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BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.94/2026

In : Complaint No.RAJ-RERA-C-N-2025-8927

1. Mr. Dhruv Kamra S/o Shri Sajjan Kumar Kamra R/o Flat No. 67 (B-67), Vardhaman Apartments, University Marg, Babu Nagar, Jaipur- 302015.
2. Mrs. Ankita Jain W/o Dhruv Kamra, R/o Flat No. 67 (B-67), Vardhaman Apartments, University Marg, Babu Nagar, Jaipur- 302015.

...Complainant-Appellants

Versus

1. M/s Manohar Developers Pvt. Ltd. having its registered office P.N. G-4, Suchita Apartment, P.No. D-163, Savitri Path, Babu Nagar, Jaipur, Rajasthan-302015.
2. Shrinivas Khetawat through director M/s Manohar Developers Pvt. Ltd having its registered office P.N. G-4, Suchita Apartment, P.No, D-163, Savitri Path, Babu Nagar, Jaipur, Rajasthan- 302015.
3. Anita Khetawat through Director M/s Manohar Developers Pvt. Ltd having its registered office P.N. G-4, Suchita Apartment, P.No, D-163, Savitri Path, Babu Nagar, Jaipur, Rajasthan- 302015.

.....Respondents-Promoter

4. Real Estate Regulatory Authority through its Registrar, 2nd and 3rd Floor, RSIC Building, Udyog Bhawan, Tilak Marg, C-Scheme, Ashok Nagar, Jaipur, Rajasthan 302005.

.....Respondent

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For complainant-appellant : Mr. Swapnil Jain, Advocate

For respondent : Mr. Mitesh Rathore, Advocate

ORDER

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Reserved on 20th August, 2026

Pronounced on 25th August, 2026

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

The captioned appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act, 2016") against the order dated 27/02/2026 passed by the Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter referred to as the "Regulatory Authority"), in Complaint No.RAJ-RERA-C-N-2025-8927. Order dated 27/02/2026 is reproduced as under:-

"Counsel for complainant filed reply to application for vacation of stay and sought time to file rejoinder. Time is granted to file rejoinder with the direction to supply an advance copy of rejoinder to counsel for respondent, atleast ten days before the next date of hearing.

Heard the arguments on application for vacation of stay.

Stay order passed by this Authority on 03.12.2025 is hereby vacated.

List the matter for hearing on 01.04.2026."

2. Fact in brief of the case are that the respondent is a real estate developer of the project "**Park Ornate**", registered under RERA Registration No. RAJ/P/2022/2307, situated at Bapu Nagar, Jaipur. Learned counsel for the appellant submits that the appellant purchased Flat No. 503 in the said project through an Agreement for Sale dated 07.12.2024 for a total consideration of Rs. 1,96,63,688/-. A complaint was subsequently filed before the Rajasthan RERA Authority concerning the subject flat, during the pendency of which interim protection was granted in favour of the appellant on 03.12.2025. Although the respondent initially failed to file a reply, it later sought vacation of the interim protection. The learned counsel for the appellant

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opposed the application, contending that the Agreement for Sale continued to subsist and had neither been lawfully cancelled nor terminated; therefore, the appellant's rights as an allottee remained protected under the RERA Act. However, the Regulatory Authority, vide order dated 27.02.2026, vacated the interim protection allegedly without properly appreciating the appellant's submissions and without affording an effective hearing. Hence, the appellant has challenged the impugned order dated 27/02/2026 and prays for:-

"1. Allow the present appeal and set aside the impugned order dated 27.02.2026 passed by the Learned Rajasthan Real Estate Regulatory Authority.

2. Restore the order dated 3.12.2025.

3. Restrain the Respondent from creating any third-party rights in respect of the subject property during the pendency of the complaint proceedings."

3. *Per Contra*, Mr. Mitesh Rathore, learned counsel for the respondent denies all the allegations made by learned counsel for the appellant and submits that the dispute between the parties is purely monetary, relating to refund of the deposited amount, interest, deduction of 10% of the amount paid, and deduction of Rs. 9,00,000/- incurred towards the appellant's specific modifications and preferences. Since there was no dispute regarding possession, title, allotment, or any right over the unit, the interim order dated 03.12.2025 restraining the creation of third-party rights was unwarranted. It is further submitted that the order dated 27.03.2026 was passed after effective hearing of both parties, and the interim order dated 03.12.2025 was rightly vacated after considering the facts and circumstances. Subsequently, third-party rights

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have already been created in respect of the unit, rendering the appellant's appeal seeking restoration of the interim order infructuous. The learned counsel for the respondent reiterates that it had already expressed willingness to refund the amount deposited by the appellant, subject to contractual deductions of 10% and Rs. 9,00,000/- incurred for specific customizations and modifications. The appellant was aware that the complaint proceedings had reached the stage of final adjudication; however, instead of awaiting the final decision, the appellant filed the present appeal prematurely. The respondent therefore contends that the appeal is misconceived, premature, and an abuse of the process of law, filed with the intention of delaying the proceedings and causing hardship to the respondent.

4. Learned counsel for the appellant in rebuttal has argued that the Agreement for Sale is not terminated till today and Completion Certificate dated 31/12/2025 was filed by respondent-promoter along with his reply. Now the allottee-complainant does not wants to withdraw from the project and intend to take possession of the unit for which an application under Order 6 Rule 17 CPC is pending before Regulatory Authority for consideration. No sale deed was executed for disputed unit only allotment letter is available on record. If the amendment application gets allow by Regulatory Authority then allottee will be remedy less in the light of impugned order, therefore, prayed to restore the impugned order dated 03/12/2025.

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5. We have heard learned counsel for both the parties and perused the material available on record.

6. It is evident from the record that admittedly the appellant filed a complaint under Section 31 of the RERA Act, 2016 with the specific prayer for refund with delay interest. For the sake of brevity it may reproduced as under: -

- *"The complainant seeks a refund of the advance consideration paid at the time of agreement amounting to Rs. 40,00,000 (Rupees Forty Lac Only) along with interest @ 8.85% of highest MCLR of SBI + 2% per annum w.e.f date of deposit.*
- *Additional damages of Rs. 5,00,000/- (Rupees Five Lac Only) for grave mental agony caused to the complainant.*
- *Award costs of these proceedings and incidental charges in favour of the complainants.*
- *Any other relief that the Hon'ble Authority may deem fit in the facts and circumstances of the case."*

7. It is evident from specific relief prayed for by the complainant that dispute between the party is only regarding the monetary relief relating to refund of deposited amount with interest and there was no dispute regarding possession, title and allotment of unit, therefore, on an application filed by respondent-promoter, the earlier interim order dated 03/12/2025 was set-aside vide impugned-order dated 27/02/2026 by the Regulatory Authority and, thereafter, promoter allotted the disputed unit to a third person. Since only monetary consideration involved in this complaint, therefore, the acceptance of an application regarding vacation of stay order does not require any interference by this Tribunal.

It is pertinent to mention herein that that now the complainant-allottee does not intend to withdraw from the project and one application under Order 6 Rule

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17 CPC is pending consideration before Regulatory Authority by which complainant prayed for possession of disputed unit on the basis of subsequent Completion Certificate obtained by the respondent-promoter but the amendment application is not available on record and yet to be decided by Regulatory Authority.

8. In the light of above observations, appeal fails, hence dismissed. The impugned order passed by Regulatory Authority dated 27/02/2026 in Complaint No.RAJ-RERA-C-N-2025-8927 is upheld, however, the learned Regulatory Authority is directed to decide the amendment application filed under Order 6 Rule 17 CPC first and if the amendment is allowed regarding possession then, the appellant-complainant shall be at liberty to file a fresh stay application and the learned Regulatory Authority will decide the same at the earliest, as per law.

9. Pending Interim application(s), if any, shall stand(s) closed.

10. There is no order as to costs.

11. 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