



IN THE ODISHA REAL ESTATE APPELLATE TRIBUNAL
AT BHUBANESWAR

OREAT Appeal No. 124/2024

(Arising out of C.C. No. 47 of 2023)

- 1) Reeta Structural Pvt. Ltd.
- 2) Balaji Kumar Patra, Managing Director, Reeta Structural Pvt. Ltd.
- 3) P.V. Gupta, Director, Reeta Structural Pvt. Ltd.

...Appellant

-Versus-

- 1) Rabindra Nath Dash
- 2) Secretary, ORERA, Bhubaneswar.

...Respondents.

For the appellant	: Mr. A. K. Mishra, Advocate
For respondent no.1	: Mr. L.K. Rath, Advocate
For respondent no.2	: Mr. B. Nayak, Advocate

CORAM :

Shri S.K. Rajguru, Judicial Member
Dr. B.K. Das, Tech./Admn. Member

ORDER

6.7.2026

The appeal is taken up for final order.

2) Order dtd.25.6.2024 passed by the learned Odisha Real Estate Regulatory Authority (in short ORERA) in Complaint Case No. 47 of 2023 is under challenge in this appeal. The aggrieved appellants no.1,2 and 3 were the respondents no.1,2 and 4 respectively in the said complaint case, the respondent no.1 of the appeal was the complainant therein and the respondent no.2 is the learned ORERA. Prayer has been made in this appeal to set aside the impugned order dtd.25.6.2024 passed in C.C. No.47 of 2023 by the learned ORERA and pass any other order(s)/direction(s) as deemed fit.



3) Facts and circumstances leading to the filing of this appeal are as follows:-

The respondent no.1 of this appeal filed the aforesaid complaint case before the learned ORERA submitting that the respondents no.2,3 and 4 as Managing Director and Directors of the respondent no.1-Company sold the Flat No.B-2/220 of the project “Reeta Valley Apartment” at Gudiapokhari Chhak Sangalai Sasan, Pipili, Puri to him on 23.9.2015 and at the time of execution of registered sale deed the respondents assured him that they would comply with the unfinished works and amenities as provided in the brochure. However, inspite of repeated requests, correspondences and reminders by the complainant, they did not turn up to comply with even a single unfinished work. The complainant issued a legal notice to the respondents on 10.6.2020. On receipt of the said notice, the respondents replied through their counsel that they have complied with all the commitments as reflected in the brochure. The complainant was forced to lodge an FIR with Pipili police and the respondents being called by police filed an undertaking to complete the drainage system, DG automation and inauguration of temple by the end of February, 2021. They also orally agreed to comply with all other amenities as contended in the brochure within a short time. On 17.4.2021 the complainant and other flat owners informed the Superintendent of Police, EOW (Crime Branch), Bhubaneswar about the cheating of the respondents and mis-appropriation of money by them. The Enforcement team of the ORERA visited the project for the purpose of inspection on 13.7.2021. The complainant alleged that till date the respondents have failed to provide the required amenities like park (landscaped garden), children’s play ground, jogging track,



skating zone, swimming pool, badminton court, A.C. club house, shopping centre, fire safety equipments, drainage system of sewage water and drain water, convenient parking area and intercom telephone to the residents as reflected in the brochure. The respondents have also not obtained occupancy certificate in respect of the project and have so far failed to take any step to form a registered society of the allottees for the security and better management of the flat owners. It is further alleged that the respondents having money and muscle powers are trying their best to threaten the complainant and other flat owners and have also violated the provisions under the RERA Act, 2016 as well as the Odisha Apartments Ownership (Amendment) Act, 2015 and the Rules made there-under. Claiming that the required amenities having not yet been provided by the respondents, the project is an ongoing one and hence comes under the RERA Act, 2016, the complainant prayed for a direction to the respondents to comply with the aforesaid deficiencies together with a car parking garage for the owner's car parking without obstructing entry/exit paths of the garage.

Pursuant to the notice issued by the learned ORERA the respondents no.1,2 and 4 appeared through their counsel and filed written show cause to the complaint contending that though seven flat owners of the project including the complainant had lodged a complaint to the S.P., EOW (Crime Branch), Bhubaneswar against the respondents, but no case having been made out against them, the application was forwarded by the S.P., EOW (Crime Branch) to the learned ORERA for appropriate action vide letter dtd. 12.5.2021. It is further submitted that the Enforcement Officer and Empanelled Engineer of ORERA after visiting the project submitted an inspection



report and the learned ORERA after hearing was pleased to impose a penalty of Rs.10,00,000/- on the respondents and directed them to get NOC for ground water extraction from CGWA and Fire Safety Certificate vide order dtd. 19.7.2022 passed in C.C. no.231 of 2021. It is further submitted by the respondents that they preferred appeal against the said order before the Odisha Real Estate Appellate Tribunal (O.A. No.95 of 2022) and the Tribunal vide order dtd. 11.1.2023 passed in I.A. no. 189 of 2022 was pleased to stay further proceeding arising out of C.C. No.231 of 2021. The respondents claimed that under such circumstance the present complaint case was not maintainable being hit by the principle of res judicata. The respondents specifically claimed that the project having been completed much prior to the enactment of the RERA Act, 2016 the allegations of the complainant are false. It is further submitted that, completion of works of the project like spiritual centre, shopping centre, pollution free atmosphere, play school, 24 hours water supply through deep bore well, silent generator for the common areas, inter com and 24 hours security, car washing area, ample space for visitors' parking, provision for proper drainage, ventilation, health club, swimming pool, badminton court, basket ball court, jogging track, A.C club house, society hall and lift in each block have been suppressed by the complainant. The respondents claimed that there being no agreement between them and the complainant to provide the claims made by him, it is false to submit that at the time of execution of sale deed, they had assured him to comply with all the unfinished works and amenities as mentioned in the brochure. It is further claimed by the respondents that till date they are managing the maintenance of the flats of the project spending around Rs.20,00,000/- per month.



They respondents denied to have given any undertaking to complete the drainage system, DG automation and inauguration of the temple as the same are already completed. As regards the non-obtaining of occupancy certificate in respect of the project, the respondents submitted that the project having been approved by the Block Development Officer he is competent to issue the occupancy certificate. Though the State Govt. has authorized the District Planning Authority to issue completion as well as occupancy certificates vide Notification No. 4844 dtd. 20.4.2020, in accordance with the RERA Act, 2016 but so far as the present project is concerned, the State Govt. took a decision and made it mandatory to obtain permission from the District Planning Agency through respective panahayat samitis only in the month of November, 2019. The respondents claimed that the present construction having been completed in the year 2017 and occupancy certificate having been issued on 27.4.2017, it is false to allege that the occupancy certificate has not been obtained by the respondents. Reiterating their allegation that only seven flat owners including the complainant had made the complaint before the S.P., EOW (Crime Branch) but rest of the flat owners have no complain against them, the respondents prayed to dismiss the complaint with costs.

The learned ORERA after going through the respective pleadings of the parties and the documents filed by them in support of the same and also on hearing their respective contentions allowed the complaint petition with the directions to the respondents to complete the unfinished amenities of the project as per the brochure i.e. to provide landscaped garden, children's play ground, jogging track, skating zone, A.C club house, fire safety extinguishers, to make



functional a permanent drainage system and intercom telephone facility to the allottees, to obtain occupancy certificate from the competent authority and provide the same to the complainant and other allottees, to enable formation of an association of the allottees, to hand over the common areas to the association of allottees as per section 17 of the RERA Act, 2016 and to provide parking space to the complainant as well as mark the drive ways, with a further direction to comply with the aforesaid deficiencies within a period of two months or else to enforce the order as per law.

4) In the hearing of the appeal, the learned counsel for the appellants has submitted that, in O.A. 95 of 2022 this Tribunal has already held the present project to be completed prior to the commencement of the RERA Act, 2016 and hence the Act is not applicable to it. It is further submitted that the complaint case is barred by the principle of res judicata as S.M.C.C. 231/2021, which is similar to it has already been decided. It is further submitted that the impugned direction to obtain the occupancy certificate from the competent authority is contrary to the final order passed in O.A. No.95 of 2022 and hence is not sustainable. It is further submitted that the impugned direction to form association of allottees within two months and handover the common areas of the project in accordance with the RERA Act, 2016 will have difficulties in practical implementation as the agreement for common areas, which is a pre-requisite for submission of proposal for association to the competent authority under the Odisha Apartment (Ownership & Management) Act, 2023 is being avoided by the home buyers of the project. It is further submitted that the impugned direction to make the drainage system functional by permanent structure within a stipulated time



frame of two months will also have practical difficulties as there is no ear-marked drainage system by the local self government. It is further submitted that the impugned direction for the children's play ground is also not appropriate as the issue has been explained by the appellants in their reply to SMCC No. 231/2021. It is further contended that the impugned direction to provide parking slot to the complaint appears to be a case of mis-representation of fact by him as he has been allotted a parking slot long back. With the aforesaid contentions, the learned counsel for the appellants has made the prayer as already mentioned in para-2.

5) On the other hand, the learned counsel for the respondent no.1 has submitted that the order dtd. 22.11.2023 passed by this Tribunal in O.A. No.95 of 2022 against the order of the learned ORERA in SMCC No. 231 of 2021 is not within the direct knowledge of respondent no.1 as he was not a party in the said proceeding either before the learned Regulatory Authority or before the learned Tribunal. It is further submitted that the non-obtaining of the occupancy certificate from the competent authority as per the statute has been detected during the inspection made by the Enforcement Officer of the ORERA and till date the said deficiency has not yet been removed. It is further submitted that without completion of the project the appellants have handed over residential flats of the project to the allottees including the respondent no.1 which is barred under law. It is further submitted that though in O.A. no.95 of 2022 this Tribunal has been pleased to observe that the project has already been completed before 1.5.2017 i.e. the date of commencement of the RERA Act and therefore has no application to the project, but has not held that the allottees will be debarred from their legitimate



rights over the amenities which were promised to be provided by the appellants. It is further submitted that, the registered sale deed executed by the appellants in favour of respondent no.1 reveals that the flat alongwith the parking space has been sold to the respondent no.1 and though the respondent no.1 has been provided with a parking space, but it has not been well demarcated. It is further submitted that though possession of the flat was offered to the respondent no.1 by the appellants in the year 2017 it was meaningless since most of the development works of the project were not complete and the learned ORERA has rightly observed that the deficiency by the appellant is well supported by the inspection report dtd. 9.2.2024 of the Enforcement Officer. It is further submitted that the conveyance deed of the flat allotted to the respondent no.1 has been executed and registered on 29.8.2016, but its possession was handed over on 23.2.2017 and the fact that till date the appellants have not provided the occupancy certificate duly approved by the P.D., DUDA and taken no steps to form the apartment owners' association clearly go to show that there has been violations of the RERA Act and ORERA Rules. The learned counsel for the respondent no.1 has claimed that the appellants have been collecting monthly maintenance charges from the allottees of the project every month and mis-utilizing the funds for their own benefit and are also avoiding to handover the management of the common areas to the owners' association with false and vexatious pleas. With the aforesaid submissions and claiming that the impugned order having been passed in accordance with law is correct in all respect, the learned counsel for the respondent no.1 has prayed for dismissal of the appeal.



6) The main challenge of the appellant-promoter to the impugned order dtd. 25.6.2024 of the learned ORERA is that, in O.A. No.95 of 2022 this Tribunal has already held the project to be completed prior to the commencement of the RERA Act, 2016 and hence not under its fold. A copy of the final order dtd. 22.11.2023 of this Tribunal in O.A. No.95 of 2022 has been filed by the appellant wherein the learned ORERA's order dtd. 19.7.2022 passed in S.M.C.C. No.231 of 2021 imposing a penalty of Rs.10,00,000/- on the present appellant for violation of Section 3 of the RERA Act has been set aside. In the said order dtd. 22.11.2023 this Tribunal mainly relied on two facts while coming to the finding that the present project has been completed prior to the date of commencement of the RERA Act, 2016 i.e. 1.5.2017 : (i) copies of sale deeds which were filed showed the same to have been executed in respect of the flats of the project between 2013 to January, 2017 and this sufficiently proved that the project was completed before 2013 and the allottees were in possession of their respective flats since 2013, (ii) the finding of the learned Regulatory Authority that the completion certificate has not been issued by the Competent Authority is without any merit in view of the fact that the completion certificate issued by the Architect is in compliance with the provisions u/sec. 20 of the ODA Act, 1982.

With regard to the above observation of the Full Bench of this Tribunal in the order dtd. 22.11.2023, it is to be noted that, the provisions of the ODA Act, 1982 apply to the projects which are constructed within the territorial jurisdiction of the Development Authority under the said Act. The present project "Reeta Valley Apartment" being situated at Matiapada-2, Pipili of district Puri, is certainly not within the territorial jurisdiction of the concerned



Development Authority. It is seen that Completion Certificate in respect of the project “Reeta Valley Apartment” has been issued by Architect Sri Biswnath Pratap Mishra wherein he has mentioned the project to be completed on 30.6.2016 according to the plan sanctioned vide letter No.2933 dtd. 22.12.2010. However, Occupancy Certificate in respect of the project issued by the B.D.O., Pipili Block on 27.4.2017 shows one Durgadutt Dhalasamant to be the supervising Architect as per the completion certificate submitted. This shows that the only completion certificate available on record i.e. the one issued by Architect, Sri Biswanath Pratap Mishra is not an authentic document.

As regards building plans approved by B.D.Os and P.R.Is in respect of real estate projects in rural areas which are not within the jurisdiction of the Development Authorities, notification No.4844 dtd.15.2.2020 of the Government of Odisha, Housing and Urban Development Department makes it clear that, such approvals by BDOs/PRIs up to 7.6.2018 leading to construction of housing projects involving 500 square meters of land area or more than 8 apartments need to be submitted by all the promoters of real estate projects in the office of the PD, DUDA of the respective districts in Form-I for scrutiny within a period of three months from the date of this notification. The notification further provides that, the Officer-in-Charge of District Town Planning Unit shall assist DUDA for scrutiny to ascertain adherence to the essential Building safety norms i.e. the structural stability and fire safety norms. The PD, DUDA shall issue approvals in Form-II. Besides this, the notification also provides for a slew of other procedural formalities to be observed by the DUDA during scrutiny of the building plans approved by the BDOs/PRIs. The notification dtd. 15.2.2020 empowers DUDAs to reject the building plans if the structural stability and fire safety norm, as may be applicable to such



projects, have been compromised or violated. DUDAs shall also reject the building plan in case it is noticed that the plan has been approved in contravention of a Master Plan and other restrictions related to ASI, AAI, CRZ etc. subject to condition that the plan was approved after publication of the Master Plan.

So it is clear from the notification dtd. 15.2.2020 that, in absence of the approval of the PD, DUDA, no plan/project in the rural areas which were accorded by the BDOs/PRIs upto 7.6.2018 can be stated to be valid.

Basing on the above mentioned notification, the Full Bench of this Tribunal vide its order dtd. 28.8.2024 in O.A. No. 62/2023 and order dated 16.1.2026 in O.A. No. 48/2024 while analyzing the validity of the building plans one approved by the Baliana Gram Panchayat and the other one approved by the BDO, Baliana Block, in respect of two different projects situated in rural area has categorically held that, in view of the notification No.4844 dtd. 15.2.2020 of the Govt. of Odisha, Housing and Urban Development Department, no plan/project in rural areas approved by the BDOs/PRIs upto 7.6.2018 can be stated to be valid in absence of the approval of the concerned PD, DUDA. This Tribunal in O.A. No.48 of 2024 has concluded that, the building plan sanctioned by the BDO, Baliana Block vide his office letter no.1037 dtd. 15.5.2010 having not been submitted for necessary approval by the PD, DUDA, Khordha district, the Completion Certificate of the project dtd. 9.9.2016 issued by the Architect according to the said plan, cannot be held to be valid.

In the light of the above mentioned view taken by the Full Bench of this Tribunal vide its order dtd. 28.8.2024 and 16.1.2026 in O.A. No. 62/2023 and O.A. No. 48/2024 respectively, the building plan in respect of the present project having been approved by the BDO, Pipili Block on 22.12.2010 i.e. before 7.6.2018, the appellant-



promoter was required to apply to the PD, DUDA, Puri in the prescribed form for scrutiny within a period of three months from the date of aforesaid notification of the H & UD i.e. 15.2.2020. The same having not yet been done, the project on the basis of a building plan, which is yet to be validated by the appropriate authority i.e. PD, DUDA, Puri, cannot be said to be completed prior to the commencement of the RERA Act. The completion certificate in respect of the project available in the record which is purportedly issued by Architect Sri Biswanath Pratap Mishra has already been held to be a doubtful document and hence not reliable. As provision of the ODA Act, 1982 is not applicable to the projects in rural areas and mere executions of a number of sale deeds in respect of the flats of the project are not conclusive proof regarding completion of the present project prior to the commencement of the RERA Act, we think it appropriate to follow the views of the Full Bench of this Tribunal in O.A. No.62/2023 and O.A. No.48/2024 which are based on the guidelines of a Govt. notification having retrospective effect.

For the above mentioned reasons, principle of res judicata as contended by the appellant is not applicable to the present appeal, particularly when the respondent no.1 was not a party to O.A. 95 of 2022. This Tribunal is guided by the principles of natural justice and therefore considering the infirmity in the completion certificate of the project, as discussed above, we are unable to persuade ourselves to be guided by the decision of this Tribunal in O.A. No.95 of 2022 even if it relates to the present project. Occupancy Certificate in respect of the project issued by the BDO, Pipili Block, cannot be said to have been issued by the Competent Authority unless there is a valid completion certificate and the building plan approved by the BDO,



Pipili in respect of the project is approved by the DUDA, Puri after satisfaction about the adherence to the procedures as laid down in the notification dtd. 15.2.2020. So, the appellant shall have to obtain occupancy certificate from the Competent Authority after the project is approved by the PD, DUDA, Puri. Similarly, the formation of association of the allottees being an obligation of the promoter u/sec. 11 (4) (e) of the R.E. (R&D) Act, 2016, the appellant shall comply with the impugned direction of the learned Regulatory Authority in this regard. Other promised amenities like a permanent structure of drainage system, play ground for children and convenient parking slot to the respondent no.1 having been not provided as per the joint reports dtd. 5.10.2021 and 9.2.2024 of the Enforcement Officer and Empanelled Engineer of the ORERA, the appellant is bound to provide the same.

7) In view of the discussions made in the preceding paragraph, the impugned order dtd.25.6.2024 passed in C.C. No. 47 of 2023 needs no interference by this Tribunal and is accordingly confirmed. The appeal being devoid of any merit stands dismissed on contest against the respondents.

Send an authentic copy of this order to the learned ORERA for information and necessary action. Also send a copy of this order each to the appellants and respondent no.1.

Shri S.K.Rajguru
(Judicial Member)

(Dr. B.K.Das)
(Tech./Admn. Member)

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