of the cancellation letter dated 22/01/2022. The appellant herein has also filed complaint seeking approval of the cancellation letter dated 22/01/2022. The learned Regulatory Authority disposed of both the complaints, as under:-

“5. *Having heard the parties and perused the record available, this Authority is of the view that the complainant has nearly made 50% payment towards the sale consideration. Therefore, the cancellation of the unit is not allowed as prayed by the respondent promoter. Also, the complainant is directed to pay the outstanding amount with interest to the respondent promoter as per the agreement to sale dated 07.06.2018.*

6. *Accordingly, both the complaint nos. **RAJ-RERA-C-N-2024-7260** and **RAJ-RERA-C-N-2024-7486** are disposed of in light of above directions”.*

3) Hence, these two appeals have been filed with the following prayer:-

- “1. *Quash and set-aside the impugned common order and judgment dated 03.02.2025 passed by the Learned Rajasthan Real Estate Regulatory Authority in Complaint No.RAJ-RERA-C-N-2024-7486 titled SKG B3B LLP v. Kailashi and Others) and RAJ-RERA-C-N-2024-7260 (titled Kailashi v. SKG B3B LLP).*
2. *Declare Agreement for Sale dated 07.06.2018 as cancelled from the date of cancellation letter dated 22.01.2022.*
3. *Direct Respondent No.3 to foreclose the loan account of Respondent No.1 & 2 in view of cancellation letter dated 22.01.2022”.*

4) Ms. Priyanshi Katta, learned counsel appearing for the appellant has argued that the impugned order is against the settled principles of equity and fairness. The cancellation letter dated 22/01/2022 was communicated to the complainant as per procedure established by law. Failure on the part of the

complainant to pay the instalments even after numerous repeated reminders shows the malafide intent of the complainants. Therefore, unit was rightly cancelled by the appellant by cancelling Agreement for Sale dated 07/06/2018. Section 19(6) of the RERA Act, 2016 provides that every allottee who has entered into agreement for sale as per Section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the agreement and the word 'shall' makes the said provision mandatory in nature. Therefore, complainant violated the provisions of Section 19(6). Section 11(5) of the RERA Act, 2016 grants the promoter a right to cancel the allotment of a unit in terms of agreement for sale. Learned Authority has wrongly recorded in the impugned order the amount of total sale consideration to be Rs.13,78,253/-, whereas s per agreement for sale dated 07/06/2018, total consideration of the allotted unit was Rs.14,29,299/-. The impugned order was not a reasoned order. Therefore, appeals may be allowed and the impugned order dated 03/02/2025 may be quashed and set-aside.

5) *Per contra*, Mr. Krishna Singh, learned counsel appearing for respondents No.1 & 2 has argued that the complainant was required to pay Rs.3,78,253/- out of Rs.13,78,253/- as Rs.10,00,000/- was to be disbursed by the Bank. Hence, the complainant paid Rs.3,78,253/- out of total sale consideration. But the promoter issued the OCR Demand Letter dated 08/07/2019 for due amount of Rs.2,50,637/- in respect of the unit in question and, thereafter, Demand Notice dated 19/09/2019. The respondents No.1 and 2 immediately deposited the said amount but the promoter did not accept the same from respondent No.3-Yes Bank

knowingly and intentionally with the malafide intention to sale the said unit to another person on higher price. The unit was booked under the CLP Plan (Construction Lined Plan), which is a concept where the three parties i.e. bank, buyer and builder are in an alliance. In this case, the bank disburses the amount to the builder periodically on behalf of respondents No.1 and 2. Therefore, the promoter wrongly cancelled the unit allotted to the complainant vide impugned cancellation letter dated 22/01/2022.

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

7) It is admitted position between the parties as is evident from the record that the complainant-allottee booked a Unit No.A-707 in the project of the promoter - "Saavyas" for the total sale consideration of Rs.13,78,253/- out of which, complainant has paid Rs.6,70,000/- and Agreement for Sale was also executed between the parties on 07/06/2018. Thereafter, the complainant obtained a Home Loan from respondent No.3-Yes Bank for an amount of Rs.10,00,000/- sanctioned vide sanction letter dated 06/06/2018 and accordingly, a Tripartite Agreement came to be executed between the parties. It is also revealed from the record that the respondent-promoter raised demands vide letters dated 07/06/2018, 01/08/2018, 23/08/2018 and 08/07/2019 and ultimately after legal notice dated 19/02/2019 cancelled the unit vide letter dated 22/01/2022 for non-payment of the outstanding sale consideration.

It is true that as per clause 5.5 of the Agreement for Sale, in case of non-payment of total sale consideration within stipulated period, promoter has right to cancel the unit in certain circumstances but as per clause 6.49, the respondent-allottee adopted a construction linked plan and instalments were to be paid according to the progress of the project and progress of the project neither specifically mentioned in the demand notices issued by the promoter nor furnished any document regarding completion of the project. Further, the Tripartite Agreement is also available on record with Yes Bank Limited and as per loan sanctioned letter Anx.3, the amount of Rs.10,00,000/- was sanctioned by the Yes Bank and some instalments were also obtained by the promoter through aforesaid bank.

8) In such circumstances, more 50% of the amount has already been paid by the complainant-allottee to the promoter and rest of the amount was secured by the Yes Bank in the light of Tripartite Agreement and the complainant-allottee is ready to pay the outstanding amount and keen to take possession of the allotted unit, therefore, the learned Regulatory Authority has rightly not approved the cancellation letter dated 22/01/2022. There is nothing to interfere in the finding of the learned Regulatory Authority recorded while passing the impugned-order dated 03/02/2025.

9) Resultantly, both the appeals fail and are hereby dismissed. The impugned-order dated 03/02/2025 passed by the learned Regulatory Authority in

Complaint Nos.RAJ-RERA-C-N-2024-7260 and RAJ-RERA-C-N-2024-7486 is affirmed.

10) The interim-order, if any, shall stand vacated automatically and any other misc.application, if any, shall also stand disposed of.

11) A copy of this order be transmitted to the learned counsel for the parties and Raj-RERA, Jaipur and be kept on record of every appeal.

Files be consigned to record.

**Yudhishtir Sharma,
Member (Judicial)**

**(Madan Gopal Vyas), J.
Chairperson**

Anil Goyal-PS/Suppl.1 & 2