BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

(1) Appeal No.86/2025

In: Complaint No.RAJ-RERA-C-N-2023-6809

Nimrana Developer, 6th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015.

……..Appellant

VERSUS

Radiance Resident Association through its President Mr. Ashok Kumar, Society Office, Radiance 1, Airport Plaza, Durgapura, Tonk Road, Jaipur-302018.

……..Respondent

(2) Appeal No.97/2025

In: Complaint No.RAJ-RERA-C-N-2023-6809

Buildcon Consultant Pvt. Ltd. through Director Satyanarain Chauhan, S/o Shri Kajor Mal Chauhan, Aged 75 years, Resident of S.B. 114(A), Lal Kothi, Tonk Road, Jaipur Rajasthan, At Present Flat No. A-1201, Airport Plaza, Mangalam Radiance Building, Jaipur, Mangalam Radiance, Jaipur.

...Appellant

1. Radiance Resident Association through its President Mr. Ashok Kumar, Society Office, Radiance 1, Airport Plaza, Durgapura, Tonk Road, Jaipur-302018.
2. Nimrana Developer, 6th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015.

....Respondent

(3) Appeal No.122/2025

In : Complaint No.RAJ-RERA-C-N-2023-6809

Mr. Ajeet Jon Saxon, S/o Mr. Ram Sahai Saxena, aged 71 years, Resident of 10883 Arizona Avenue, Culver City, California 90232 (USA) (Passport No.461050298) & Presently R/o SB 114(A), Lal Kothi, Tonk Road, Jaipur (Raj.)

.....Appellant

VERSUS

1. Radiance Resident Association through its President Mr. Ashok Kumar, Society Office, Radiance 1, Airport Plaza, Durgapura, Tonk Road, Jaipur-302018.

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

2. Nimrana Developer, 6th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015.

……Respondents

(4) Appeal No.100/2025

In: Complaint No.RAJ-RERA-C-N-2023-6809

Radiance Resident Association, Society Office, Radiance 1, Airport Plaza, Durgapura, Tonk Road, Jaipur-302018.

……Appellant/Complainant

VERSUS

Nimrana Developer, 6th Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur-302015.

….. Respondent

(5) Application No.1954/2026

In Appeal No.86/2025

Nimrana Developers ------Applicant-Appellant

Versus

Radian Residents Association ------Respondent

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

In Appeal No.86/2025: -

For Appellant	:	Mr. Prashant Daga, Advocate assisted by
	:	Mr. Ajay Singh Rajawat, Advocate &
	:	Ms. Khushi Kabra, Advocate
For Respondent	:	Mr. Ankit Totuka, Advocate, assisted by
	:	Mr. Vijay Singhal, Advocate &
	:	Ms. Abha Kumari, Advocate

In Appeal Nos.97 & 122/2025: -

For Appellant	:	Mr. Samkit Jain, Advocate

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

For Respondent	:	Mr. Ankit Totuka, Advocate, assisted by
	:	Mr. Vijay Singhal, Advocate &
	:	Ms. Abha Kumari, Advocate

In Appeal No.100/2025: -

For Appellant	:	Mr. Ankit Totuka, Advocate assisted by
	:	Mr. Vijay Singhal, Advocate &
	:	Ms. Abha Kumari, Advocate
For Respondent	:	Mr. Prashant Daga, Advocate assisted by
	:	Mr. Ajay Singh Rajawat, Advocate &
	:	Ms. Khushi Kabra, Advocate

O R D E R

Reserved on 15th September, 2026

Pronounced on 06th October, 2026

Per : Justice Madan Gopal Vyas, Hon'ble Chairperson

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") arises out of the impugned order dated 17/06/2025 passed by the Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter referred to as "Regulatory Authority") in Complaint No: RAJ-RERA-C-2023-6809.

In Appeal Nos.86, 97 & 122/2025: -

2) The brief facts of the case are that the Complainant filed an online complaint in Form N bearing No.RAJ-RERA-C-N-2023-6809 that the building/Project "Manglam Radiance" had not been constructed in accordance with the approved JDA maps. It was further alleged that the Completion Certificate issued by the project architect was under cloud. The primary grievance raised pertained to the construction carried out on the 12th floor, which, as per the sanctioned plan was designated as an "open terrace garden". The Complainant sought reliefs including demolition of the alleged unauthorised

construction on the 12th floor and compensation to the Resident Welfare Association for the increase in saleable area. The Complainant filed a modified/detailed complaint reiterating the earlier allegations and making additional claims, including (a) Non-provision of certain promised amenities and (b) alleged violation of open space requirement at 39 meters' height. Interim reliefs were also sought, including a stay on the ongoing construction on the 12th floor. The Regulatory Authority conducted an inspection of the project premises. The site inspection report inter alia recorded a categorical finding that the 12th floor terrace was a private terrace of the owner. The Regulatory Authority, vide order dated 05/11/2024, granted ad-interim relief by restraining the respondent (i.e., Appellant) from creating third-party rights over the subject property and restraining any further construction activity. The said order was passed despite the fact that, by that time, the subject property had already been transferred in favour of a third party, namely, Mr. Ajeet Jon Saxon in respect of Unit No.B-1201, vide Sale Deed dated 27/09/2023 and Buildcon Consultant Pvt. Ltd. in respect of Unit No.A-1201. Notably, neither Mr. Ajeet Jon Saxon nor Buildcon Consultant Pvt. Ltd. was impleaded as a party to the said proceedings at any point in time. The Complainant filed a rejoinder to the respondent's reply, wherein several new allegations were raised, including (a) Expiry of the building plan, (b) Challenge to the Completion Certificate and a request for inquiry against the Architect - M/s. Mishra Garg and Associates, (c) Alleged deviations between the "as-built" plan and the JDA-approved plan, asserting a violation of Section 14 of the RERA Act, (d) Absence of any designation of "exclusive private terrace" in the approved maps and (e) Non-obtainment of Occupancy Certificate. The Complainant also sought fresh reliefs, including a declaration that the Completion Certificate is void, an order for the demolition of the alleged unauthorized construction, a declaration that the transaction for the sale of the 12th floor is void and the initiation of an inquiry against the architect.

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

3) Complaint No: RAJ-RERA-C-N-2023-6809 was disposed of vide order dated 17/06/2025, the operative portion of which reads, as under: -

"26. In view of above discussions: -

(i) Under section 38 read with Section 61 of RERA Act, 2016 penalty of Rs.5,00,000/- is imposed on the respondent for selling the open terrace garden on 12th floor.

(ii) The respondent is directed to: -

(a) re -store the "Open-Terrace Garden on 12th Floor" and allow its access to Radiance Resident Association, to facilitate servicing sanitary system, valve, electrical components and other utilities located on the terrace.

(b) establish a designated refuge area on the floor.

27. The Complainant will be a liberty to seek other relief i.e. compensation for violation of Section 14 of RERA Act and cancellation of Sale-deeds executed for Unit A-1201, B-1201 between respondent & M/s. Buildcon Pvt. Ltd. & Sh. A J Saxon respectively at other appropriate legal forums.

28. This complaint stands disposed of with the abovementioned directions.

29. Compliance of the order shall be made within 45 days of the uploading of this order on the official webpage of the Regulatory Authority".

4) Hence, these appeals with the following prayer: -

"In view of the facts and grounds mentioned above, this Tribunal may graciously be pleased to accept the present appeal and after calling for record pass the following order: -

a. The Tribunal may be pleased to set aside the impugned-order dated 17/06/2025 passed by the Regulatory Authority in Complaint No.RAJ-RERA-C-2023-6809;

b. Pass any other or further reliefs in favour of the appellant be granted which this Tribunal deems fit and just in the facts and circumstances of the present case".

5) Mr. Prashant Daga, learned counsel appearing for appellant Nimrana Developers in Appeal No.86/2025 has argued that the impugned-order has been passed in complete violation of the principles of natural justice. The appellant was a necessary party, as the Sale-deed and title of the appellant had come under a cloud, thereby severely prejudicing the appellant's ownership rights. Therefore, before passing any adverse remarks, the appellant ought to have been impleaded as a necessary party in the appeal. The impugned-order has the effect of causing distress and creating legal uncertainty regarding

the appellant's title. The complaint is an abuse of the process of law and has resulted in procedural as well as reputational injury to the appellant. The proceedings before the Regulatory Authority suffer from incurable defect of non-joinder of necessary and proper parties despite being fully aware of the fact that Unit A-1201 on the 12th floor was sold to and is in possession of Buildcon Consultant Pvt. Ltd. i.e., the appellant herein. The Complainant deliberately failed to implead them. The Regulatory Authority too proceeded with the adjudication without ensuring their presence in the proceedings, thereby rendering the directions issued in the impugned-order inoperative and legally untenable. It is trite law that no binding or enforceable direction can be issued against non-parties and such failure vitiates the proceedings entirely. The Authority failed to consider the applicable provisions of the Transfer of Property Act, including Sections 5 and 8. The terrace was an incident of ownership and formed an integral part of the unit sold to the appellant. The Sale-deed supported by the inspection report and approved building plans, confirm that the terrace was never intended as a common area. Under Section 5, the ownership of this incident transferred upon execution of the Sale-deed. Under Section 8, all easements and appurtenant rights passed to the purchaser. The failure to consider these legal incidents renders the impugned-order cryptic and unsustainable. The real nature of the dispute, as evident from paragraphs 22 and 24 of the impugned-order, relates only to access for repairs an issue between allottees, which are outside the jurisdiction of the Regulatory Authority. Clause 10 of the Sale-deed unequivocally provides the Owner's Association unrestricted access for maintenance and no evidence of denial exists. In absence of any promoter-allottee dispute, the complaint was outside the scope of the RERA Act. The impugned-order proceeds to examine alleged deviations in building plans and undertakes an interpretation of Regulation 10.2.1(iii) of the Rajasthan Building Regulations, 2020. The Authority, therefore, acted in complete disregard of the limits of its jurisdiction and rendered findings on matters

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

falling exclusively within the jurisdiction of the JDA. Significantly, Appeal No.635/2024 : Buildcon Consultant Pvt. Ltd. Vs. JDA, decided on 07/11/2024, was already pending before competent authority wherein directions had been issued restraining further construction till conclusion of enquiry. In the light of the said pendency, the Regulatory Authority ought to have exercised judicial restraint and refrained from rendering findings on the very same subject-matter. The Sale-deed and Agreement to Sale, in fact, conferred an explicit right of maintenance access to common areas, which was never interfered with. The Regulatory Authority observed that it does not have the power to examine the validity of the Completion Certificate, yet proceeds to invalidate the same in the operative portion. Similarly, the Authority holds that the sale of the 12th floor terrace contravenes the RERA Act. The regulation cited does not mandate any specific labelling of "private terrace," nor does it prescribe a rigid format. The impugned-order was passed in disregard to the binding judicial precedent. The judgment of the Hon'ble High Court in ***Parveen Gambhir & Ors. Vs. Union of India, CWP No.23526/2021, decided on 01/04/2025***, which was duly cited before the Regulatory Authority, categorically holds that RERA has no jurisdiction to order demolition or determine deviations from sanctioned building plans. It is trite law that only civil courts are competent to adjudicate upon the validity of registered documents and disputes relating to title. The Regulatory Authority, by indirectly examining and adjudicating upon such issues, has exceeded the scope of its statutory mandate. The Regulatory Authority failed to appreciate that the present dispute involved questions of title, transfer of easementary rights, and proprietary incidents arised out after execution of the sale-deed. These matters do not fall within the purview of the RERA Act, 2016 and must be adjudicated upon by the civil courts. Section 79 of the Act bars jurisdiction only where RERA is competent in the present case. The Regulatory Authority, being a creature of statute, is required to act in accordance with the constitutional principles. The impugned-order is in the teeth

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

of Article 300-A of the Constitution of India insofar as it encroaches upon the appellant's right to property without even issuing notice, i.e., without following due process.

Learned counsel for the appellant Nimrana Developers in Appeal No.86/2025 and respondent Nimrana Developers in Appeal No.100/2025 has argued that Section 14 of the RERA Act, 2016 is not to be read in isolation but in harmony with applicable building bye-laws. Where the local planning authority has not required consent for plan modifications, RERA cannot artificially impose such a requirement. Thus, interpreting Section 14 in total isolation and imposing conditions which were not required under building bye-laws amount colourable exercise of the power and assuming jurisdiction over state subject. Learned counsel further argued that the affidavit-cum-undertaking dated 11/07/2023 had been submitted on behalf of Nimrana Developers.

Learned counsel has placed reliance upon the judgments on the issue of if anybody is aggrieved by CC issued by local authority, he is free to challenge in **PV Nidhish & Anr. Vs. Sivaprakash : 2024 SCC OnLine Ker 4893 & M/s Ralas & Chopda Builders & Anr. Vs. Jeevan Vihar Residents Welfare Society, MA No.49 of 2024 (Chattisgarh High Court), 2026:CGHC:1484-DB,** validity of CC cannot be adjudged by RERA or REAT in **Appeal No.161/2022 : Sachin Jain Vs. State of Rajasthan decided on 05/05/2026 by Hon'ble REAT,** RERA has no town planning jurisdiction in **Praveen Gambhir & Ors. Vs. Union of India & Ors. CWP No. 23526 of 2021 (O&M), Punjab & Haryana High Court : 2025 PHHC:046651-DB, Bagherwal Infraprojects Ltd. Vs. Sunil Namamal Kriplani : Appeal No.118/2023 decided on 15/04/2025 by REAT, MP Real Estate Regulatory Authority Vs. Shakar Ji Maharaj Trust, MSA-**

35-2026, M.P. High Court, 2026:MPHC-JBP:46969, inter-se title dispute outside the purview of RERA **in Sana Hospitality Services Pvt.Ltd. Vs. Madan Kishan Gurow & Ors. CRA 606 of 2024, Bombay High Court, 2025 : BHC-AS:51049, Arshi Ahmed & Ors. Vs. M/s L&T Construction Equipment Ltd. & Ors. Appeal No.(K-REAT) 17/2024 decided on 26/11/2025, JayantiLal Investments Vs. Madhuvir Co-operative Housing Society and Ors. (2007) 1 SCR 677, Asha Johri Vs. Neera Rajpur : RFA (OS) 75/2014 (Delhi High Court) decided on 08/05/2014, M/s. Sobha Lted. Vs. Deputy Registrar of Society & Ors. : WP No.5934 of 2024 (Karnataka High Court), NC:2026:LHC:12755 and Hindustan Steel Ltd. Vs. State of Orissa : (1970) 1 SCR 753.**

6) Mr. Samkit Jain, learned counsel appearing for appellant-Mr. Ajeet Jon Saxon has argued that the impugned-order has been passed in complete violation of the principles of natural justice. Appellant Mr. Ajeet Jon Saxon was a necessary party as the sale-deed and title of the appellant has come under cloud which is severely prejudicing the appellant's ownership. Thus, before passing any adverse remarks, the appellant was to be impleaded as a necessary party in the appeal despite being fully aware that Unit No.B-1201 on 12th Floor was sold and is in possession of Mr. Ajeet Jon Saxon. Therefore, the RERA proceedings suffer from incurable defect of non-joinder of necessary and proper parties. The learned Authority rendered the sale deed void and encroached upon the jurisdiction of a civil court. It is settled law that cancellation/declaration of sale deed void can be granted only by the civil court. Appeal No.635/2024 : Buildcon Consultant Pvt.Ltd. Vs. JDA decided on 07/11/2024 was pending consideration before the RERA wherein directions were issued restraining further construction till conclusion of enquiry,

therefore, learned Authority ought to have exercised judicial restraint and refrained from rendering findings on the very same subject matter. The impugned order was passed in disregard to the binding judicial precedent given by the Hon'ble Rajasthan High Court in ***Parveen Gambhir and ors. Vs. Union of India CWP No.235/26/2021 decided on 01/04/2025,*** wherein it has categorically been held by the Hon'ble High Court that the RERA has no jurisdiction to order demolition or determine deviations from sanctioned building plans.

Mr. Samkit Jain, learned counsel also appearing for appellant-Buildcon Consultant Pvt.Ltd. has argued that the RERA proceedings suffer from incurable defect of non-joinder of necessary and proper parties by not impleading the appellant-Buildcon Consultant Pvt.Ltd. as a necessary party as Unit No.A-1201 at 12th Floor is in exclusive possession of the appellant. The Authority has recharacterized the nature of 12th Floor terrace without any evidentiary basis or jurisdiction. The mere presence of service lines or maintenance utilities does not convert a privately owned space into a common area. The right of access for maintenance is distinct from ownership and does not dilute proprietary rights. The Authority also lacked jurisdiction to examine questions of title, particularly when the affected parties were not before it. The learned Authority failed to consider applicable provisions of Sections 5 and 8 of the Transfer of Property Act. The sale-deed supported by the inspection report and approved building plans confirm that the Terrace was never intended as a common area. The real nature of dispute as is evident from paras 22 and 24 of the impugned order, relates only to access for repairs,

an issue between allottees, which are outside the jurisdiction of the learned Authority. Clause 10 of the sale-deed unequivocally provides Owners' Association unrestricted access for maintenance and no evidence of denial exists. In absence of any promoter-allottee dispute, the complaint was outside the scope of the RERA Act, 2016. The dispute, if any, was inter-se between the allottees, which falls within the jurisdiction of the civil courts or the authorities under the Rajasthan Apartment Ownership Act. In support of his arguments, learned counsel for the appellants has placed reliance upon the judgment of the Hon'ble Supreme Court on the issue of necessary and proper party in ***Moreshar S/o Yadaorao Mahajan Vs. Vyankatesh Sitaram Bhedi (D) Thr. LRS and others : Civil Appeal Nos.5755-5756 of 2011 dated 27/09/2022*** and judgment on the issue of cancellation of registered sale-deed without notice in ***Anukampa Avas Vikas Pvt.Ltd. (M/s.) & Anr. Vs. State of Rajasthan & Anr. : 2008 SCC OnLine Raj 427.***

7) *Per contra*, Mr. Ankit Totuka, learned counsel appearing for respondent Radiance Residents Association has argued regarding the area in question, as mentioned in the site inspection report, does not apply to the respondent, as per the Rajasthan Building Regulations, 2020. Learned counsel has further argued that the impugned-order is legally sustainable and does not in any manner, prejudice or affect the right, title or interest of the appellant. The contention that the Complainant Association never sought any relief against the Appellant or any third-party purchaser is well-founded. The reliefs prayed for were solely against the Promoter/Developer in respect of the unlawful sale of common areas, which are statutorily non-transferable under Sections 14 and 17 of the RERA Act, 2016. The Appellant's contention that the impugned-order was passed in complete violation of the principles of natural

justice and that the Appellant was a necessary party since its Sale-deed and title have been brought under a cloud, is wholly misconceived and untenable. In the present case, the "Open Terrace Garden" forms part of the common area as per the JDA-approved building plan as well as the project details uploaded by the Promoter/Developer on the RERA web-portal. The contention of the Appellant that the proceedings before the Regulatory Authority suffer from an incurable defect of non-joinder of necessary and proper parties, is misconceived. The Appellant was not a "necessary party" in terms of Order I Rule 10 CPC or settled jurisprudence, as no independent relief was sought against it. The Regulatory Authority has not 're-characterized' the terrace but has merely recognized its true and original character, as reflected in the JDA-approved plans, sanctioned drawings and details uploaded on the RERA web portal. These documents clearly earmark the terrace on the 12th floor as an 'Open Terrace Garden', forming part of the common area and not constituting a saleable or transferable unit. The invocation of Section 5 of the Transfer of Property Act, which deals with the transfer of property by act of parties, does not aid the appellant's case. While Section 5 permits transfer of ownership through a valid sale, such transfer must be lawful. Similarly, Section 8 of the Transfer of Property Act, which provides that a transfer includes all legal incidents of the property unless expressly excluded, cannot be interpreted as an overriding effect on the regulatory framework. The Appellant cannot rely on Section 8 to contend that easementary or appurtenant rights were automatically transferred when, on the contrary, the very transfer is void ab-initio. Under Section 2(n) of the RERA Act, 2016, terraces not clearly demarcated as private or not sold with specific, lawful rights of exclusive use are deemed to be part of common areas. The cause of action arises which gives right in favour of the aggrieved person and creates obligation or liability on promoter, allottee or real estate agent as per the provisions of the Act, the Authority retains its jurisdiction because Section 79 of the Act bars the jurisdiction of civil court

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

from entertaining any suit or proceedings in respect of any matter which the Authority or the Adjudicating Officer or the Tribunal is empowered by or under the Act to determine. The contention of the Appellant that JDA is seized of the dispute in Appeal No.635/2024 filed by M/s. Buildcon Consultants Pvt. Ltd. and thus the RERA ought to have exercised restraint till the decision of the enquiries by JDA, is not tenable, as such appeal has been filed against the action of JDA and the Complainant is not a party therein. The issue in the instant matter is whether the Open Terrace Garden, being a common area, must remain freely accessible to all flat owners without requiring the prior consent of any individual flat owner. The finding in Para-24 that the sale of the terrace is violative of the provisions of the RERA Act, particularly in the context of Section 14 is a substantive observation on the promoter's conduct in relation to adherence to project specifications and rights of the allottees. In Para-25, the Regulatory Authority rightly observed that it does not possess the statutory power to declare sale of open terrace area as void, which is the jurisdiction of the civil court. The impugned-order deprives the Appellant of its property rights without following due process of law, thereby violating Article 300-A of the Constitution, is wholly misconceived and untenable. The Appellant cannot invoke Article 300-A because the sale of common areas is *void ab initio* under the RERA Act and Building Regulations. It is settled law that Article 300-A does not protect unlawful or void transactions. The Appellant has not shown any error apparent on the face of the record or perversity to warrant the grant of interim relief at this stage. The plea for *status quo* is nothing but a tactic to continue enjoying the benefit of its illegal and unauthorized action, especially qua the open terrace area, which has been rightly held to be in violation of the promoter's obligations under the RERA Act, 2016.

Learned counsel has further argued that the Map Revision Application bearing No. RAJ-RERA-APP-MR-2023-227 was not examined properly by the RERA

prior to its approval and was approved based on false/fake documents and misstatement of facts which are now revealed beyond doubt. The Map Revision Application was approved subject to the special condition that the Appellant/Applicant would be liable to compensate any allottee if any allotted unit is not made available consequent to reduction in number of units, itself indicates that the approval was given on the basis of the Promoter's own affidavit and undertakings, without any independent examination or authentication of the Completion Certificate. From the facts narrated in preliminary objections and in preceding para it is beyond doubt that Completion Certificate dated 29/03/2021 and Addendum thereto is not a genuine document denied to have been issued by the Project Architect repeatedly before CT time and again vide his written letters dated 31/12/2025 and 02/01/2026, and thereafter by way of oral declaration before the Chief Town Planner, Government of Rajasthan on hearing conducted on 12/02/2026. The status of the project was changed from "Lapsed" to "Completed" on 25/10/2023, with retrospective effect from 29/03/2021, based on this fraudulent Completion Certificate. The Appellant/Applicant preferred Appeal No. 86/2025 and the Respondent preferred Appeal No. 100/2025 to the extent it fails to declare the Completion Certificate dated 29/03/2021 as null and void, both appeal arising out of the order dated 17/06/2025. This Tribunal vide order dated 18/07/2025 passed in Appeal No. 86/2025, this Tribunal stayed the effect, operation and execution of the said order. It is, however, specifically and emphatically submitted that the said stay order operates only upon the order dated 17/06/2025 and its effect, operation and execution. It does

not and cannot operate as a blanket injunction for RERA to restrain itself from conducting any fresh inquiry or investigation or verification based on subsequently emerging facts and evidences reflecting fraudulent documents. The regulatory jurisdiction of the Regulatory Authority and its investigative powers under Section 35 are not suspended or extinguished merely because an appeal is pending before the Appellate Tribunal on a related matter. The representation dated 09/03/2026 lawfully invokes the investigative jurisdiction of the RERA Authority under Section 35 of the RERA Act and the appellant/applicant has no right to restrain such representation through a private injunction from this Tribunal. the contention that Section 39 of the RERA Act, 2016 limits the Authority to rectification of clerical errors is wholly misplaced. The representation dated 09/03/2026 does not invoke Section 39 of the RERA Act. It invokes the independent investigative jurisdiction of the RERA Authority under Section 35 of the RERA Act, a distinct and separate provision to investigate the fraudulent conduct of the Promoter. The contents of the Application are specifically denied to the extent that the recall of the Map Revision Application No.RAJ-RERA-APP-MR-2023-227 by the Registrar on 01/07/2026 is characterized as being “unilateral” or improper. It is argued that the RERA Authority, as a statutory regulatory body, is fully empowered to revisit and examine its own administrative actions when such an action was taken on the basis of a fraudulent/forged/fake document.

Learned counsel has further drawn the attention of this Tribunal towards Office Order Letter/JDA/-/Zone-4/2025 of the Jaipur Development Authority, Jaipur

(Anx.13). The Hon'ble Madhya Pradesh High Court on the issue of CC cannot be relied upon for giving 'Completed' status to the project in ***Sunil and Ors. Vs. The State of Madhya Pradesh and Ors.*** : **Writ Petition No.11590/2024 decided on 27/08/2024.** The Real Estate Regulatory Authority, Maharashtra on the issue of possession without occupancy certificate is no possession in **Shaama Estate PIL Flat Owners Association Vs. Shailesh Kantilal Patel in Complaint No. CC005000000023278 decided on 13/08/2020** (Blanket consent cannot be considered if there change/alteration/modification in sanctioned plan). Apart from above, learned counsel for the appellant has placed reliance upon the judgments on the point of Terrace Area should be treated as common area unless shown as Private Terrace in approved maps in **Ruheen Regal Residents Welfare Society Vs. Ruheen Developers and Properties LLP in Complaint No.RAJ-RERA-C-N-2023-6164 & Sangita W/o Dinesh Parnami and ors. Vs. The Real Estate Regulatory Authority, Rajasthan and ors. in Appeal No.167/2024, Indian Bank Vs. Satyam Fibres (India) Pvt.Ltd. (Civil Appeal No.1334 with 1737 of 1995) Supreme Court decided on 09/08/1996, Shakuntla Yadav Vs. M/s.Anurag Enterprises : Appeal No.68/2021 decided on 15/07/2022, SARE Shelters Projects Pvt Ltd Vs. Sare Squires and others C.M.S.A. No.27 of 2020 decided on 16/02/2021. Commissioner of Income Tax, Kozhikode Vs. O. Abdul Razak : 2013) 350 ITR 71 (Kerala) decided on 23/12/2011, Surjeet Singh Chhabra Vs. Union of India (1997) 89 ELT 646 (SC) decided on 25/10/1996, South Ex Residents Welfare Society Vs. Virgo Buildestate Private Limited in Appeal No.29/2021 decided on 09/07/2024, Ramagauri Keshvlal Virani Vs. Walkeshwar Triveni Co-Operative Housing Society Ltd. and ors. AIR 1999 Bom 385, Bikram Chatterji and ors. Vs. Union of India (2019) 19 SCC 161, Union Bank of India and ors. Vs. Rajasthan Real Estate Regulatory Authority**

and ors. AIR 2022 Raj 85, Kuldeep Kaur Vs. MVL Ltd. in Complaint No.RAJ-RERA-C-2018-2127, decided on 09/05/2019 and Mumbai International Airport VS Regency Convention Centre : AIR 2010 SC 3109.

IA No.1954/2026:-

8) The brief facts giving rise to the filing of **IA No.1954/2026** in Appeal No.86/2025 are that the Chairperson of RERA vide order dated 25/08/2023, duly approved the Map Revision Application bearing No.RAJ-RERA-APP-MR-2023-227, subject only to the special condition that the appellant/applicant would be liable to compensate any allottee whose allotted unit is not made available consequent to reduction in the number of units. The respondent addressed a representation/letter dated 09/03/2026 to the learned Chairperson, levelling allegations of a "fraudulent completion certificate" and seeking, inter alia, an investigation into the change of the project's status from "lapsed" to "completed". The Registrar RERA issued Notice dated 15/04/2026, calling upon the appellant/applicant to appear on 23/04/2026 and submit its reply "regarding submission of incorrect/misleading information". The Registrar issued the impugned Notice dated 06/07/2026 at the behest of the respondent, once again referencing the complaint received from the respondent regarding fraudulent and incorrect completion certificate and regarding maps that were not approved by JDA, Jaipur. It is thus evident that the respondent, despite having already agitated the identical grievance before the Authority (Complaint No. RAJ-RERA-C-N-2023-6809) and this Tribunal (Appeal No.100/2025) is now simultaneously and independently pursuing the very same grievance for a third time before the Authority, resulting in the impugned

Notice dated 06/07/2026 and the threat of an *ex-parte* decision, while the present Appeal No.86/2025 and the connected Appeal No.100/2025 remain pending and subjudiced before this Tribunal in Complaint No: RAJ-RERA-C-N-2023-6809.

9) Hence, this interim application has been filed with the following prayer:-

> "*In light of the facts and grounds stated above and without prejudice to the grounds already urged in Appeal No. 86/2025, it is most respectfully prayed that this Tribunal may be pleased to:*
>
> *a. Grant early/out-of-turn hearing and fixation of the present Application on or before 14/07/2026;*
>
> *b. Take the documents annexed herewith, and the subsequent events/developments stated herein, on record;*
>
> *c. Grant an ad-interim ex-parte stay/injunction restraining the Respondent, its office bearers, members and agents, from acting further upon, prosecuting or otherwise pursuing the Notice dated 06/07/2026 or any other complaint/representation/proceeding on the similar subject matter, before the Rajasthan Real Estate Regulatory Authority, pending disposal of the present Appeal No. 86/2025; and*
>
> *d. Restrain the Ld. RERA Authority through its registrar from further proceeding in the matter arising out of any representation from RWA on the issues which are pending for consideration before this Hon'ble Tribunal.*
>
> *e. Pass such other and further orders as this Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice, in favour of the Appellant/Applicant".*

10) Mr. Prashant Daga, learned counsel appearing for the applicant-appellant Nimrana Developers has argued that the identical grievance regarding the Completion Certificate dated 29/03/2021, its Addendum and the underlying map deviations before the Authority in Compliant No. RAJ-RERA-C-N-2023-6809 and having further carried the very same grievance in appeal before this Tribunal in Appeal No.100/2025 is now simultaneously pursuing the identical relief for a third time through the representation dated 09/03/2026 and the consequent Notice dated 06/07/2026 before the Authority. The

correctness/validity of the Completion Certificate dated 29/03/2021, its Addendum and the underlying deviations from the JDA approved maps is squarely sub judice before this Tribunal. This Tribunal, vide order dated 18/07/2025 in the present Appeal No.86/2025, has stayed the effect, operation and execution of the very order dated 17/06/2025 out of which the underlying controversy regarding the Completion/Addendum and map deviations arises. Section 39 of the RERA Act, 2016 confers upon the Authority only a limited power of rectification of clerical, arithmetical or apparent errors and does not permit substantive review of a concluded administrative sanction. The respondent's attempt to reopen the concluded completion certificate and the approved Map Revision Application through a fresh representation, when the identical grievance is already pending before this Tribunal. The Regulatory Authority is not competent to hear such issues nor exercise such powers beyond period of 2 years.

11) Mr. Ankit Totuka, learned counsel appearing for Radiance Residents Association has opposed IA No.1954/2026 arguing that this IA has been filed not out of any genuine urgency or legitimate legal grievance but solely as a calculated and deliberate dilatory tactic to waste the time of this Tribunal to delay the proceedings and to shield the appellant/applicant from accountability for its own admitted lapses, irregularities and statutory breaches. The present application is, in essence, a desperate attempt to delay the appellate proceedings pending at final stage to camouflage the fraudulent conduct of the appellant of uploading a fabricated/forged Completion Certificate and Addendum thereto on the RERA portal to get the status of the project

changed from "Lapsed" to 'Completed'. The approved building plan expired on 26/04/2019 and the project was to be completed by 31/03/2020. Hence, rightly classified as "Lapsed". In order to cover its latches, the Completion Certificate was obtained on 29/03/2021 and subsequently an undated Addendum thereto from the project architect and placed reliance upon Clause 6(iii) of Model Rajasthan Building Regulations, 2020 to contend that no fresh JDA approval was required for internal changes, thereby fraudulent inducing the RERA for converting the project status from "Lapsed" to "Completed" retrospectively from 29/03/2021. The Authority has changed the status of the project from "Lapsed" to "Completed" on 25/10/2023 on the basis of affidavit of the Promoter's authority signatory, and that too with retrospective effect from 29/03/2021. The said completion certificate is vague, false and has in fact not been issued by the Project Architect. As per letter dated 18/02/2026 issued by the respondent, the Architect himself has admitted that **(a)** the completion certificate was not issued by him and he had signed a blank paper without appreciating the contents thereof, and the language of the completion certificate was typed in later, **(b)** the as-built drawings of the building incorporated major changes which could not justify the grant of a completion certificate without fresh JDA approval and **(c)** the Addendum to the completion certificate was not issued by him. Therefore, the Interlocutory Application seeking interim relief is liable to be rejected.

12) **<u>In Appeal No.100/2025</u>: -**

The brief facts of the case are that the "Manglam Radiance" project was registered under

RERA wherein completion of the project was mentioned as 1/03/2020, when the project could not be completed by the said date, an application for extension was made to RERA which was accorded for completion of the project by 31/03/2021, vide Certificate for Extension of registration of project dated 02/09/2020 subject to submission of approval of the validity of the Building Plan from competent authority before the expiry of six months from the date of issuance of such certificate of extension. However, neither the project got completed by 31/03/2021 nor any approved building plan has been submitted to the office of the RERA, Rajasthan. On account of such non-compliance, the project was classified as 'Lapsed'. The Completion Certificate dated 29/03/2021 from 'Mishra Garg and Associates' project architect was uploaded on the website to mislead the authorities that the project was completed. There is a deviation in the building plan initially approved by the JDA. Permanent Fire NOC was not obtained till date. Amenities such as Library-cum-cafe, Basketball ring, 22-yard Cricket Pitch with automatic bowling machine facility, skate ring, Swimming Pool Heated water heating system, Mechanized Parking, Video door-phones have been withdrawn without consulting with the residents/owners/allottees of the flats which is gross violation of agreed upon terms with flat owners. The Respondents got baffled with such letter and to cover its latches had got an addendum issued from the project architect which is undated to claim before the RERA that the project is complete. The Appellant being aggrieved by such irregularities committed by the Respondent had approached the RERA and filed an online Complaint bearing No.RAJ-RERA-C-N-2023-6809 alleging that the building/project "Radiance" had not been constructed in accordance with the approved JDA maps, 12th floor has been illegally sold, the project is incomplete and the completion certificate issued by the project architect is false. The Regulatory Authority vide its order dated 06/02/2024 issued directions to the technical team to visit the project site and furnish a report thereof. On 30/09/2024 in pursuance to the directions issued on

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

06/02/2024, the technical team of the Regulatory Authority conducted the site visit and submitted its inspection report. The lapse of more than 12 months on 04/02/2025 filed its reply denying all the allegations raised in the complaint and submitted that (a) a valid Completion Certificate dated 29/03/2021 had been obtained in compliance with applicable by-laws (b) 12th floor terrace was a private terrace as evidence from the Sale-deed approved plans and inspection report. That the RERA after consideration of submissions of both the parties have passed an order dated 17/06/2025 by partially allowing the complaint of the Appellant by directing the Respondent to restore and allow the access of the open terrace garden at the 12th floor of Block A and B to the Appellant and also establish a designated **Refuge-Area** on the said floor. Complaint No: RAJ-RERA-C-N-2023-6809 was disposed of vide order dated 17/06/2025.

13) Hence, this appeal with the following prayer: -

> *"In light of the above facts and ground, the Appellant-Complainant humbly pray that this Tribunal be pleased to accept the present appeal and after calling the record from the Authority below, pass the following order in the interest of justice and fairness: -*
>
> *(a) Set aside the order dated 17/06/2025 passed by Shri Sudhir Kumar Sharma, Learned Member, Rajasthan Real Estate Regulatory Authority, Jaipur, in Complaint No.RAJ-RERA-C-N-2023-6809 to the extent it does not declare the Completion Certificate dated 29/03/2021 issued by the project architect as null and void, thereby entitling the Appellant-Complaint to claim compensation for the delay in completion of the project beyond the scheduled project completion date;*
>
> *(b) To impose appropriate penalties on the Respondent for their deliberate misrepresentation and non-compliance;*
>
> (c) *To award cost if litigation in favour of the Appellant*
>
> (d) *Grant any other relief as this Regulatory Authority deems fit and proper in the interest of justice".*

14) Mr. Ankit Totuka, learned counsel appearing for the appellant-complainant Radiance Resident Association in Appeal No.100/2025 has argued that the RERA Authority while passing the impugned-order, has not recorded any finding with regard to the Completion Certificate. Completion Certificate is blatant error on the part of the Empaneled Architect. Fire-Escape is on this floor and entry to

this has been changed. The project was not completed on 31/07/2021, it was completed in 2024.

Learned counsel argued that it was asserted in paras 3 & 4 of the Certificate dated 02/09/2020 (Anx.7) that the registration was extended for a period of 12 months commencing from 01/04/2020 and was valid up to 31/03/2021 unless further extended by the Real Estate Regulatory Authority in accordance with Section 6 of the Act read with Rule 7 of the Rajasthan Real Estate (Regulation and Development) Rules, 2017 or in accordance with Section 6 read with Section 7, 8 and 37 of the Act. It is asserted in the Certificate for Extension of Registration of Project dated 02/09/2020 (Anx.7) that if the validity of approved building plans has expired or expires before the extended date of validity of registration of the project, the promoter shall obtain from the competent authority the requisite extension of validity of approved building plans and submit a copy thereof to the Authority latest within 6 months from the date of issue of this certificate, failing which, this certificate of extension of registration of the project shall stand withdrawn and the applicant shall be liable for the consequences under the provisions of the Act, Rules & Regulations made thereunder. Para 8 thereof is reproduced, as under: -

> *Special condition(s), the promoter shall get the revised building plan (approved by JDA letter no. JDA/SS/BPC BP/2017/D-1928 dated 07/09/2017) updated on RERA web portal within 30 days of the date of issue of this certificate.*

Learned counsel for the appellant in Appeal No.100/2025 has argued that the learned RA while passing the impugned order has not recorded any finding with regard to completion certificate therefore, set-aside the order to that extent and declare CC dated 29/03/2021 and its Addendum null and void so that the appellant complainant to claim their compensation for the delay in completion of the project.

15) *Per contra*, Mr. Prashant Daga, learned counsel for the respondent Nimrana Developers has argued that the appellant has failed to demonstrate or even plead as to how Section 35 is attracted or in what manner the ingredients thereof stand satisfied. A mere bald reference to a statutory provision, without laying any factual foundation or explaining its applicability, cannot advance the Appellant's case. The ground raised on the basis of Section 35 is, therefore, untenable and liable to be rejected. In terms of Section 39 of the Real Estate (Regulation and Development) Act, 2016, the Regulatory Authority cannot substantively review its decisions or orders. Hence, in the absence of an appeal, such decisions or orders attain finality. The contents of the appeal are, therefore, vehemently denied as being misconceived and contrary to the settled position of law. It is argued that the Hon'ble Punjab-Haryana High Court in *Praveen Gambhir Vs. Union of India* has categorically held that no town planning power or issuing mandamus is vested in the RERA Authorities. In this regard, it is argued that the Completion Certificate pertains to compliance with the applicable building by-laws and the approved plan. It is argued that, in accordance with the building by-laws and Circular dated 01/05/2017 bearing No.F.10(7)UDH/3/2009 Part-III, the architect, being the competent authority entrusted under the relevant statutes, is authorized to issue the Completion Certificate and Occupancy Certificate upon verifying compliance with the approved plans and the applicable statutory requirements. The JDA and the RERA Authority are parallel statutory bodies, operating independently within their respective spheres and are not subservient to one another. In the absence of any material proof,

the ground raised by the Appellant is baseless, factually incorrect and legally untenable. It is argued that the Appellant has failed to prove the contention either before the Regulatory Authority below or in the present appeal. As per bye-law no. 15.1, the outer limit is for starting the construction activity and not otherwise. It is only on account of failure to commence the construction activity within the period specified in the building bye-laws, then only the permission expires and not otherwise. In case more than 50% construction work is completed then failure to complete the construction within the prescribed limit is not considered as violation. The respondent obtained the Occupancy Certificate dated 18/10/2024. It is an admitted position that the Appellant and the members of the Appellant Association have been residing in the building since 2022 and there have been no complaints regarding the non-availability of basic civic infrastructure. It is further argued that, under the applicable building bye-laws and the statutory framework governing the project, there was no requirement to obtain a Fire NOC as a pre-condition for the issuance of the Completion Certificate. It is argued that the alleged meetings were neither duly signed nor endorsed and therefore, do not carry any evidentiary value. As per the Sale-deed for 12th floor under the description of the unit, the answering Respondent has clearly depicted the terrace as “exclusive terrace area”. At this juncture, the attention of this Tribunal is drawn at Section 2(k) of the RERA Act. The terrace from 12th floor onwards has always been exclusive terrace of the respective flat owners and was never part of common area. As per the actual constructed area, there is loss of saleable area to the answering Respondent for 13th to 17th floor in actual

constructed area. Thus, the allegation that loss of terrace area for 13th to 17th floor is for all allottee is baseless as the said area was never intended/approved as common area for all allottee as alleged or otherwise. The reliance on the refuge area mentioned in building bye-laws 2020 is incorrect as building plans were approved prior to 2020 i.e. on 07/09/2017 and subsequently revised on 27/02/2018 and in previous by-laws there were no provisions for refuge area not the approved plans demarcate refuge areas.

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

17) In all the four appeals including one Interlocutory Application No.1954/2026 in appeal No.86/2025, some questions arise to be considered by this Tribunal, as under:-

1. ***Whether the terrace garden at 12th Floor was a private terrace of the owner (Nimrana Developers Pvt.Ltd.) sold to one allottee Ajeet Jon Saxon by registered sale-deed dated 27/09/2023 is an integral part of Unit No.A-1201 and is in possession of Buildcon Consultant Private Limited and the impugned order dated 17/06/2025 passed without impleading the party in the matter, therefore, the impugned order is liable to be set-aside?***

   (Appeal Nos.86/2025 & 122/2025)

2. ***Whether Buildcon Construction Pvt.Ltd. and Mr. Ajeet Jon Saxon purchased Unit No.1201-A by registered sale deed including 12th Floor Terrace as a private terrace of owner and substantial ownership right was affected by the impugned order dated 17/06/2025 and the order was passed without impleading as a party or giving opportunity of hearing in the matter, therefore, impugned-order is not sustainable?***

   (Appeal Nos.97/2025 & 122/2025)

3. ***Whether the completion certificate dated 29/03/2021 and its addendum issued by the architect is null and void and approval by the Authority was obtained on the basis of false and fake documents and misstatements of facts?***

(Appeal No.100/2025)

4. ***Whether the completion certificate dated 29/03/2021, its addendum and the underline map deviations are already decided by the Authority and further the identical grievance is pending consideration and subjudiced in Appeal No.100/2025 before this Tribunal, therefore the 3rd time representation dated 09/03/2026 and the consequent notice dated 06/07/2026, therefore, subsequent proceedings initiated by the Authority is bad in the eyes of law?***

(IA No.1954/2026)

18) Findings on Question No.1 & 2:-

Both questions are inter related regarding controversy involved in the matter of open terrace area on the 12th Floor. Therefore, they are being decided together in order to appreciate the factual and legal aspects of the matter.

The Nimrana Developers, the promoter of the project **"Radiance"** situated at Plot No.1 Airport Plaza, Tonk Road, Jaipur is registered with the authority bearing Registration No. RAJ/P/2017/036. The said project consists of 3 blocks, each comprising 3 basements, a ground floor and 17th Floor. The building plan was initially approved by JDA in year 2016 which was further approved in year 2017 and final approval was given on 27/02/2018 for all 17th Floors. Admittedly, as per the approved map, 2 flats were to be constructed on each block from 13th to 17th Floor, however, only one flat has been constructed on each such floor. Further, unit B-1201, along with the terrace area was transferred to Shri Ajeet Jon Saxon by way of a Sale Deed dated 27/08/2023, who was one of the appellants in Appeal No. 122/2025, but was not impleaded as a party in Complaint No. RAJ-RERA-C-N-2023-6809 while passing the impugned order dated 17/06/2025. The disputed area is presently in the possession of

Buildcon Construction Private Limited, which was also not impleaded as a party respondent in the said proceedings.

The first question that requires consideration for settling this controversy is whether the said open terrace is a common terrace or a private terrace or whether it formed part of the saleable area as per the JDA-approved plan.

It is pertinent that in pursuance of the letter dated 02/05/2016 wrote by the promoter Nimrana Developers, the permission is being granted on the following conditions:-

"1. यह भवन अनुज्ञा दिनांक 26.4.2019 (आवेदन पत्र की शर्त संख्या 8 के अनुसार) तक प्रभावी है।

2. भवन निर्माण स्वीकृत मानचित्र के अनुसार ही किया जायेगा तथा किसी भी प्रकार का उल्लंघन (डेविएशन) नहीं किया जायेगा।

3. भूखण्ड के स्वामी एवं मानचित्र तैयार करने वाले तकनीकीविज्ञ का कर्तव्य होगा की वो यह सुनिश्चित कर लें कि स्वीकृत मानचित्र प्रचलित मास्टर प्लान / जोनल प्लान / भवन विनियमों के अनुरूप है। यदि कोई उल्लंघन प्राधिकरण के जानकारी में आया तो प्राधिकरण को भवन मानचित्रो को दी गई अनुज्ञा रद्द करने का अधिकार होगा तथा प्राधिकरण से प्रार्थी को किसी भी प्रकार की क्षतिपूर्ति का हक़ नहीं होगा।

4. आप द्वारा भवन विनियम 2010 की धारा 15.2 के अनुसार भवन निर्माण प्रारम्भ करते समय एक सूचना पट्ट मौके पर लगाया जायेगा, जिसमे सम्बंधित आयुक्त /उपायुक्त सम्बंधित जोन व प्रवर्तन अधिकारी के टेलीफ़ोन नंबर इत्यादि अंकित किये जाने होंगे व अनुमोदित मानचित्र की सूचना व अनुमोदन की शर्त अंकित की जाएगी। निर्माण के दौरान अनुमोदित मानचित्र की एक प्रति आवश्यक रूप से निर्माणकर्ता द्वारा मौके पर रखी जायेगी।

10. स्वामी प्रत्येक मंजिल के लिए स्वीकृत आवासीय इकाई से अधिक का निर्माण नहीं करेगा।

14. स्वीकृत मानचित्र को प्राप्ति दिनांक से राज्य स्तर के समाचार पत्र में एक सप्ताह में प्रकाशित करने होंगे।

17 भवन परिसर में ही आगंतुकों की पार्किंग करवाई जाए तथा आगंतुकों हेतु निशुल्क वाहन पार्किंग का बोर्ड लगवाया जाये"।

As per above approval, which is valid upto 26/04/2019 only and Technical Architect was duty bound to ascertain the fact that approved map was according to the master plan or zonal plan or in accordance with building regulations and mention about building bye-laws 2010. It is also revealed from record and undated addendum issued by the empaneled architect that the first approval vide letter dated 07/09/2017, the approval was granted for basement 1+basement 2+basement+Basement 3+Ground+Service Floor+2nd Floor and subsequently on 27/02/2018, JDA given construction approval upto the 17th floor.

According to the appellant-promoter, as per approved plan from JDA, the promoter never mentioned this disputed portion as a common terrace garden and according to the brochure of the project, the same was indicated as private terrace. It is admitted position that the sale-deed of this portion was executed in favour of Mr. Ajeet Jon Saxon and in possession of Buildcon Consultant Pvt. Ltd. and it is not correct to say that the sale-deed executed in favour of Mr. Ajeet Jon Saxon is *ab initio void.* Mr. Ajeet Jon Saxon may be treated as Bonafide purchase at this juncture and certainly, by the impugned-order, the ownership rights were adversely affected without giving opportunity of hearing in the matter. The RERA Act, 2016 is based on the principle of natural justice and while passing the impugned-order, the rights, title and interests were badly affected by the direction regarding open terrace situated at 12th Floor. We are of the considered view that the appellant Buildcon Consultant Pvt.Ltd. and Mr. Ajeet Jon Saxon appellants in appeal No.97/2025 and 122/2025, respectively are

necessary parties to adjudicate the matter about open terrace at 12th floor and an opportunity of hearing should be provided for a just and fair decision of the matter. Therefore, it is not appropriate to discuss merit of the matter at length so that Authority may be able to decide this matter afresh without prejudice to the finding of this Tribunal.

Questions No.1 and 2 are decided accordingly.

19) Findings on Question No. 3 and 4:-

Both questions are inter related regarding controversy involved in the matter of completion certificate dated 29/03/2021, its addendum and subsequent notice dated 06/07/2026 issued by the Authority on the basis of representation dated 09/03/2026. Therefore, they are being decided together in order to appreciate the factual and legal aspects of the matter.

It is evident from the record that the project completion date was 31/03/2020 as per information provided for registration of project and subsequently the project completion date was extended to 31/03/2021 vide extension letter dated 02/09/2020. The Completion Certificate was issued by an empaneled architect for the project on 29/03/2021. Subsequently, an undated Addendum to the Completion Certificate was issued by the architect, placing reliance on Clause 6(iii) of the Model Rajasthan Building Regulations, 2020, to hold that no approval from the competent authority, i.e., the JDA was required in case of internal changes in the project after approval of the building plan. On the basis of an undertaking submitted by Shri Sanjay Gupta on behalf of the promoter by way of an affidavit dated 11/06/2023 and relying upon

the Completion Certificate and the Addendum thereto, the RERA Authority changed the status of the project from "lapsed" to "complete" on 25/10/2023, with retrospective effect from 29/03/2021.

In the light of the above factual matrix of the matter, the empaneled architect, Shri Ashok Mishra, who had issued the Completion Certificate and Addendum, categorically admitted during the disciplinary proceedings initiated against him before the Chief Town Planner, vide his letter dated 05/11/2023, that **"he had not issued any such Completion Certificate in respect of the said project".** Furthermore, during the hearing fixed on 12/02/2026 before the Chief Town Planner, he reiterated and reaffirmed that he had not issued any such Completion Certificate in respect of the said project. These facts are duly supported by the documents annexed with Appeal No.100/2025.

When the above facts were brought to the knowledge of RERA by the Radiance Resident Association, then the RERA issued a letter dated 15/04/2026 requiring the presence of the architect to seek his explanation. Surprisingly, thereafter, the project architect informed RERA that the letter dated 02/01/2026 had been obtained from the architect under pressure regarding the renewal of his empanelment and without his free and voluntary consent but in disciplinary proceedings before Chief Town Planner, the empaneled architect categorically admitted, as under:-

"पत्रांक संख्या:-कार्यालय मुख्य नगर नियोजक, राजस्थान, जयपुर के टीपीआर : 9354/Project / EOI/Ashok दिनांक

सुनवाई में वास्तुविद के विरुद्ध प्राप्त शिकायत के क्रम में वास्तुविद द्वारा निमनानुसार बिंदुवार तथ्य अवगत करवाये गए:-

2. भूखंड संख्या 1, एयरपोर्ट प्लाजा, दुर्गापुरा, टोंक रोड, जयपुर हेतु वास्तुविद द्वारा भवन मानचित्र में संशोधन व पूर्णता प्रमाण पत्र जारी करने के सम्बन्ध में प्राप्त शिकायत के क्रम में वास्तुविद द्वारा अवगत करवाया कि परियोजना में संदर्भित पूर्णता प्रमाण पत्र उनके द्वारा जारी नहीं किया गया है, इस सम्बन्ध में उनके द्वारा कार्यालय में पत्र भी प्रस्तुत किया गया है।

It is noted that one Mr. Puneet Kapoor raised an objection regarding the Completion Certificate issued by Sri Ashok Mishra on 29/03/2021, regarding the facts mentioned in the Completion Certificate that the maps of building were approved by the JDA on 07/09/2017 and thereafter Addendum was issued by the architect without any date that in Completion Certificate **"I inadvertently mentioned Maps of the above said building were approved by the JDA on 07/09/2017".** Further, in the said Addendum, the architect admitted certain variations and observed that, as per Clause 6(iii) of the Model Rajasthan Building Regulations, 2020, approval would not be required in respect of internal changes made in the project after approval of the building plan by the competent authority. The language of addendum is relevant and may be reproduced, as under:-

- In reference to Completion Certificate issued dated 29/03/2021, this is to certify that the Jaipur Development Authority has given approval for the construction of the Project named "Radiance" up to Basement 1+ Basement 2+ Basement 3+ Ground + 17 floor. But, due to environmental clearance issue the promoter requested the competent authority to grant approval up to Basement 1+ Basement 2 + Basement 3 vide letter dated 17/11/2016. Afterwards, approval up to Basement 1+ Basement 2 + Basement 3 + Ground + Service Floor + 2nd Floor were granted by JDA vide letter dated 07/09/2017. Further, on 27/02/2018, JDA had given construction approval upto Basement 1+ Basement 2 + Basement 3 + Ground + 17 Floors. The construction of the project "Radiance" got completed and a Completion Certificate was issued by me dated 29/03/2021 in which inadvertently mentioned 'Maps of the above said building were

approved by the J.D.A. vide Letter No.J.D.A./S.S/B.P.C.(B.P.)/2017/D-1928 dated 07/09/2017.

- There were some variations in the JDA approved maps dated 27/02/2018 to onsite built-up maps and as per Clause 6(iii) of Model Rajasthan Building Regulations, 2020, approval will not be required if there are any internal changes in the project after obtaining the building plan approvals from competent authority.

- Also, Regulation 16.2 states that *the builder/Developer shall be able to get the completion certificate (after the completion of construction as per these Regulations and the approved plans) either under Regulation 16.4 from the concerning body or under Regulation 16.5 from the Architect (registered under Regulation 20). Deviations from the approved plans and Internal changes falling within permissible limits as per earlier bye-laws or present Regulations) on a plot (so long they are not in contravention of Building Regulations), will not be taken as the deviation from the approved plans and the construction without permission.*

- Further there is no violation of the rules and bye-laws in the constructed area.

- Kindly treat this letter as an addendum to Completion Certificate issued by me on 29/03/2021.

It is crystal clear from above text of addendum that in the garb of clause 6(iii) of Model Rajasthan Building Regulations, 2020, it is mentioned that approval from competent authority is not required. For the sake of clarity, clause 6(iii) of the Regulations of 2020, may be reproduced, as under:-

> "Approval will not be required for the following type of construction work, if the other provisions of Building Regulations are not infringed by such work/alteration: Internal changes after obtaining the Building Plan Approvals such as changes in the layout of Building(s) or changes in the location of Building Blocks and the changes which do not violate the Gross BUA of the Building, Set-backs, Coverage, position of staircase, lift of the Building and any other provision of Building Regulations etc." Our building is complete in all respect and we have taken Completion Certificate from empaneled architect on 29/03/2021.
>
> We hereby undertake if due to this map revision/uploading of onsite build-up drawing any litigation arises than the promoter shall be responsible for the same and authority shall be free to take appropriate action accordingly.

It is noted that Addendum can be issued only to clarify or rectify facts by Empaneled Architect in continuation of original Completion Certificate issued on

REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

29/03/2021. The Empaneled Architect not only mentioned wrong date of JDA approved letter but also mentioned about certain variations and observed that the variations need not be approved from the competent authority i.e. JDA in the light of Clause 6(iii) of the Model Rajasthan Building Regulations, 2020. The learned Regulatory Authority while passing the impugned-order in para 19 categorically compared the JDA approved plan in a tabular form and in para 21 thereof, it is mentioned, as under: -

> *"21. Thus, it is evident that the promoter did not adhere to the sanctioned plan and project specification as mandate under section 14 of RERA Act. Whether saleable areal increased or decreased or flat number in the project have increased or reduced in "JDA's approved plan" viz-a-viz "As built plan", are not material here. What material here is that in "As Built" map, the respondent carried out substantial changes without approval of competent Authority. In this case it is Jaipur Development Authority. These changes do not have valid permission from the competent authority, and thus, are clear violation of Section 14".*

It is an admitted position that on the basis of the aforesaid subsequent facts, the Appellant–Residents' Association filed a fresh representation before the Regulatory Authority. The Appellant–Promoter-Nimrana Developers, challenged the said proceedings by way of Interlocutory Application No.1954/2026, contending that the RERA had no jurisdiction to inquire into the validity and legality of the Completion Certificate, which had been approved by the RERA Authority, particularly after a lapse of two years.

It is true that the RERA Authority or this Tribunal has no jurisdiction to examine the legality and validity of a Completion Certificate issued by the competent Authority as mandated by various High Courts in the matter of ***P. Nidhish and others***, **M/s Ralas and Chopra Builders and others, Sachin Jain Vs. State of Rajasthan**

(Supra). Further the RERA Authority does not possess any town planner jurisdiction nor can encroach over the jurisdiction of competent local authorities as per judgment relied upon by the counsel for the promoter in the matter of ***Praveen Gambhir, M.P. Legal State Regulatory Authority*** further this Tribunal also relied the legal possession in Bagherwal Infrastructure Pvt. Ltd. in Appeal No.118/2023, but when the competent Authority (in the present matter empaneled architect Shri Ashok Mishra) itself denied the issuance of Completion Certificate at one point and further, accepted the issuance of Completion Certificate at another point and such subsequent facts brought to the knowledge of learned Regulatory Authority then the RERA Authority cannot act as a silent spectator and has ample jurisdiction to inquire/investigate on the facts to arrive at logical conclusion as per the mandate of Section 35 of the RERA Act, 2016.

It is also not clear from the record that whether the Regulations of 2020 were strictly applicable to the project on the basis of which, the Architect exempted from taking further approval from competent authority. Furthermore, the appellant-Association in Appeal No.100/2025 referred some documents regarding one letter issued by the Association on 08/06/2023 and the details of meeting with Mr. Sanjay Gupta, Director of Mangalam Builders Developers Ltd. and pointed out some irregularities committed by the developer such as Library cum café, Basketball ring, 22 - Yard Cricket Pitch with automatic bowling machine facility, skate ring, Swimming Pool Heated water heating system, Mechanized Parking, Video door-phones etc. have been withdrawn without consulting with the residents/owners/ allottees of the flats which is gross violation of agreed upon terms with flat owners and also attached some photographs

regarding non-completion of the project.

It is pertinent that one Occupancy Certificate dated 18/10/2024 was filed in Appeal No.100/2025 but same was never produced either before RERA or JDA.

Looking to the special circumstances of the matter, although, the RERA Authority have no jurisdiction to invalidate the Completion Certificate or Addendum attached with the Completion Certificate but if some ambiguities or irregularities have been pointed out by someone along with documents to substantiate its claim that completion certificate is false and approval of RERA was obtained on wrong information then, the Regulatory Authority has ample power to hold enquiry or investigation and, thereafter, in appropriate cases, the result of enquiry may be communicated to the competent authority (in the present matter the JDA) for further actions. Therefore, the Regulatory Authority may continue with the representation filed on 09/03/2026.

Questions No.3 and 4 are decided accordingly.

20) In view of above observations, the impugned-order dated 17/06/2025 is quashed and set-aside. The appellant-complainant Radiance Resident Association is directed to implead Mr. Ajeet Jon Saxon and Buildcon Consultant Pvt. Ltd. as party respondents in Complaint No.RAJ-RERA-C-N-2023-6809.

21) The matter is remanded back with the directions to the Regulatory Authority that the subsequent representation of Association dated 09/03/2026 be consolidated with Complaint No.RAJ-RERA-C-N-2023-6809. The learned Regulatory Authority is directed to decide the matter afresh in accordance with law, at the earliest, after giving sufficient opportunity of hearing to both the parties. The learned Regulatory Authority

REAL ESTATE APPELLATE TRIBUNAL JAIPUR

is at liberty to take help/assistance of the technical expert from the office of the JDA, which approved the map, to arrive at a just and fair decision of the matter considering the relevant law/pronouncements of the Hon'ble Courts relied upon by the parties before this Tribunal. All the appeals and one interlocutory application are decided accordingly.

22) Both the parties shall remain present before the learned Regulatory Authority on 05/11/2026.

23) Pending interim application(s), if any, shall stand(s) closed.

24) There is no order as to costs.

25) A copy of this order be transmitted to the leaned counsel for the parties and RAJ-RERA, Jaipur.

Files be consigned to record.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson

PBK Pandey/Anil Goyal/Suppl.1-4