BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.67/2025

In : Complaint No.RAJ-RERA-C-N-2022-5326

M/s. Alokik Buildcon, through its Authorized representative Shri Anurag Sharma, Registered Office at 301-302, Pinkcity Towers, Jhotwara Road, Jaipur 302016, Rajasthan. **…Appellant**

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

Appeal No.68/2025

In : Complaint No.RAJ-RERA-C-N-2019-3372

Shri Ashutosh Sharma S/o Anurag Sharma, R/o A-16 Shastri Nagar, Shri Saket, Jaipur 302016, Rajasthan.

…Appellant

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

Appeal No.69/2025

In : Complaint No.RAJ-RERA-C-N-2022-5326

Shri Anurag Sharma S/o, Bhawani Shankar Sharma, R/o A-16 Shastri Nagar, Shri Saket, Jaipur 302016, Rajasthan.

…Appellant

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

Appeal No.70/2025

In : Complaint No.RAJ-RERA-C-N-2019-3372

Shri Anurag Sharma S/o, Bhawani Shankar Sharma, R/o A-16 Shastri Nagar, Shri Saket, Jaipur 302016, Rajasthan.

…Appellant

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

Appeal No.71/2025

In : Complaint No.RAJ-RERA-C-N-2022-5326

Shri Ashutosh Sharma S/o, Anurag Sharma, R/o A-16 Shastri Nagar, Shri Saket, Jaipur 302016, Rajasthan.

…Appellant

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

AND

Appeal No.72/2025

In : Complaint No.RAJ-RERA-C-2019-3372

M/s. Arunodaya Builders through its Authorized representative Shri Anurag Sharma, Registered Office at 301-303, Pinkcity Towers, Jhotwara Road, Jaipur 302016, Rajasthan. **…Appellant**

Versus

1. Smt. Lata Chhugani W/o Shri Kamal Kumar Chhugani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

2. Ajay Chhugani S/o Shri Kamal Kumar Chuggani, R/o Flat No.602, Alokik Swaroop Residency, Plot No.60-65, Gyan Vihar, Nirman Nagar, Ajmer Road, Jaipur 302019, Rajasthan.

…Respondents

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For appellant : Mr. Prashant Daga, Advocate

For respondent : Mr. R. B. Sharma, Advocate

O R D E R

Reserved on 27th August, 2026

Pronounced on 08th September, 2026

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

The present six 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") arises out of the common impugned order dated 12/05/2025 and 14/05/2025 passed by the Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter referred to as "Regulatory Authority") in Complaint No: RAJ-RERA-C-N-2022-5326 & Complaint No: RAJ-RERA-C-2019-3372 against complainant-allottees Smt. Lata Chhugani and Ajay Chhugani since the impugned common order dated 12/05/2025 and 14/05/2025 are under challenge in all above six appeals. Therefore, being decided by this common order.

2) Background of the matter: -

A) The brief facts relevant to decide all the appeals are that the respondent-allottees Smt. Lata Chhugani and Ajay Chhugani were allotted Flat No.105 in the project of the appellant-promoter i.e. “Shanti Towers” and possession was to be delivered within 10 months i.e. 02/11/2017. The project was registered with the Authority on 22/12/2017, vide registration No. RAJ/P/2017/565 as ongoing project, in which the estimated furnished date of the project was declared 31/12/2018 but the project was not completed an agreed date of possession 02/11/2017 or till 31/12/2018 and no extension of registration was obtained by the promoter then allottees filed one Complaint No.RAJ-RERA-C-2019-3372 under Section 31 of the RERA Act, 2016 against only one respondent Arunodaya Builders, which was decided ex-parte in favour of complainants on 15/07/2020.

B) On an application filed by the promoter-respondent despite the fact that notices were duly served on the respondent but in the background of Corona Pandemic, the ex-parte order dated 15/07/2020 was recalled and following order passed by the Regulatory Authority on 28/06/2021 as under: -

> *"In view of the above observations and findings, and in exercise of the powers conferred on the Authority under section 37 and section 38 of the Act, it is directed that the respondent shall refund the entire deposited amount of Rs.36,74,500/- along with (a) interest at the prescribed rate of 'SBI Highest MCLR [7.30%] + 2%', i.e., 9.30% per annum from 02/11/2017 upto the date the amount is refunded; and (b) the cost of Rs. 5,000/- awarded hereinabove. Out of the amount to be so refunded, the respondent shall first settle the complainants' home loan account of ICICI Bank and pay the balance amount to the complainants.*
>
> *The respondent shall do so within 45 days from the date of issue of this order*
>
> *As the project has lapsed on 31/12/2018, the Authority shall take appropriate action in pursuance of the suo moto notice already issued to the respondent promoter*

on 05/08/2020 under Section 8 and Section 61 of the Act for imposing penalty for not completing the project by the declared date of 31/12/2018 and for ousting the promoter from the project to enable the Authority get the remaining development works of the project completed with the assistance of a third party". [Annex-2]

C) The respondent-promoter did not comply with the order, then the complainant preferred an application for execution of the above order dated 28/06/2021 which was registered in complaint no. RAJ-RERA-C-N-2022-5326 in the execution proceedings, the time prayed for by the appellants for complying with the directions passed in order dated 28/06/2021 but as per the pleadings of appeals for the reasons beyond the control of the appellants, the appellants could not comply with the directions thereafter, learned Regulatory Authority passed following orders in execution proceedings: -

In Appeal Nos.67/2025, 69/2025 and 71/2025:-

07/02/2024	The Ld. Authority imposed a penalty of Rs.50,000 for alleged non compliance of order dated 17-01-2023 and directed to deposit atleast 50% of the amount.
28/02/2024	The appellant deposited cheque of Rs.50,000 in compliance with the directions dated 07-02-2024.
01/05/2024	The Ld. Authority imposed a penalty of Rs.1000/- per day till such time compliance of order dated 07-02-2024 is made.
03/06/2024	The Ld. Authority freezed the bank accounts of the Appellant.
02/09/2024	The Ld. Authority found that amount in the freezed bank account is insufficient to make the payment against the order dated 17-01-2023. Hence, directed the promoter to disclose the list of movable and immovable properties.

04/11/2024 to 02/12/2024	Settlement talks were ongoing between the parties.
08/01/2025	The Ld. Authority directed personal presence of the Director of respondent.
22/01/2025	Ashutosh Sharma authorized representative and son of Anurag Sharma appeared in person before the Ld. Authority.
09/04/2025	On account of the death of father of respondent promoter, the authorized person/promoter could not appear in person. The Ld. Authority again directed presence of respondent promoters.
28/04/2025	The Ld. Authority again directed presence of respondent promoters.

In Appeal Nos.68/2025, 70/2025 & 72/2025:-

18/10/2021	The Ld. Authority imposed a penalty of Rs.100/- per day alleged non-compliance of order dated 28.06.2021 and directed to deposit the ordered amount of penalty.
14/02/2022	The Hon'ble Authority imposed a penalty of Rs.1,000 per day from 16.11.2021 until deposit of the same and filing of an extension application. It was further directed that the project 'Shanti Tower' be treated as lapsed w.e.f. 31.12.2018. The Registrar was instructed to take possession of the project, and both Shri Anurag Sharma and Shri B.S. Sharma were show caused as why they be not committed to civil imprisonment
18/04/2022	The Authority provided time to the Appellant to sell the flats to generate amount for payment.
23/05/2022	The Registrar is directed to attach and auction Flat No. B-105 and one more unsold unit, if available, in the "Shanti Tower" project, to recover the ordered amount under Section 40(2) of the Act. The auction proceeds shall first repay the complainants' home

	loan with ICICI Bank, then the remaining amount to the complainants, and any surplus to the respondent; this process shall stop if the respondent pays the full amount before the auction is completed.
19/12/2022	The Authority grants final opportunity to the respondent for full compliance of its previous orders and submission of a compliance report by 06.02.2023. Urban Improvement Trust, Bhilwara is directed to auction Flats B-105 and C-209 by 31.01.2023 and submit an Action Taken Report.
29/05/2023 to 16/10/2023	Authority directs the Urban Improvement Trust, Bhilwara to provide the status of auction for Flat Nos. B-105 and C-209 and to expedite the process if not yet initiated.
21/08/2024	The Authority directs the respondent to bring buyers for the attached flats on the next hearing date, who are ready to pay at least 20% of the price within 15 days. The respondent also has to give details of all his properties in an affidavit and ensure the Director is present in person on the next date.
28/10/2024 to 08/01/2025	Settlement talks were ongoing between the parties.
15/01/2025	The Ld. Authority directed personal presence of the Director of respondent.
22/01/2025	The Authority permits the unlocking of Flat No. B-105 in the 'Shanti Tower' project from 15/02/2025 to 23/02/2025 for inspection by prospective buyers, in the presence of the complainant and an Authority officer. The flat shall be re-attached on 24/02/2025 in the evening in their presence.
12/03/2025	Respondent submitted that 2-3 prospective buyers had visited the subject flats and expressed interest in purchasing them, though no specific details could be furnished at this stage. He further sought a brief adjournment due to the demise of the respondent promoter's mother, Smt. Anurag Sharma.
09/04/2025	On account of the death of father of respondent promoter, the authorized person/promoter could not

	appear in person. The Authority again directed presence of respondent promoters.
28/04/2025	The Authority again directed presence of respondent promoters.

D) All the orders are annexed and marked as Annexure-3 (Colly). Thereafter, the Regulatory Authority vide order dated 12/05/2025 directed issuance of show-cause notice which may reproduce as under: -

> "*No compliance has been made by the respondent promoter despite numerous opportunities. It was also observed that a penalty of Rs.1000/- per-day was imposed vide order dated 14/02/2022 starting from 16/11/2021 till the date it is deposited. Another direction of the Authority vide order dated 21/08/2024 regarding furnishing of details of movable and immovable properties on affidavit also remained uncomplied. The respondent-promoter is a chronic defaulter who has not complied with a single order/direction of the Authority.*
>
> *In view of repeated default, a show-cause notice be issued under Order 21 Rule 37 CPC to show cause as to why the respondent promoter, Shri Anurag Sharma and the authorized representative, Shri Ashutosh Sharma be not committed to civil imprisonment".*

E) In pursuance of order dated 12/05/2025, on 14/05/2025 the Regulatory Authority issued show-cause notice to Shri Anurag Sharma and Shri Ashutosh Sharma for appearance before Authority on 02nd June, 2025, which may reproduced as under:-

> **14.05.2025**
>
> *"Under above cited subject, under Rule 35(2) (c) of Rajasthan Real Estate (Regulation and Development) Rules, 2017 and regulations made thereunder, you have not complied with the order dated 14/02/2022 starting from 16/11/2021 & another direction vide order dated 21/08/2024 passed by the Authority.*

Therefore, show cause notice is being issued to you as to why civil imprisonment be not imposed upon you for non-compliance of the above orders passed by this Authority.

You are therefore directed to appear before the Authority on Monday, 2nd June, 2025 at 11.00 A.M at the address given above.

If you fail to appear for hearing on the given day, date and time, necessary orders will be passed in accordance with Law, without further notice".

3) All the appellants preferred six appeals aggrieved by the aforesaid order dated 12/05/2005 and 14/05/2025 the details of all the appeals may summarized as under: -

Appeal No.67/2025 an authorized representative Mr. Anurag Sharma preferred this appeal on behalf of M/s Alokik Buildcon, Mr. Ashutosh Sharma preferred two appeals no.68/2025 and 71/2025 in personal capacity, Mr. Anurag Sharma preferred two appeals no.69/2025 and 70/2025 in personal capacity and again an authorized representative Anurag Sharma on behalf of M/s Arunodaya Builders preferred appeal no.72/2025. All the appeals were preferred against allottee-complainants Smt. Lata Chhugani and Ajay Chhugani to quash and set aside the order dated 12/05/2025 and 14/05/2025.

4) All the appeals were preferred more or less on the same grounds and sought following reliefs: -

"(a) Quash and set aside the impugned order dated 12/05/2025 passed by the Regulatory Authority in complaint no.RAJ-RERA-C-N-2022-5326 titled as Lata Chhugani, Ajay Chhugani Vs. Arunodaya Builders and

(b) Quash and set aside the show cause notice dated 14/05/2025 issued by the Regulatory Authority.

(c) Any such/other direction as this Tribunal may deem fit and proper in favour of the Appellant in the interest of justice, equity and good conscience;

5) Mr. Prashant Daga, learned counsel appearing for the appellant has argued that the impugned order is perverse, illegal and contrary to the provisions of the RERA Act and rules and thus liable to be quashed and set aside. The main order in the complaint was for refund along with interest. As per Section 40(1) of the RERA Act, the said order was liable to be executed as arrears of the land revenue. Rule 25 of the RERA rules also prescribes that the order passed under Section 40(1), are to be recovered only by way of arrears of land revenue and under Land Revenue Act, 1956. The impugned directing execution by way of civil imprisonment/ show cause as to why promoter be not committed to civil imprisonment is not the mode of execution envisaged under the RERA Act. The Regulatory Authority being creature of statute cannot travel beyond the statutory scheme and framework. Under the RERA Act and Rules, there is no power to execute the order of penalty, interest and compensation by way of civil imprisonment. Since the show cause notice has been issued beyond the statutory powers. It is settled principle of law that show cause notice without jurisdiction is a nullity and can be adjudicated so by the competent authority. In the present case, show cause notice is in excess of jurisdiction conferred upon the RERA Act. The show cause notice and impugned order have been issued with a pre-meditated mind as the authority has already been convinced that the appellant is a chronic

defaulter thus, any further hearing before the Regulatory Authority is an empty formality. In any event, since the impugned order has been issued without jurisdiction, thus consequential action of show cause notice is also without jurisdiction. In absence of any such specific power, the proposed deprivation is without procedure established by the law and is violative of article 21 of the Constitution of India. The Hon'ble Punjab and Haryana High Court in the case of ***International Land Developers Pvt. Ltd. Vs. Aditi Chauhan and ors.*** : **CWP No.7738/2022 decided on 17/08/2022**. The authority directed to issue show cause notice against the promoter director and also authorised person. Two persons cannot be committed to civil imprisonment for alleged default by a separate legal entity. The Regulatory Authority has failed to appreciate that the Execution Court cannot go behind the decree and order in the present case one for refund along with interest thus the same ought to be executed as per Section 40(1) of the RERA Act and cannot be *suo motu* converted into the one of the natures specified in Section 40(2).

6) *Per contra*, Mr. R. B. Sharma, learned counsel appearing for the respondents has argued that in exercise of power under Section 37 & 38 of RERA Act, a penalty of Rs.1000/- per day is imposed on the respondent under Section 63 till such time compliance of the order dated 07/02/2024. The impugned order dated 12/05/2025 is based upon both orders dated 01/05/2024 & 07/02/2024 and as per

the prayer made in the appeal, the Appellant requested this Tribunal to quash the impugned order dated 12/05/2025 or alternatively, only part compliance was made by depositing the penalty amount with the RERA Authority, as per the provisions of Section 43(5) of the RERA Act. The amount required to be deposited should be calculated as per the amount involved in the impugned order, including the penalty amount or 50% of the refund amount. However, in the present case, only the penalty amount was deposited with the RERA Authority. This Tribunal having consistence view upon the pre-deposit or compliance of Section 43(5) of RERA Act, decided that without depositing the pre-deposit amount, appeal is not maintainable, if appeal is succeeded then pre-deposit amount be refunded to appellant.

Learned counsel for the respondent argued that the Regulatory Authority, in its order dated 30/05/2025, has clearly stated that mandatory compliance with Section 43(5) of the Act, 2016, has not been made. It is clarified that first clause of the Stay Order dated 30/05/2025 has not complied with, as the penalty imposed upon the builder/promoter of Rs.1000/- per day has not been deposited with the RERA Authority. The Builder/Promoter has deposited the penalty amount only up to the date of filing of the appeal. However, the order is continuing in nature and more than one year has passed since the filing of the appeal.

Learned counsel for the respondent further clarified that at the time of hearing of the Stay in this appeal, then appellant taken the plea that order of refund is not challenged in this appeal and by way of order dated 16/09/2025, this Tribunal observed that ***"needless to mention here that the original order of the refund and interest was not under challenged in these appeal, therefore, learned Regulatory Authority is free to execute the earlier order regarding 50% of deposit including auction proceedings as per provisions of the Act, 2016".*** The appellant has challenged the order only civil imprisonment/show cause notice, then other arguments goes away and he has not opportunity to argue the rest part of the other, only limited arguments can be raised only for show cause notice. In this regard, the Hon'ble Supreme Court taken the same view in the matter of ***R. N. Gosain Vs. Yashpal Dheer on 23rd October, 1992.*** As per provision Section 55 of CPC judgment debtor may arrested in execution of decree and it is also fact that Section 40(1) of RERA Act, is not rider to arrest the judgment debtor or disclose the property details etc. it is also fact that vide notification dated 14/03/2024, State Government made amendment in Chapter VI of RERA Act, wherein it is specifically said that execution is enforcement by the process of court its own decree. As per Section 36 of CPC, the provision relating to execution of decree are applicable to the execution of order also. That, in both execution proceedings, the Regulatory Authority repeatedly passed directions to comply with the refund order, but the promoter, till date, has not taken it seriously and has

violated each and every order. The Regulatory Authority passed the order for presence only for the purpose of compliance and as per the impugned order, the Regulatory Authority has asked the promoter as to why he should not be prosecuted and subjected to civil imprisonment and only a show-cause notice has been issued. The impugned order passed in capacity of the builder/promoter, not in the capacity of personal in nature but appellant has taken the plea that this order passed in personal capacity. As per legal provision, personal capacity order stands in all situation. Herein, this order passed against the builder/promoter in the representative capacity of director. If they have held the post of Director, then they have to duty bound to complied the order. If they vacant the seat, then other one shall be held to complied the order. As such, an appeal filed in a personal capacity is not maintainable. If the appeal has been filed in the capacity of a Director/Promoter, then all Directors/Promoters are legally liable to comply with the order passed by the Authority. Accordingly, the argument or averment made in the appeal with regard to personal capacity has no force and is liable to be dismissed.

7) We have heard learned counsel for the parties on appeals as well as applications filed under Section 43(5) of the RERA Act, 2016 in Appeal Nos.68/2025, 69/2025, 70/2025 & 71/2025 and perused the material available on record including the case law cited on the subject.

8) First of all, Applications filed under Section 43(5) of the RERA Act, 2016 are pending in above four appeals, which four appeals were preferred by Mr.Ashutosh Sharma and Mr.Anurag Sharma in personal capacity and specifically challenged only the impugned-order passed by the Regulatory Authority on 12/05/2025 and the notice dated 14/05/2025, respectively. Further, it is noted that the application and the objection raised by the respondent in Appeal Nos.67/2025 & 72/2025 were decided by this Tribunal vide order dated 16/09/2025, which may be reproduced, as under: -

> *"4. Per contra, learned counsel for the appellant contended that in all these appeals, only one order passed by the learned Regulatory Authority on 12/05/2025 is under challenge, by which a penalty of Rs.1000/- per day was imposed till compliance of the order and other earlier orders regarding refund and interest were not challenged by the appellant in these appeals. As per mandate of Section 43(5) of the Act of 2016, has been complied with by the appellant and all the amounts @ Rs.1000/-per day have already been deposited by the appellant in the account of learned Regulatory Authority.*
>
> *5. We have heard the learned counsel for the parties, and with their assistance perused the documents available on record. It is revealed from the record that only one order dated 12/05/2025 has been challenged by the appellant in all these appeals and a penalty of Rs.1000/-per day was also deposited by the appellant with the learned Regulatory Authority. It is pertinent to mention here that the show-cause notice issued on 14/05/2025 is in continuation of the impugned order passed by the learned Regulatory Authority on 12/05/2025 by which only penalty of Rs.1000/- per day was imposed. It is true that the penalty amount of Rs.1000/- per day was deposited by the appellants till interim order was passed by this Tribunal on 30/05/2025 and compliance report has been submitted in above-mentioned appeals, meaning thereby that the provision of Section 43(5) of the Act of 2016 has been complied with by the appellant-promoter. Accordingly, the objection raised by the respondent stands disposed of.*
>
> *6. Needless to mention here that the original order for refund and interest was not under challenge in these appeals, therefore, learned Regulatory Authority is free to execute the earlier order regarding 50% of deposit, including auction proceedings as per provisions of the Act of 2016".*

Since the above mentioned four appeals have been preferred in personal capacity and in the light of above order passed by this Tribunal on 16/09/2025, there is no need to elaborate discussions on these applications filed under Section 43(5) of the RERA Act, 2016 pending in above mentioned appeals and the applications are disposed of accordingly.

9) So far as the merit of all the appeals are concerned, the following question is required to be determined by this Tribunal: -

1. ***Whether the order passed by the learned Regulatory Authority on 12/05/2025 and 14/05/2025 are perverse, illegal and contrary to the provisions of RERA Act and Rules and Authority having no jurisdiction to execute the order of penalty, interest and compensation by way of civil imprisonment?***

10) Finding on Question 1:-

Before examining the validity, legality and propriety of the impugned order passed by the learned Regulatory Authority and impugned notice issued by the Registrar of the Authority, it is appropriate to note few important and relevant facts of the matter. It is admitted that initial order passed by the Regulatory Authority on 28/06/2021 regarding refund with interest including proceeding under Sections 8 & 61 of the RERA Act, 2016 was not challenged by the appellants, therefore, it attained its finality. Thereafter, in execution proceedings, several orders were passed from 18/10/2021 to 28/04/2025 in three appeals and from 07/02/2024 to 28/04/2025 in another three appeals as detailed out in preceding

para 2(C) in tabular form on the basis of pleadings of the appeals and orders annexed with in support of pleadings.

In the light of above backdrop of the matter, the relevant statutory provisions, relevant rules and regulations thereto may be reproduced in following manner to arrive at just and proper conclusion of the matter: -

(i) First of all, Section 40 of the RERA Act, 2016 deals with recovery of interest or penalty or compensation and enforcement of order: -

> ***"40. Recovery of interest or penalty or compensation and enforcement of order, etc.-****(1) If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.*
>
> *(2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed".*

(ii) The appropriate Government under Section 84(2)(r)(s) of the RERA Act, 2016 framed Rules 25 & 26 of the Rules of 2017, which provide, as under:-

> *"25. Manner of recovery of interest, penalty and compensation.- Subject to the provisions of sub-section (1) of section 40, the recovery of the amounts due as arrears of land revenue shall be recovered in the manner as provided in the Rajasthan Land Revenue Act, 1956 and rules made thereunder.*
>
> *26. Manner of implementation of order, direction or decisions of the adjudicating officer, the Authority or the Appellate Tribunal.- For the purpose of sub-section (2) of section 40, every order passed by the adjudicating officer, Authority or*

Appellate Tribunal, as the case may be, under the Act or the rules and regulations made thereunder, shall be enforced by the adjudicating officer, Authority or the Appellate Tribunal in the same manner as if it were a decree or order made by the principal civil court in a suit pending therein and it shall be lawful for the adjudicating officer, Authority or Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the principal civil court, 18 to execute such order either within the local limits of whose jurisdiction the real estate project is located or in the principal civil court within the local limits of whose jurisdiction the person against whom the order is being issued, actually and voluntarily resides, or carries on business, or personally works for gain".

(iii) It is noted that the Rajasthan Real Estate Regulatory Authority initially framed Regulations in 2017 in exercise of powers conferred by sub-section (1) and clause (i) of sub-section (2) of Section 85 of the Act of 2016 and in supersession of above Regulation, amended the Regulations of 2024, which was published vide notification dated March 14, 2024. Clauses 31 and 32 of the Regulations of 2024 are relevant to decide the controversy, which may be reproduced, as under: -

*"**31. Execution under Section 40(1) read with rule 25 of the Act.-**In case the amount due against the promoter or allottee(s) or real estate agent is required to be recovered as arrears of land revenue by following the provisions of Rajasthan Land Revenue, 1956, a recovery certificate to the Collector of the district concerned in Form R-15 is ordered is to be issued by the Adjudicating Officer or Authority, as the case may be. The execution wing of the Authority shall coordinate with the respective District Collectors from time to time for execution of such orders.*

The Chairperson of the Authority may convene a meeting with concerned District Collectors to sensitize them and to provide the guidelines for further course of action. Such meeting may be conducted by virtual mode or physical mode at specified intervals to review the cases.

***32. Execution under Section 40(2) of the Act read with rule 26 of the Rules.-**Unless the context otherwise requires every order/decision or direction made by the Authority is to be enforced as a decree of a civil court and where-ever the word decree occurs in the rules / regulations / order made by the authority may be construed as the order / decision / direction of the authority enforceable under Section 40(2) of the Act read with rule 26. The*

Authority or Adjudicating Officer shall pass appropriate order as deemed fit for enforcement of its order, direction or decision in the manner as provided for execution of decree following the procedure laid down in CPC and these regulations".

It is evident from the above provisions of law that an order of refund, return, penalty or compensation can be enforced in the manner provided under Section 40(1) of the Act of 2016 r/w Rule 25 of the Rules of 2017 along with Clause 31 of the Regulations of 2024 and other orders can be enforced in terms of Section 40(2) of the Act of 2016 r/w Rule 26 of the Rules of 2017 along with Clause 32 of the Regulations of 2024, as mandated by the Punjab & Haryana High Court in the matter of ***M/s. International Land Developers Pvt. Ltd. (supra)*** and ***Marvel Sigma Homes Pvt. Ltd. and Rustam Phiroze Mehta Vs. State of Maharashtra and Ors. : Writ Petition (L) No.3221 of 2020 dated 09/03/2021*** and ***Report of the Select Committee on the Real Estate (Regulation and Development) Bill, 2013 dated 30/07/2025,*** wherein in Clause 34 (1), the words 'as an arrear of land revenue' were added.

It is relevant to mention here that in the present matter, the initial order dated 28/06/2021 is not limited upto the extent of refund and interest but also the *suo motu* notice was issued under Section 8 read with Section 61 of the RERA Act, 2016. Section 8 provided revocation of registration in lapsed project and accordingly, notice was issued for ousting the promoter from the project to enable the Authority to get the remaining development works completed with the

assistance of a third party and further orders were passed by the Regulatory Authority from 18/10/2021 to 28/04/2025 in three appeals and from 07/02/2024 to 28/04/2025 in another three appeals as mentioned in preceding Para No.2(c) and, thereafter, the impugned-order/notice dated 12/05/2025 and 14/05/2025 were passed and all subsequent orders are related to natural consequences of original order passed by the Regulatory Authority on 28/06/2021.

It is revealed from the orders that initially, Rs.100/- per day penalty was imposed including auction of Flats No. B-105 and C-209. Further, as per order dated 18/04/2022, counsel for the promoter-developer (Shri B.S. Sharma) and Authorised representative (Shri Anurag Sharma) of M/s. Arunodaya Builders, not only agreed to make payment to the complainants but also agreed to submit an Undertaking to that effect latest by 20/04/2022. The appellant-promoter again on 23/05/2022 stated before the Regulatory Authority, as under: -

> *"Counsels of the respondent state that the respondent has been unable to arrange the requisite amount of funds within the given time of 30 days and prays for a further time of 60 days to be able to refund the amount to the complainants and comply with the order of the Authority".*

Furthermore, as per order dated 07/02/2024, a direction was given to the appellants to deposit atleast 50% of the amount, which was not deposited and time was given from 28/10/2024 to 08/01/2025 for ongoing settlement talks. The Authority directed the promoter-director and Authorised representative for personal appearance on 12/03/2025, 09/04/2025 and 28/04/2025 but time was

again granted due to sad demise of promoter's mother and on account of death of father of respondent-promoter, respectively. In such circumstances, the impugned-order dated 12/05/2025 was passed and again a direction was issued for issuance of show cause notice on 14/05/2025 and appellants filed above six appeals on behalf of Promoter/Director and Authorized Representative in the individual capacity instead of filing reply to show cause notice issued under Order 21 Rule 37 CPC. Once, the appellants undertook to deposit the ordered amount and sought adjournments for the same but not complied with the directions of the Authority including personal presence of both the promoter-directors and authorised representative then, the conduct of the appellants amounts to violation of the directions mandated under Section 40(2) of the Act of 2016 and the directions of the Regulatory Authority may be treated as if it were passed under Section 40(2) of the Act of 2016. The Hon'ble Punjab and Haryana High Court also mandated in the matter of ***International Land Developers Pvt. Ltd. (supra)*** in para 89, as under:-

> *"Therefore, any person as violates any direction or order issued even in respect of summoning such person etc., would be dealt with wholly under the provision of sub-section (2), with however the provision of sub- section (1) to apply to an order pertaining to payment of interest, penalty or compensation as ordered by the AO/Authority/Appellate Tribunal".*

It is revealed from the text of Rule 26 of the Rules of 2017 that every order passed by the adjudicating officer, Authority or Appellate Tribunal, as the case may be, under the Act or the rules and regulations made thereunder, shall be

enforced by the adjudicating officer, Authority or the Appellate Tribunal in the same manner as if it were a decree or order made by the principal civil court, which is effective mechanism for giving effect to the orders passed by the competent authorities, whereas recovery as an arrear of land revenue would be of cumbersome method of making such recovery.

So far as the appeals preferred by the appellants in the individual capacity are concerned, learned counsel for the appellants argued regarding corporate veil and relied upon judgment of the Hon'ble Delhi High Court in the matter of ***G.S. Sandhu & Anr. Vs. Geeta Aggarwal : CM(M) 1399/2019 & CM No.42217/2019 dated 14/01/2022*** and judgment of the Hon'ble Supreme Court in ***Ansal Crown Heights Flat Buyers Association (Regd.) Vs. M/s. Ansal Crown Infrabuild Pvt.Ltd. & Ors. : Civil Appeal Nos.8465-8466 of 2024 dated 12/01/2026.***

The judgment cited in ***G.S. Sandhu (supra),*** is the judgment related to execution pending before the civil court and on the basis of one pronouncement in Bhandari Engineers and Pvt.Ltd., the Hon'ble Court observed that petitioners to file an affidavit disclosing their personal assets cannot be sustained and in another judgment of **Ansal Crown Heights Flat Buyers Association (Regd.) (supra),** the Hon'ble Court mandated that in the absence of a prior and reasoned determination justifying disregard of the corporate personality, the directors/promoters cannot be

exposed to personal liability through execution but at the same time, the Hon'ble Court also observed in para 13 on the basis of ***Rajvir Vs. Suraj Bhan : (2022) 14 SCC 609*** that the partners remain confined to the extent of their share holding or to such guarantees or undertakings as may have been expressly furnished by them. In the present matter, the promoter-director and authorized representative not only undertook to deposit the ordered amount but also violated the directions of personal presence. It is relevant that only show cause notices were issued and appellants are at liberty to file reply thereto. So far as personal assets are concerned, the Authority may decide the same as per applicable law.

11) In the light of above observations, it is crystal clear that the allottees of the flats are waiting for the fruits of the decision from the date of filing of the initial complaint in the year 2019. No Completion or Occupancy Certificate are available on record till today. Despite the several orders passed in execution application, the respondent-allottees have not received a single penny in compliance of Authority's directions. It is appropriate to refer to the Preamble of the Act and its Objects, which provide a speedy and efficacious remedy to an allottee against any breach of contract made by the Promoters and Developers. Looking to the over all facts and circumstances of the matter, we are not able to overlook the provisions of Clauses 34, 36 and 44 of the amended Regulations of 2024, which were not set aside by the competent authority till today, which read, as under:-

> ***"34. Execution of order for payment of money.-****In case, any order or decision or direction to a person is with regard to payment of certain amount passed by the Authority or the adjudicating Officer, as the case may, and that person against whom such order/ directions etc. has been passed refuses/denies to pay that amount, his movable property in execution of that order or decree as prescribed under Order 21 Rule 30 CPC in Form R-16 shall be attached.*
>
> ***36. Discretionary power of the Authority and adjudicating officer to issue show cause for arrest and imprisonment of judgment debtor.-****(1) In case, any order, direction or decision for execution of a decree for payment of money by arrest and detention in the civil prison, Authority or the Adjudicating Officer, as the case may be, instead of issuing warrant for arrest may issue notice to the judgment debtor calling upon him to appear before the Adjudicating Officer, Authority on the specified date to show cause why he should not be committed to civil prison as per provision of Order 21 Rule 37 in Form R-18. Such notice shall not be necessary if the Adjudicating Officer, Authority is satisfied by affidavit or otherwise that Judgment-debtor may likely to be absconded or leave the local limits of jurisdiction of the Adjudicating Officer or Authority with intent to defeat and delay the process of execution of the decree/Order.*
>
> ***(2)*** *Where appearance is not made in obedience to the said notice the Authority or Adjudicating Officer shall, if the decree holder so requires, issue a warrant for the arrest of the judgment-debtor as mentioned hereinafter.*
>
> ***Provided*** *that above provision i.e.,36(1) & (2) shall not be invoked and applicable in case of a female judgment debtor".*
>
> ***"44. Invocation of provisions of Civil Procedure Code.-*** *Wherever the regulations are silent on any aspect, the provisions with regard to execution as provided in Civil Procedure Code, 1908 may be invoked as required, in view of the facts of the matter".*

12) In the light of above discussion, the question is thus decided against the appellants.

13) In view of above, the impugned-order dated 12/05/2025 and impugned-notice dated 14/05/2025 are not perverse, arbitrary or against the provisions of law and consequently, the same are not required any interference.

14) All the appeals, therefore, fail and deserve to be dismissed.

15) Resultantly, all the appeals are dismissed. The impugned-order dated 12/05/2025 passed by the learned Regulatory Authority in Complaint No.RAJ-RERA-C-N-2022-5326 & Complaint No.RAJ-RERA-C-2019-3372 and impugned-notice dated 14/05/2025 passed by the Registrar of the Authority in both the above two complaints are affirmed.

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

17) There is no order as to costs.

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

Files be consigned to record.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson

Anil Goyal/PS/Suppl.1-6