BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

Under the Real Estate (Regulation and Development) Act, 2016

Reserved on: 07.10.2026

Delivered on: 14.10.2026

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Mr.K.Babu, Judicial Member

Appeal No.108 of 2026
and
M.A.No.278 of 2026

M/s.Five Mount Villa Owners Welfare Association
rep. by its President
M.V.Sreenivas ... Appellant

Vs.

1. M/s. Bahri Estates Pvt. Ltd.
   rep. by its Managing Director
   Hemant Bahri

2. M/s.Bahri Realty Management Services Pvt. Ltd.
   rep. by its Managing Director
   Hemant Bahri ... Respondents

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (i) to set aside the order dated 23.12.2025 in C.C.P.No.118 of 2022 on the file of the learned Adjudicating Officer, TNRERA and allow the complaint as prayed for in C.C.P.No.118 of 2022; (ii) to direct the respondents to pay compensation of Rs.10,00,000/- for each member for not providing the amenities and

to compensate 50% of CAM charges, to return the received amounts with 24% interest per annum and a compensation of Rs.5,00,000/- to each member of the Welfare Association for mental suffering and Rs.2,00,000/- for legal expenses.

For Appellant : Mr.R.Ramasubramaniam Raja
For Respondents : No appearance

ORDER

Challenging the order dated 23.12.2025 in C.C.P.No.118 of 2022 on the file of the learned Adjudicating Officer, TNRERA, the complainant has filed the above appeal. The 1st respondent is the promoter and the 2nd respondent is the service provider.

2. The brief case of the complainant is as follows:

(i) The appellant is an Association of Villa Owners, originally formed in the name of "Anandam Retirement Community", which was subsequently changed as "M/s.Five Mount Villa Owners Welfare Association" in the 1st respondent's project "Bahri Beautiful Country" at foothills of Kodaikanal, G.Kallupatti Village, Periyakulam, Theni District. The 1st respondent/promoter promoted and developed an integrated township/group development, which comprised of the following (i) Anandam Retirement Community, a villa project for the retirement community comprising of approximately 150 villas (ii) Hill View Villas (iii) Group Housing and (iv) Holiday Homes with various common facilities such as Club House with party halls,

Swimming pool, Food court, Gym, Spa, Restaurant, Mahesh Bhupathi Tennis Academy, etc. It assured to provide hospital facilities in collaboration with Apollo Hospitals and to provide Ayurvedic Hospital.

(ii) The 1st respondent/promoter obtained statutory approvals and permission for the subject project. Based on the representation, promises, advertisements, the allottees of the complainant Association entered into Plot Buyer Agreement for sale of individual Plot and Construction Agreement with the 1st respondent/promoter for construction of Villas.

(iii) A Maintenance Agreement was entered with the 2nd respondent for the common maintenance and also for other facilities on pay and use basis. But the common amenities and infrastructure advertised, were not provided by the 1st respondent/promoter. The allottees had purchased the Villas based on the promise made by the 1st respondent/promoter with regard to various common amenities and infrastructures. But the 1st respondent/promoter failed to provide the facilities such as 9-hole Golf Course, Club House, Hospital with clinical care for cardiology, Ayurvedic Hospital, forming of Park with water bodies, CBSE and International Curriculum School, Buggies/Golf Carts.

(iv) Moreover, there were unsettled boundary disputes with the adjacent third party land owners. The 1st respondent/promoter failed to provide STP, provided poor quality of workmanship and raw materials, inferior quality of UG wires. Water was not

stored in Over Head Tank, but was supplied by storage pumps called HNS, which run when there is a strong power supply. There is no maintenance of roads and sidewalks inpsite of CAM charges being paid by the members of the complainant. The failures on the respondents' side had caused hardship, sufferings and losses to the members of the complainant Association.

(v) The deficiency of services was brought to the notice of the respondents through letters and e-mails dated 10.12.2020, 24.01.2021, 26.06.2021, 27.07.2021, 21.08.2021 and 03.09.2021. Despite the intimation, the respondents did not take any steps to rectify the defects till date, but continued to provide the same level of services. Though there were lot of incomplete works, including amenities and completion of other aspects of the integrated township, the 1st respondent/promoter claimed that the project was completed in 2011 itself on the basis that project is merely a plotted development project. The 1st respondent did not obtain the necessary approvals and had misrepresented the allottees and the Regulatory Department. The 1st respondent had not completed the project till date and did not take any steps to complete the Club House and other facilities.

(vi) The 1st respondent ought to have registered the project under TNRERA as the project is still ongoing. The legal notice issued on 27.11.2021 called upon the respondents to pay compensation for the losses suffered on account of breach in not completing various amenities and facilities, refund of CAM charges and refrain from

collecting CAM charges as the services provided by the 2nd respondent is sub-standard. In the reply notice issued on behalf of the respondents on 27.12.2021, it was admitted that they had promised various amenities and based on the said amenities, Home Buyers were interested in the project. In the said reply notice, the respondents resorted to justification for not providing the amenities or services which were promised. Inspite of several requests, the respondents failed to provide amenities. Hence, the complainant filed the complaint before the learned Adjudicating Officer, for the following reliefs:

(a) to direct the 1st respondent to pay compensation of Rs.10 Lakhs towards each of the member of the Applicant Association on account of losses suffered due to failure in not developing and providing the facilities and amenities in full as promised, which resulted in loss of recreational aspects and real estate value of their properties due to respondent.
(b) to direct the respondents to jointly and severally compensate by refunding 50% of the respective CAM charges collected from each of the applicant Association members since inception due to non-provision of STP, water tower, non-developments of parks, poor maintenance and quality of roads/street lights, frequent power interruptions, erratic supply and poor-quality water etc.
(c) to direct the respondent to return the amount received towards Preferred Location Charges (PLC) (with 24% interest charges from the date of payment) that was paid by certain homebuyers as the respondent has failed to develop the parks and other amenities, as promised, till date. (provide list)
(d) to direct the respondent to pay a compensation of Rs.5 Lakhs to each of the applicant Association members for the loss and mental sufferings of the members of the Association on account of various breaches by the respondent.
(e) to direct the respondent to pay cost of Rs.2 Lakhs towards legal expenses.

3. The brief case of the 1st respondent/promoter before TNRERA is as follows:

(i) The project was completed way back in the year 2010 itself. The project is beyond the scope of the RERA Act. All the issues raised by the complainants are on the services provided by the 2nd respondent, who is not a promoter, but only a service provider. Any dispute over the services provided by the 2nd respondent would be only based on the Agreement between the Plot owner and the 2nd respondent and this is not a Forum to try those issues. Out of 210 residents in the layout, only 25 residents, who are the members of the complainant Association, have been chronic defaulters of the Common Area Maintenance Charges (CAM) Payment. The layout was promoted and basic amenities were provided. The roads and other requirements were handed over to the local authority as early as in the year 2010 itself. The services such as collection of garbage at doorsteps and pressured water supply with motorized pump were provided by the Panchayat.

(ii) The Completion Letter was given by the District Collector on 15.09.2011 and at that relevant point of time, there was no practice of issuing Completion Certificate for the layout development projects. Due to the pendency of O.A.No.149 of 2017 before the National Green Tribunal, the construction of Club House, Restaurant, Spa, Gym etc were kept in abeyance. Certain *force majeure* conditions also influenced the delay in construction. All the plot buyers, with full knowledge and consent, entered into (1) Plot-Buyer Agreement, (2) Sale Agreement, (3) Agreement for Maintenance and (4) Hospitality Agreement for specialized Management Services. The 2nd

respondent is a service provider for services like food and beverages services, housekeeping services, mechanical, engineering and plumbing services; cleaning services, security services, etc. The CAM charges were collected from the plot buyers, only after the completion of the project and there was no deficiency in the service. It is reiterated that the project is a completed project before the enforcement of the Act. There are almost 180 peaceful purchasers enjoying the services of the 2nd respondent. It is only with the malafide intention, the present complaint had been filed and hence, the complaint is to be dismissed.

4. The averments in the counter filed by the 2nd respondent before TNRERA is as follows:

(i) The TNRERA has no jurisdiction to try the complaint against the 2nd respondent. Despite the financial constraint caused by the non-payment of CAM charges by the allottees, the 2nd respondent had ensured uninterrupted service delivery. The complainant Association is not entitled for refund of 50 % of CAM charges. The 2nd respondent is not a promoter, but solely a service provider. It is not correct that the conditions of roads and sidewalks are poor, malfunctioning of street lights and alleged insufficient lightening are baseless. The 2nd respondent was always open to resolving genuine issues through constructive dialogue and appropriate channels. Few individuals behind the complaint attempted to mislead the Authority

and damage the reputation of the respondents through unfounded and defamatory allegations and hence there is no merit in the complaint and is liable to be dismissed.

5. Heard Mr.R.Ramasubramaniam Raja, learned counsel appearing for the appellant.

6. The Miscellaneous Application in M.A.No.278 of 2026 has been filed by the appellant seeking to receive additional documents. For receiving additional documents, the party seeking for such prayer should explain the reasons for not producing the documents at the earliest point of time before the original Authority. In the case on hand, though the documents sought to be produced as additional documents were very much available with the appellant, they chose not to produce them before the Adjudicating Officer, TNRERA in C.C.P.No.118 of 2022. That apart, the documents sought to be produced in the appeal shall not be useful in any manner for the adjudication of the present appeal. The application filed by the appellant is devoid of merits and the same is liable to be dismissed.

7. Before the Adjudicating Officer, C.W.1 was examined as C.W.1. and 14 documents, Exs.A1 to A14 were marked. On the side of the respondent, R.W.1 was examined as R.W.1 and 5 documents, Exs.B1 to B5 were marked.

8. The Adjudicating Officer, by her order dated 23.12.2025, dismissed the complaint on the ground of limitation finding that the appellant/complainant filed

the complaint beyond the period of three years prescribed under Article 27 of the Limitation Act.

9. Mr.R.Ramasubramaniam Raja, learned counsel appearing for the appellant submitted that the Adjudicating Officer had erroneously dismissed the complaint on the ground of limitation when the complaint filed by the appellant is not liable to be dismissed on the ground of limitation. Further it has been contended that the learned Adjudicating Officer erred in holding that all issues were known to the complainant from the year 2017 on the basis of reference made regarding the meeting held on 20.09.2017. The said assumption made by the Adjudicating Officer is not correct. Further, the learned Adjudicating Officer failed to consider the Moratorium period and did not give any opportunity to the appellant to explain that the complaint is filed within the period of limitation.

10. On a careful consideration of the materials available on record and the submissions made by the learned counsel appearing for the appellant/complainant, it could be seen that the main issues that arise for consideration in this appeal are whether the Limitation Act is applicable to the proceedings initiated under the Real Estate (Regulation and Development) Act and whether the complaint filed by the complainant is barred by limitation.

11. It is not in dispute that the appellant/complainant entered into a Construction Agreement with one of the home buyer namely, Sandhya on 04.07.2015.

As per the said Construction Agreement, the respondent promised to handover the Villa within 12 months from the date of Agreement or within 10 months from the date of registration of Plot whichever is later with a grace period of 3 months. Whileso, as per the Construction Agreement, the 1st respondent promised to hand over the Villa on or before 04.07.2016 with a grace period of 3 months i.e. on or before 04.10.2016. The appellant/complainant filed the complaint in C.C.P.No.118 of 2022 before the Adjudicating Officer, TNRERA only on 22.02.2022. The Adjudicating Officer dismissed the complaint on the ground of limitation finding that the appellant/complainant filed the complaint beyond the period of three years prescribed under Article 27 of the Limitation Act. While dismissing the complaint, the Adjudicating Officer has also stated that the cause of action for filing the complaint arose on 20.09.2017. The Sale Deed in respect of the Plot was executed and registered in favour of one of the buyers, namely, Sandhya on 20.08.2015. As per the Construction Agreement, the promoter should hand over the possession, either within 12 months from the date of execution of the Construction Agreement or within 10 months from the date of registration of the Plot, with a grace period of 3 months, in either case. If the date of registration of the Plot is taken into consideration (i.e.) 20.08.2015 and if grace period of 3 months is added from 20.06.2016, that means, the promoter should hand over the constructed Villa on or before 20.09.2016. The Adjudicating Officer took the date of registration of the Association and also the date of meeting of the members of

the Association held on 20.09.2017 and came to the conclusion that the cause of action would arise from 20.09.2017 and would expire in September 2020.

12. In the judgment of the Hon'ble Supreme Court reported in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34 [Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]***, cited supra, the Apex court had discussed the powers of the Company Law Board to condone the delay under Section 58(3) of the Companies Act, 2013. The findings of the Hon'ble Supreme Court and the conclusion in the said judgment are only with regard to the scope of the applicability of Sections 5 and 14 of the Limitation Act, 1963 to quasi-judicial bodies. In the said judgment, except Sections 5 and 14 of the Act, the other provisions of the Limitation Act did not arise for consideration. The determination of the complaint filed before the RERA as time barred is as per Section 3 of the Limitation Act. Section 3 of the Limitation Act deals with "bar of limitation". Section 3 clarifies that, subject to the provisions contained in Sections 4 to 24, every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

13. In the judgment of the Hon'ble Supreme Court, the main issue that arose for consideration was whether the condonation of delay under Section 5 can be invoked by the quasi-judicial body, which is governed by special legislation. The Apex Court found that if the special legislation prescribes any time limit for filing an appeal and an outer limit for condoning any delay, then such a timeline shall be strictly

followed without following Section 5 to condone such delay. In the said judgment, the Apex Court only dealt with the application of law of limitation to the specific provision of applying Section 5 and it has not ousted the entire applicability of Limitation Act to the claims before the quasi-judicial bodies. The bar of limitation under Section 3 remains unaffected by the said judgment.

14. On a further reading of the judgment of the Apex Court, it could be seen that the issue involved in the said case was that whether the CLB, being a quasi-judicial body, could be said to have the power to condone the delay in filing the appeal under Section 58(3) of the Act, 2013. In other words, even if Section 5 of the Limitation Act, 1963, *per se*, could not be applied to quasi-judicial bodies, whether the principles underlying Section 5 of the Act, 1963 be made applicable to an appeal under Section 58(3) of the Act, 2013 instituted before the Company Law Board? In the said case, the respondent therein applied for registration of transmission of shares to the appellant Company, which was refused by the appellant on 30.04.2013. At that time, Section 111 of the Companies Act, 1956 was applicable. Later, Act 2013 was implemented and Sections 58 & 59 relating to the subject came into force. An appeal under Section 58 was filed before the CLB challenging the registration of transmission of shares with an application to condone the delay of 249 days in preferring the said appeal. The CLB condoned the delay. Aggrieved over the same, an appeal was preferred before the Calcutta High Court and the High Court dismissed the appeal and confirmed the order of CLB. On appeal to the Hon'ble Supreme Court, the Apex Court

held that CLB, being a quasi-judicial body, has no power to condone the delay in filing the appeal and the appeal must have been preferred strictly within the time prescribed under Section 58(3) of the Act. The Apex Court set aside the order passed by the Calcutta High Court and allowed the Civil Appeal. Further, the Apex Court has categorically held that the discretionary power to adjust the period of limitation itself, must be specifically granted to the concerned quasi-judicial body or Tribunal and there must be a reasonable indication from the language of the statute that such a discretion, which is otherwise vested in Civil Courts, is also vested in the quasi-judicial body. In the judgment of the Hon'ble Supreme Court, the Apex Court mainly dealt with Sections 5 & 14 of the Limitation Act to the quasi-judicial bodies.

15. In the Real Estate (Regulation and Development) Act, 2016, for filing an appeal before the TNREAT, Section 44(2) of the Act provides 60 days' time and the proviso confers the power to condone the delay without any limitation unlike Section 58(3) of the Companies Act. Section 58(3) of the Companies Act is a self-contained provision wherein there is no scope for condoning the delay beyond the period prescribed therein. When there is no scope for condoning the delay in filing an application before the Company Law Board under Section 5 of the Limitation Act, the Company Law Board entertained the application filed under Section 5 of the Limitation Act and condoned the delay of 249 days. While deciding so in the detailed judgment, in various paragraphs, the Hon'ble Supreme Court made it clear that the

provisions of the Limitation Act would apply even to quasi-judicial bodies when such bodies are specifically empowered.

16. It would be appropriate to extract the following Sections and Rules of the Real Estate (Regulation and Development) Act, 2016, the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 and Limitation Act, 1963, which are relevant for the disposal of the above appeal:

Real Estate (Regulation and Development) Act, 2016:

Section 18: Return of amount and compensation.-

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,—

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the

agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.

Section 35: Powers of Authority to call for information, conduct investigations.-

(2) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 [5 of 1908] while trying a suit, in respect of the following matters, namely:—

(i)the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) issuing commissions for the examination of witnesses or documents;

(iv) any other matter which may be prescribed.

Section 44(5) Application for settlement of disputes and appeals to Appellate Tribunal.-

(5) The appeal preferred under sub-section (1), shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within a period of sixty days from the date of receipt of appeal:

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

Section 53: Powers of Tribunal.-

(1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 [5 of 1908] but shall be guided by the principles of natural justice.

(2) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure.

(3) The Appellate Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 [1 of 1872].

(4) The Appellate Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 [5 of 1908] in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examinations of witnesses or documents;
(e) reviewing its decisions;
(f) dismissing an application for default or directing it *exparte*; and
(g) any other matter which may be prescribed.

(5) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code, [45 of 1860] and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 [2 of 1974].

Section 57: Orders passed by Appellate Tribunal to be executable as a decree-

(1) Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by the court.

Section 88: Application of other laws not barred. - The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Section 89: Act to have overriding effect. - The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Tamil Nadu Real Estate (Regulation and Development) Rules, 2017:

Rule 27: 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 of the Act every order passed by the Adjudicating Officer, Authority or Appellate Tribunal, as the case may be, shall be enforced by the Adjudicating Officer, Authority or the Appellate Tribunal, as the case may be, in the same manner as if it were a decree or order made by the Civil Court in a suit pending before it 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 Civil Court, 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.

Limitation Act, 1963

Section 3: Bar of limitation. -

(1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

(2) For the purpose of this Act -

(a) a suit is instituted -

(i) in an ordinary case, when the plaint is presented to the proper officer;

(ii) in the case of a pauper, when his application for leave to sue as a pauper is made; and

(iii) in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator;

(b) any claim by way of a set off or a counter claim, shall be treated as a separate suit and shall be deemed to have been instituted—

(i) in the case of a set off, on the same date as the suit in which the set off is pleaded;

(ii) in the case of a counter claim, on the date on which the counter claim is made in court;

(c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that court.

Section 29: Saving. -

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of s. 3 shall apply as if such periods were the periods prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

17. It is relevant to extract the following paragraphs in the judgment of the Hon'ble Supreme Court reported in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34 [Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]***, which reads as follows:

"...

32. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following questions fall for our consideration:

I. Whether the CLB, being a quasi-judicial body, could be said to have the power to condone the delay in filing an appeal under Section 58(3) of the Act, 2013? In other words, even if Section 5 of the Act, 1963, per say, could not be applied toquasi-judicial bodies, whether the principles underlying Section 5 of the Act, 1963 be made applicable to an appeal under Section 58(3) of the Act, 2013, instituted before the CLB?

II. Whether Section 433 of the Act, 2013 which was brought into force on 01.06.2016in order to empower the NCLT and NCLAT respectively, to apply the provisions of the Act, 1963, could be given retrospective effect such that it applied to the CLB as well?

...

41. Therefore, it now becomes necessary for us to examine whether the Act, 1963 would apply to those quasi-judicial bodies which are not specifically or expressly empowered to apply the provisions of the Act, 1963. Even if this is answered in the negative, would it be permissible for us to accept the submission made by Ms. Arora that the principles underlying certain provisions of theAct, 1963 should nevertheless be made applicable to such quasi-judicial bodies?

II. Whether the CLB, being a quasi-judicial body, could be said to have the power to condone the delay in filing an appeal under Section 58(3) of the Act, 2013?

a. The Act, 1963, per say, does not apply to quasi-judicial bodies - emphasis on the court as an institution.

...

48. On a careful scrutiny, it can be culled out that the aspect which pre- occupied this Court in the aforementioned two decisions is the absolute necessity of the 'court' or the system of courts as envisaged in the Constitution which ought to be held as solely capable of applying the provisions of the Act, 1963. Therefore, notable and significant emphasis was placed on which institution/body is seeking to employ certain provisions of limitation or exercise the powers entrusted under the Act,1963. The general rule, in this context, is a strict and unmalleable one i.e., it is only the courts which would concern itself with the provisions of the Act, 1963 unless expressly indicated otherwise in any special law governing quasi- judicial bodies.

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52. This discussion which reveals that the application of the provisions of the Act, 1963 is "body/forum specific" would also be relevant in addressing a particular submission made by Ms.Arora - that Section 433 of the Act, 2013 which specifically empowers the NCLT and the NCLAT respectively to apply the provisions of the Act, 1963 to proceedings or appeals before itself, must be given retrospective effect such that it applies to the CLB as well. However, we shall deal with this submission, in the latter parts of our discussion.

b. Decisions of this Court as regards the application of Section 5 of the Act, 1963 to quasi-judicial bodies or tribunals

53. Insofar as the application of Section 5 of the Act, 1963 to quasi-judicial bodies is concerned, this Court has always indicated that the same can only be applied to 'courts'. In Officer on Special Duty(Land Acquisition) and Another v. Shah Manilal Chandulal and Others reported in (1996) 9 SCC414, this Court had categorically held that Section 5 of the Act, 1963 cannot be resorted to by statutory authorities which are not 'courts'. Therein, this Court was concerned with whether the Collector or the Land Acquisition Officer could extend time.

...

58. The aforesaid decisions are direct authorities for the proposition that Section 5 of the Act, 1963 is not to be utilised by statutory bodies or authorities for the purpose of extending time or condoning delay. However, since heavy reliance has been placed on the decision of this Court in M.P. Steel (supra) to submit that the principles underlying Section 5 of the Act, 1963 must nevertheless be made applicable to statutory authorities or quasi-judicial bodies, we must see if the decisions of this Court in Officer on Special Duty (supra), Prakash H. Jain (supra) and Om Prakash (supra) still hold good.

c. Whether the principles underlying certain provisions of the Act, 1963 could be made applicable to quasi-judicial bodies or tribunals.

59. We are aware that although the provisions of the Act, 1963 per say have been made inapplicable to applications or appeals before quasi-judicial bodies, yet the principles underlying the provisions of the Act, 1963, more specifically Section 14 thereof, have been made applicable to applications or appeals made before quasi-judicial bodies. This aspect of applying the principles underlying Section14 of the Act, 1963 was discussed in Parson Tools (supra).

...

65. The aforesaid approach taken in Ganesan (supra), by itself, is sufficient indication that the principles underlying Section 5 of the Act, 1963 cannot be applied to quasi-judicial bodies. However, to obviate any further confusion on this legal issue, we would like to take forward this conclusion arrived at in Ganesan (supra) a bit further and elucidate why the treatment as regards the principles underlying Sections 5 and 14 of the Act, 1963 respectively, must be different.

...

73. Insofar as the second condition referred to above is concerned i.e., that both the earlier and the subsequent proceedings must be before a court, this Court in M.P. Steel (supra) clarified that the word "court" in Section 14 has now been expanded to include tribunals as well, but only insofar as the abortive proceeding is concerned. In other words, the application under Section 14 must still be made before a "civil court" or a court as understood in the traditional sense, but the time which is sought to be excluded may pertain to proceedings undertaken before a quasi-judicial forum. It was observed thus:

> "34. [...] This Court made a distinction between "civil court" and "court" and expanded the scope of Section 14 stating that any authority or tribunal having the trappings of a court would be a "court" within the meaning of Section14. It must be remembered that the word "court" refers only to a proceeding which proves to be abortive. In this context, for Section 14 to apply, two conditions have to be met. First, the primary proceeding must be a suit, appeal or application filed in a civil court. Second, it is only when it comes to excluding time in an abortive proceeding that the word "court" has been expanded to include proceedings before tribunals." (Emphasis supplied)
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> ...

78. One might still take the view that the difference between extension and exclusion is only semantic. However, such a view would seriously misconstrue the plain language and intent underlying these two provisions. On the one hand, when the court extends time under Section 5, what essentially occurs is that the applicant is required to satisfy the court about the existence of a sufficient cause starting from the date on which limitation began till the actual date of filing. Upon being satisfied about the existence of sufficient cause, the court then extends the prescribed period of limitation itself till the date of filing of the appeal or application, as the case may be, such that the appeal or application is deemed to have been filed within limitation, under the eyes of law. In other words, the non-filing of the appeal or the application within prescribed period of limitation is only excused and the mandatory bar under Section 3 of the Act, 1963 is overcome by stretching out the prescribed period of limitation, through discretion, in the peculiar facts and circumstances of each case.

...

81. However, when an extension occurs under Section 5, the delay is, in clear terms, attributed to the applicant or the appellant, as the

case may be. It is just that such a delay does not have the consequence of the application or the appeal being disallowed due to the mandate under Section 3 of the Act, 1963. The effect of Section 5 is that the period during which the sufficient cause persisted is not erased in the eyes of law; rather the prescribed period of limitation is discretionarily adjusted for the benefit of the litigant.

...

87. Despite the differences delineated above, as a last resort, one could possibly cite the discussion undertaken by this Court in M.P. Steel (supra) whereby, Sections 6 and 14 of the Act, 1963 and their underlying principles were equated and it was stated that both can be analogously applied to quasi-judicial bodies. Moreover, one would also be right in pointing out that while Section 14 is a computation provision, Section 6 is not. In that context, the question would arise as to why the rationale adopted for Section 6 cannot be true for Section 5 as well?

...

90. In light of all the aforesaid, it is our view that the discretionary power to adjust the period of limitation itself, must be specifically granted to the concerned quasi-judicial body or tribunal and there must be a reasonable indication from the language of the statute that such a discretion which is otherwise vested in civil courts, is also vested in the concerned quasi-judicial body. We can think of two ways in which this can be done:

> a. Through a proviso or a sub-section in the concerned section stating that the quasi-judicial body can extend time for filing the said appeal or application, as the case may be, upon the satisfaction that sufficient cause existed. To illustrate, such as sub-rule or proviso may read thus - "provided that the Company Law Board may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding 60 days" or "...within a further period of 60 days" or "... within a period of 60 days but not thereafter". Courts have interpreted such provisions to confer a limited discretionary power to the quasi-judicial bodies to extend time.
>
> We say that it is limited because the exercise of such discretion is subject to an outer-limit (which is 60 days in our

illustration). If no such outer-limit is prescribed, then the discretionary power to extend time would be unlimited.

b. Through a separate provision within the scheme of the entire legislation stating hat the quasi-judicial body would be able to apply the provisions of the Act, 1963(akin to that of Section 433 of the Act, 2013).

To illustrate, such a separate provision may read thus - "The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Company Law Board". Such a provision would have empowered the CLB to exercise the discretionary power to apply Section 5 of the Act, 1963. We say so also because, at present, the NCLT and NCLAT do exercise their discretionary powers to extend time, as regards proceedings and appeals before themselves, due to the coming into force of Section 433 of the Act, 2013. The only restriction to the exercise of such a discretion would be an outer-limit, if any, indicated by the concerned provision, owing to the use of the words "as far as may be" in provisions like Section 433 of the Act, 2013.

...

93. In the absence of any legislative intent being evident in the form of(a) or (b), it would not be proper for us to take the view that the principles underlying Section 5must apply to such bodies, even by analogy. The argument that the principles underlying Sections 6or 14 of the Act, 1963 respectively, could be applied to quasi-judicial bodies is not sufficient reasonto hold the same insofar as Section 5 of the Act, 1963 is concerned.

ii. The decision of this Court in International Asset Reconstruction Company of India Limited.

94. As indicated by us in the preceding paragraphs, whether the provisions of the Act, 1963 stand excluded and more particularly, whether there is an embargo on the application of Section 5 of the Act, 1963 must be examined conscientiously, keeping in mind the overall scheme of the Act in question and the intention of the legislature. The decision of a three-judge bench of this Court in International Asset Reconstruction Company of India Limited v. Official Liquidator of Aldrich Pharmaceuticals Limited and Others reported in (2017) 16 SCC 137 has

shed light on how such an exercise is to be conducted. It dealt with the application of Section 5 of the Act, 1963 to an appeal before the Debt Recovery Tribunal (hereinafter, the "DRT") under Section 30 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter, the "Act, 1993").

...

98. The decision in International Asset Reconstruction Company (supra) furthers the proposition which has been well-cemented over the years that, one must carefully inspect and scrutinise the scheme of the Act and the intention of the legislature before conferring the power to extend time or condone delay to quasi-judicial bodies or tribunals. The exercise must be rooted in vigilance and not haste.

iii. Whether the CLB Regulations confer any discretionary power to the CLB to extend time or condone delay under Section 5 of the Act, 1963?

...

103. With respect to the issue with which we are concerned, we have already established that when the legislature has intended for a quasi-judicial body or a tribunal to apply the provisions of the Act, 1963, more particularly, confer the power of 'extension of time', they have indicated the same in some way or the other, in an express manner. Regulation 44 cannot be resorted to in order to confer a power upon the CLB which the legislature in their wisdom did not intend to confer.

...

107. This discussion again goes to substantiate the view that, when the question is as regards the "extension of time" in the filing of an appeal or application itself, before a quasi-judicial body, we must be careful to not over read between the silences and instead, must look at whether there is any express indication to that effect. Whenever and wherever the legislature deemed it fit, it has granted either a limited or an unlimited power to extend time.

...

111. The entire question of how a particular provision of a special statute must be construed, for the purposes of limitation, directly arises as a consequence of the savings provision in the Act, 1963, which reads thus:

> "29. Savings. - [...] (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule

> and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

112. Section 29(2) states that, if any special or local law prescribes a certain period of limitation for any suit, appeal or application, as the case may be, which is different from that of the Schedule to the Act, 1963, then it is that period of limitation under the special or local law which must be looked into and not those periods which are prescribed under the Schedule to the Act, 1963. Through a deeming fiction, the period prescribed under that special or local law is considered to be that which is prescribed under the Schedule to the Act, 1963 for the purpose of application of Section 3 of the Act, 1963.

113. Moving further, apart from ascertaining what would be the prescribed period of limitation, more often than not, the question is also whether Section(s) 4 to 24 (both inclusive) of the Act, 1963could be made applicable to that specific provision in the special or local law. For this purpose, one must examine whether the special or local law expressly excludes the application of Sections 4 to 24of the Act, 1963.

...

124. The general rule as regards any appeal or application filed before a 'court' is that the provisions of the Act, 1963 would apply, unless indicated otherwise. This is precisely why one enters into the debate of "express exclusion". However, the reverse is the general rule insofar as quasi-judicial bodies or tribunals are concerned i.e., that the provisions of the Act, 1963 do not apply, unless indicated otherwise. Therefore, the focus would shift to whether there is any "express inclusion" rather than an "express exclusion". An exception to this shift in focus, or in other words, a reason why one would still look at whether sections 4 to 24 of the Act, 1963 is "expressly excluded" is when the argument that the principles underlying certain provisions of the Act, 1963, like Section 6 or 14must be made applicable to quasi-judicial bodies, succeeds or is being considered. This was the situation in Parson Tools (supra) and M.P. Steel (supra).

However, we have assigned elaborate reasons as to why we are not inclined to apply the principles underlying Section 5 of the Act, 1963 to

quasi-judicial bodies or tribunals. Therefore, there arises no occasion for us to explore this aspect of express exclusion.

...

129. Therefore, the respondent herein must have preferred his appeal under Section 58(3) of the Act, 2013 before the CLB, strictly within the time-limit prescribed therein.

III. Whether Section 433 of the Act, 2013 must be made retrospectively applicable or the change in law during the pendency of the appeal must be taken into account in the facts and circumstances of the present case?

...

131. Further, in the course of our initial discussion on whether the provisions of the Act, 1963 could, per say, be said to apply to quasi-judicial bodies, we had also indicated that the jurisprudence surrounding the application of the Act, 1963 is body/institution specific. In other words, the first step in approaching all such matters is to see whether the concerned body could be said to be a 'civil court' or not. If answered in the negative, then the endeavour is to figure out whether that body has been specifically empowered to apply the provisions of the Act, 1963. The general rule insofar as quasi-judicial bodies or tribunals are concerned, is that the provisions of the Act, 1963 do not apply unless indicated otherwise. Therefore, "express inclusion" as we had indicated earlier, must be present.

...

140. Some pertinent observations in this regard was made by the decision of this Court in Thirumalai Chemicals Limited v. Union of India and Others reported in (2011) 6 SCC 739 and the same is reproduced as follows:

> "Law of limitation
>
> 29. Law of limitation is generally regarded as procedural and its object is not to create any right but to prescribe periods within which legal proceedings be instituted for enforcement of rights which exist under substantive law. On expiry of the period of limitation, the right to sue comes to an end and if a particular right of action had become time-barred under the earlier statute of limitation the right is not revived by the provision of the latest statute. Statutes of limitation are thus retrospective insofar as they apply to all legal proceedings

brought after their operation for enforcing cause of action accrued earlier, but they are prospective in the sense that they neither have the effect of reviving the right of action which is already barred on the date of their coming into operation, nor do they have the effect of extinguishing a right of action subsisting on that date. Bennion on Statutory Interpretation, 5th Edn. (2008), p. 321while dealing with retrospective operation of procedural provisions has stated that provisions laying down limitation periods fall into a special category and opined that although prima facie procedural, they are capable of effectively depriving persons of accrued rights and therefore they need be approached with caution.

-xxx-

32. Limitation provisions therefore can be procedural in the context of one set of facts but substantive in the context of different set of facts because rights can accrue to both the parties. In such a situation, test is to see whether the statute, if applied retrospectively to a particular type of case, would impair existing rights and obligations. An accrued right to plead a time bar, which is acquired after the lapse of the statutory period, is nevertheless a right, even though it arises under an Act which is procedural and a right which is not to be taken away pleading retrospective operation unless a contrary intention is discernible from the statute. Therefore, unless the language clearly manifests in express terms or by necessary implication, a contrary intention a statute divesting vested rights is to be construed as prospective." (Emphasis supplied)

...

160. A conspectus of the legal and factual discussion on the power of the CLB to extend time or condone delay under Section 58(3) of the Act, 2013 is as follows:

i. The appeal under Section 58(3) of the Act, 2013 preferred by the respondent herein was filed during the period between 12.09.2013 and 01.06.2016. Therefore, although the appeal was made under the new provision of

the Act, 2013, yet the body/forum before which it was made i.e., the CLB, was one constituted under the provisions of the Erstwhile Act. According to Section 10E(4C) of the Erstwhile Act, the CLB was a court only in the restricted sense. There existed no express provision which empowered the CLB to apply the provisions of the Act, 1963 to the proceedings and appeals before itself.

ii. In multiple decisions of this Court, notable and significant emphasis has been placed on which institution/body is seeking to employ the provisions of the Act, 1963 or exercise the powers conferred under the Act, 1963.

iii. The provisions of the Act, 1963 (provisions that lay down a prescribed period of limitation as well as Sections 4 to 24 of the Act, 1963 respectively) would only apply to suits, applications or appeals, as the case may be, which are made under any law to 'courts' and not to those made before quasi-judicial bodies or tribunals, unless such quasi-judicial bodies or tribunals are specifically empowered in that regard.

iv. In Officer on Special Duty (supra), Prakash H. Jain (supra) and Om Prakash (supra) respectively, this Court has unequivocally held that the power to extend time under Section 5 of the Act, 1963cannot be resorted to by statutory authorities, quasi-judicial bodies or tribunals, unless expressly indicated. It has been clarified that when such authorities or bodies are deemed to be a court for certain limited or specified purposes, such a legal fiction must not be extended beyond the purpose for which the fiction was created so as to confer powers under Section 5 of the Act, 1963 as well.

v. In Parson Tools (supra) and M.P. Steel (supra) respectively, this Court has developed a body of jurisprudence indicating that the principles underlying Section 14 of the Act, 1963 could be applied to the provisions relating to quasi-judicial bodies, unless there is any express indication to the contrary in the wording and

scheme of the said provision. However, there exists a vital distinction between the principles underlying Sections 5 and 14 respectively.

vi. The differences between the principles underlying Sections 5 and 14 of the Act, 1963 respectively are as follows - First, one pertains to the exercise of a discretionary power vested in the courts and the other is a mandatory provision independent of any exercise of discretion; Secondly, one refers to "sufficient cause" which term by itself is subject to a good amount of elasticity and the other has delineated well-defined conditions which must be met; and Lastly, one deals with the extension of time while the other is concerned with the exclusion of time.

vii. The principles underlying Sections 5 and 14 of the Act, 1963 respectively, cannot be analogously applied to proceedings before quasi-judicial bodies because in the former, the courts exercise their discretion in extending and more specifically, adjusting the prescribed period of limitation itself to create a fresh period of limitation. No entitlement as a matter of right arises vis-à-vis extension of time. Whereas, in the latter, the prescribed period of limitation remains intact, no delay is attributed to the litigant and the time during which the abortive proceeding was being prosecuted is expunged in the eyes of the law to place the litigant back or restore his position within the prescribed period of limitation wherein he is entitled to file the appeal or application, as the case may be, as a matter of right.

viii. The mechanism envisaged under Section 5 is proximally bound and tethered to the discretion with which a civil court is empowered and that under Section 14 is anchored on restoring the right of a litigant to institute an appeal or application, as the case may be, within the prescribed period of limitation. Both provisions work in the interest of the litigant and seek to further the cause of substantive justice, however, the kind and nature of the power exercised under the two provisions,

as well as the mechanism envisaged therein, are quite distinct.

ix. Moreover, the principles underlying Sections 5 and 14 of the Act, 1963 respectively also stand on a different footing for the reason that when the legislature has intended to grant powers of extension of time, the same has been expressly indicated either through the manner in which the concerned provision is phrased (more often than not through a proviso) or by the adoption of the Act, 1963through a separate provision to the special law as a whole (akin to Section 433 of the 2013, Act).

x. Therefore, the decision of this Court in M.P. Steel (supra) would not apply analogously to a situation when the principles underlying Section 5 of the Act, 1963 are sought to be applied by quasi-judicial bodies which aren't empowered in that regard.

xi. Regulation 44 of the CLB Regulations which saves the inherent power of the CLB would not enable the CLB to extend time for the filing of the appeal or the application itself, as the case may be.

xii. In Ganesan (supra), it has been settled that the savings provision in the Act, 1963 i.e., Section29(2), is of no relevance when the special or local law deals with a suit, appeal or application, as the case may be, which is to be filed before a quasi-judicial body. The question whether a certain provision in a special or a local law expressly excludes the provisions of Sections 4 to 24 of the Act, 1963 respectively arises only in pursuance of the savings provision under Section 29(2) of the Act,1963. As a natural corollary, if Section 29(2) is, by itself, inapplicable to a particular case then there would be no need to look into or analyse whether there is any express exclusion.

xiii. An exception to the aforesaid, i.e., a reason why one would still look at whether Sections 4 to 24of the Act, 1963 respectively are "expressly excluded"

irrespective of the application of Section 29(2)of the Act, 1963, is when the argument that the principles underlying those provisions of the Act,1963, must be applied, is being explored.

xiv. Presently, we are dealing with an appeal under Section 58(3) of the Act, 2013 preferred before the CLB - a quasi-judicial body. We have also answered in the negative on the submission that the principles underlying Section 5 of the Act, 1963 must be applied. Section 29(2) of the Act, 1963 is, therefore, of no relevance and there arises no occasion to examine whether Section 58(3) of the Act, 2013 "expressly excludes" the application of Section 5 of the Act, 1963.

xv. The simpliciter limitation period prescribed under Section 58(3) of the Act, 2013 must not be read to be merely directory. The presence of any additional pre-emptory language in the form of "but not thereafter" or "shall" would not always be necessary to convey that the prescribed period is mandatory.

xvi. Section 433 of the Act, 2013 which empowers the NCLT and the NCLAT respectively to apply the provisions of the Act, 1963, as far as may be, to the proceedings and appeals before itself, cannot be borrowed to signify the existence of a similar power with respect to the CLB. Moreover, the remedy of the respondent was already time-barred before the coming into force of Section 58(3) of the Act, 2013, let alone the coming into force of Section 433 of the Act, 2013. Hence, the change in law cannot enure to the benefit of the present respondent."

18. In the judgment of the Hon'ble Supreme Court reported in ***MANU/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]***, we find the following paragraphs are

relevant for the application of the Limitation Act to the special or local law. The relevant Paragraph Nos.59, 62, 79, 90 are extracted below:

> **"59.** Much has been said and argued on this provision. This provision throws light on the interplay between the 1963 Act and special or local laws. It comes into play when the period of limitation is prescribed by a special or local law. This provision applies to a suit, an appeal, or an application. The first part of this provision speaks of the application of Section 3 over which there is no quibble. It gives due recognition to the period of limitation provided under the special or local law and imports it into the Schedule. In fact, it provides for an automatic change in the Schedule by the invocation of Section 3. However, for determination of the period of limitation, Sections 4 to 24, pertaining to extension and exclusion, shall apply. Thus, Section 29(2) is the provision that triggers the activation of Sections 4 to 24. This applies ordinarily to every special or local law, unless such law contains an express exclusion of the 1963 Act. To put it differently, the intention to exclude Sections 4 to 24 of the 1963 Act has to be clear, apparent and manifest. Therefore, the language of Section 29(2), indicates the intention of the Legislature to extend the application of Sections 4 to 24 to all special or local laws. A specific exclusion alone would take away its application. The application of Sections 4 to 24 can be excluded by such laws either individually or in totality. The provisions pertaining to the exclusion of time can also be applied at different stages. Suffice it is to state that Sections 4 to 24 will not apply only when their exclusion is expressly provided by such special or local law. In other words, there is a debarment of the exercise of any implied exclusion as a matter of rule .However, it can be done by the Court only in exceptional situations and that too, when the person claiming so discharges the burden of proving the same through the scheme of the legislation. Mere incorporation of a specific period of limitation under the special or local law does not amount to express exclusion of the 1963 Act. Rather, it must indicate that Sections 4 to24 of the 1963 Act are excluded. As a matter of rule, the said words must be present in the special or local law. Otherwise, it would amount to nullifying Section 29(2) of the1963 Act.
>
> ...
>
> **62.** To sum up:
> From the aforesaid analysis of the provision, we hold that the compliance of Section29(2) of the 1963 Act is mandatory, with the exception arising only by way of an express exclusion. Therefore, in the absence of the same,

Sections 4 to 24 of the said Act can be read into such special or local law. This, we say so, notwithstanding the principle governing harmonious construction as Section 29(2) is a very unique provision which seeks to be taken note of in the interpretation of other statutes.

...

79. Thus, we hold that the 1963 Act applies to the 2013 Act. Any interpretation to the contrary would result in a situation as if both Section 29(2) of the 1963 Act and Section103 of the 2013 Act have vanished from the respective statutes, which is wholly impermissible in law. We must also remain conscious that any interpretation having the impact of destroying a right in seeking an adjudication on merits, should be eschewed unless it appears so on the very face of it. Even when two interpretations are possible, the one that facilitates the filing of an appeal must be approved.

...

90. On a reading of the aforementioned judgment, we find that express exclusion is the general Rule and implied exclusion is only an exception that comes into play depending on the nature and scheme of the concerned legislation. Therefore, the onus lies heavily on the party claiming an implied exclusion to show the same. We have no qualms in holding that a case of implied exclusion has not been made out insofar as the 2013 Act is concerned, owing to its unique scheme. However, on facts, we find that in Hukumdev (supra), this Court was concerned with a unique legislation being the Representation of the People Act, 1951 which contains an express provision in the form of Section 86which states that if one misses the bus of limitation, then any election petition filed thereafter shall be dismissed summarily. Therefore, the legislation itself clearly mentions the consequences of a belated filing. Hence, the said judgment is clearly distinguishable insofar as its facts are concerned."

19. After considering various judgments, including the extracted portions mentioned in Paragraph No.31 of the judgment reported in ***MANU/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]***, the Apex Court came to the conclusion that the compliance of Section 29(2) of the Limitation Act is mandatory with the exception arising only by way of an express exclusion. Further, the Hon'ble Supreme Court held that in the

absence of express exclusion, Sections 4 to 24 of the said Act should be read into such special or local law.

20. In the judgment reported in ***MANU/SC/0138/2026[The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]***, the Hon'ble Supreme Court, in Paragraph No.90, observed that "express exclusion" is the general Rule and "implied exclusion" is only an exception that comes into play depending on the nature and scheme of the concerned legislation. Further, the Apex Court held that the onus lies heavily on the party claiming an implied exclusion to show the same. The Hon'ble Supreme Court, while deciding the issue of implied exclusion of the Limitation Act, considered a unique legislature being the Representation of the People Act, 1951, which contains an express provision in the form of Section 86, which states that if one misses the bus of limitation, then any Election Petition filed thereafter shall be dismissed summarily. Therefore, the legislation itself clearly mentions the consequences of a belated filing of an Election Petition.

21. Sections 3 & 5 of the Limitation Act distinguishes the applicability of Section 5. Section 5 applies only for appeals and applications and not for suits. In other words, there cannot be a petition to condone the delay under Section 5 of the Limitation Act for the original proceedings. Section 3 mandates itself applicability as indispensable.

22. In Paragraph No.90 of the judgment reported in ***MANU/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]***, the Hon'ble Supreme Court held that for the discretionary power to adjust the period of limitation, Section 5 should be granted to the concerned quasi-judicial body or Tribunal and there must be a reasonable indication from the language of the statute that such a discretion which is otherwise vested in Civil Courts, is also vested in the concerned quasi-judicial body or the Tribunal.

23. In the judgment relied upon by the learned counsel appearing for the appellant reported in ***MANU/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]***, the Apex Court held that Sections 3 and 29(2) are wholly inapplicable to such proceedings unless the parent Act empowers such application.

24. On a careful reading of the provisions of the Act mentioned above, it could be seen that Section 18(2) of the Act makes it very clear that for claiming compensation in the case of defective title of the land on which the project is being developed or has been developed, the said claim would not be barred by limitation provided under any law for the time being in force. Therefore, it is clear that if there is defect in title of the land, the allottee can file a complaint seeking for compensation without any limitation. Therefore, the said provision makes it clear that in the case of any other claim apart from defective title of the land, the said claims are subject to limitation. If the legislature had no intention to apply any limitation for

the claims made under the Real Estate (Regulation and Development) Act, they would not have exempted the claims made by the allottees from the Limitation Act in respect of the defective title of the land under Section 18(2). The legislature has given exemption only in respect of the claims if there is defect in title of the land and not in respect of other claims.

25. Section 44(5) of the Act provides for condonation of the delay without any outer limit prescribed for condonation of delay.

26. As per Section 88, the provisions of the Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. The said provision makes it is clear that the application of any other law including Limitation Act has not been barred.

27. As per Section 89, the Real Estate (Regulation and Development) Act, 2016, it shall have effect notwithstanding anything inconsistent therewith contained in any other law.

28. As per Section 57 of the Act, every order made by the Appellate Tribunal shall be executable by the Appellate Tribunal as a decree of Civil Court, and for this purpose, the Appellate Tribunal shall have all the powers of a Civil Court.

29. As per Section 35(2) of the Act, the Authority shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the matters mentioned therein.

30. As per Rule 27, every order passed by the Adjudicating Officer, Authority or Appellate Tribunal 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 Civil Court in a suit pending before it and it shall be lawful for the Adjudicating Officer, Authority or Appellate Tribunal in the event of its inability to execute the order, send such order to the Civil Court, 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, resides or carries on business, or personally works for gain.

31. When the legislature has intended for a quasi-judicial body or a Tribunal to apply the provisions of the Limitation Act, more particularly, confer the power of extension of time, they have indicated the same in some way or the other. In the case on hand, as already stated, Section 18(2) and Section 88 of the Act make it clear that Limitation Act shall apply to the proceedings under the Real Estate (Regulation and Development) Act. The issue that was decided by the Hon'ble Supreme Court in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34[Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]*** was regarding the power of the Company Law Board to extend the time or to condone the delay under Section 58(3) of the Act. Ultimately, the Apex Court came to the conclusion that Section 5 of the Limitation Act is not applicable to the proceedings before the Company Law Board. Section 58(3) of the Companies Act, 2013 is a self-contained provision wherein there is no scope for

extending the time. In the case of Real Estate (Regulation and Development) Act, Section 18(2) and Section 88 make it clear that the Limitation Act is applicable, except in the case of a claim for compensation on the ground of defective title of the land. The Apex Court has not given any finding with regard to the applicability of Section 3. Therefore, the application of Section 3 to the claims made under the Real Estate (Regulation and Development) Act remains intact. Section 3 of the Limitation Act clearly mandates that every suit, appeal or application filed after the period shall be dismissed, even if limitation is not raised as a defence.

32. As already stated, Section 18(2) expressly provides that claims relating to defective title shall not be barred by Limitation Act. The very existence of such provision clearly establishes that limitation is otherwise applicable to the proceedings under the Act. If the Limitation Act is not applicable at all, there was no necessity for the legislature to carve out such a specific exception under Section 18(2).

33. On a reading of Section 18(2) of the Act also explicitly shows that the limitation is applicable for claims under Section 18(1) as exemption is given specifically only under Section 18(2).

34. The Hon'ble Supreme Court in the judgment reported in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34 [Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]***, cited supra, clearly observed that the provisions of the Limitation Act would apply where the statute so provides. In the case of the proceedings initiated under

the Real Estate (Regulation and Development) Act, the Act itself recognizes limitation.

35. A combined reading of Paragraph Nos.111, 112 & 113 of the judgment reported in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34 [Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]***shows that limitation is applicable for special legislation also and the time frame of limitation is as per Section 3 of the Limitation Act or as per time frame given in the special legislation.

36. In the judgment of the Hon'ble Supreme Court reported in ***Manu/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited],*** the Apex Court held that the compliance of Section 29(2) of the Limitation Act is mandatory with the exception arising only by way of an express exclusion and in the absence of the same, Sections 4 to 24 of the Limitation Act can be read into such special or local law. Further, the Hon'ble Supreme Court held that the Limitation Act applies to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Further, observed that any interpretation to the contrary would result in a situation as if both Section 29(2) of the Limitation Act, 1963 and Section103 of the 2013 Act have vanished from the respective statutes, which is wholly impermissible in law. The Hon'ble Supreme Court also held that any interpretation having the impact of destroying a right in seeking an adjudication on merits, should be eschewed unless it appears so on the very face of it.

37. The Real Estate Regulatory Authority and the Real Estate Appellate Tribunal constituted under the Real Estate (Regulation and Development) Act are judicial Forums having the powers of a Civil Court.

38. Under Section 53 of the Act, the Appellate Tribunal is vested with powers on par with a Civil Court.

39. As per Rule 27 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, every order passed by the Adjudicating Officer, Authority or Appellate Tribunal is enforceable in the same manner as a decree of the Civil Court.

40. As per Section 35(2) of the Act, the Authority shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the matters mentioned therein.

41. Following the judgments of the Hon'ble Supreme Court in ***(2026) 264 Comp Cas 673 : 2026 SCC Online SC 34 [Property Co. P. Ltd. Vs. Rohinten Daddy Mazda]***, ***Manu/SC/0138/2026 [The Deputy Commissioner and Special Land Acquisition Officer and Ors. Vs. S.V. Global Mill Limited]*** *and* ***CDJ 2016 SC 499 [M/s.Sundaram Finance Limited Vs. Noorjahan Beevi & another]***and also in view of Section 18(2) and Section 88 of the Real Estate (Regulation and Development) Act, 2016, it is clear that Limitation Act is applicable to the proceedings initiated under the Real Estate (Regulation and Development) Act, 2016.

42. It is pertinent to extract Article 27 of the Limitation Act, which reads as follows:

	Description of suits	Period of Limitation	Time from which period begins to run
	PART II - Suits relating to accounts		
27.	For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years	When the time specified arrives or the contingency happens.

43. On a reading of Article 27, it is clear that the period of limitation of three years for claiming compensation for breach of a promise begins to run when the time specified arrives or the contingency happens.

44. The Hon'ble Supreme Court in the judgment reported in ***CDJ 2016 SC 499 [M/s.Sundaram Finance Limited Vs. Noorjahan Beevi & another]***, held as follows:

> "...
> 20. The above judgment of this Court was a case where the Court had taken into consideration the statutory power given to Financial Corporation under Section 29 of the State Financial Corporation Act,1951 where the Corporation is entitled to take possession of the assets and transfer by way of lease or sale. Present is not a case where plaintiff can claim to exercise any power akin to Section 29 of the State Financial Corporations Act, 1951. The rights of the parties have to be determined as per terms and conditions of the agreement dated 20.9.1983. The terms of the agreement as noted by the High Court and referred to by us as above clearly indicate that on committing a breach of terms and conditions of the agreement the rights shall accrue to the plaintiff to sue for balance instalments and the damages for breach of contract. Thus, the right to sue shall not stand differed till either sale which took place on 20th May, 1985 or till the last date of payment of the instalment that is 20thSeptember, 1986. Both the courts below have rightly taken the view that limitation shall start running from the date the hirer defaulted in making payment that is on20.5.1984 and suit has been filed beyond three years from the above date was clearly barred by time. Article 55 of the Limitation Act,

1963 has also come for consideration before this Court in Syndicate Bank vs. Channaveerappa Beleri and others,2006 (11)SCC 506. In paragraph 13 of the judgment following was stated:

> "13. What then is the meaning of the said words used in the guarantee bonds in question? The guarantee bond states that the guarantors agree to pay and satisfy the Bank "on demand". It specifically provides that the liability to pay interest would arise upon the guarantor only from the date of demand by the Bank for payment. It also provides that the guarantee shall be a continuing guarantee for payment of the ultimate balance to become due to the Bank by the borrower. The terms of guarantee, thus, make it clear that the liability to pay would arise on the guarantors only when a demand is made. Article 55 provides that the time will begin to run when the contract is "broken". Even if Article 113 is to be applied, the time begins to run only when the right to sue accrues. In this case, the contract was broken and the right to sue accrued only when a demand for payment was made by the Bank and it was refused by the guarantors. When a demand is made requiring payment within a stipulated period, say 15 days, the breach occurs or right to sue accrues, if payment is not made or is refused within 15 days. If while making the demand for payment, no period is stipulated within which the payment should be made, the breach occurs or right to sue accrues, when the demand is served on the guarantor."

45. In the above referred judgment, the Apex court has held that limitation shall start running from the date the hirer defaulted in making the payment and the suit filed beyond three years from the said date was clearly barred by time. In the case on hand, when the 1st respondent promised to hand over possession of the Villa on or before 04.10.2016, the breach of the contract would be from 05.10.2016. Therefore, the cause of action for filing the complaint would have arisen on

05.10.2016 itself. Therefore, the three years period of limitation prescribed under Article 27 begins to run from 05.10.2016. In these circumstances, as per Article 27 of the Limitation Act, the complainant should have filed the complaint before the Adjudicating Officer on or before 05.10.2019, but for the reasons best known to them, they chose to file the complaint only on 22.02.2022, which is clearly barred by limitation.

46. The complainant cannot take their rights under the Real Estate (Regulation and Development) Act, 2016 as granted, negating the impact of doctrine of laches and provisions of Limitation Act as applicable to the original proceedings and approach the Authority or Member whenever, as desired by the complainant. It would only amount to abuse of process of law. The contention of the complainant that limitation shall run from the date of possession is legally not sustainable. The act of handing over possession is not a breach. The cause of action to file a complaint remains invariable and static on the date of breach as occurred on the date of completion as specified in the Agreement, irrespective of the subsequent performance of handing over of possession. Handing over of possession is the subsequent performance of the contract and the same is not a breach. Moreover, the performance of the contract (i.e.) handing over of possession is also accepted by the complainant. Handing over of possession does not create any fresh cause of action or reset the cause of action that arose on the date of breach as specified in the contract. Therefore, the contention of

the complainant that the subsequent possession amounts to continuous cause of action or fresh cause of action is legally not sustainable.

47. In the case on hand, the complainant was not diligent in prosecuting the matter in a proper manner. When the cause of action for filing the complaint arose as early as on 05.10.2016, they chose to file the complaint only on 22.02.2022. The complaint filed by the appellant/complainant before the Adjudicating Officer is clearly barred by limitation under Article 27 of the Limitation Act. As per Article 27 of the Limitation Act, for claiming compensation for breach of a promise to do anything at a specified time or upon the happening of a specified contingency, the time begins to run when the time specified arrives or the contingency happens. As already stated, the 1st respondent promised to deliver possession by 04.10.2016. Therefore, the breach of the promise would be from 05.10.2016. When the 1st respondent/promoter failed to honor their promise as per the Agreement, the cause of action for filing the complaint would start from the very next day (i.e.) on 05.10.2016. Therefore, for claiming compensation for breach of a promise to do anything at a specified time or upon the happening of the specified contingency, the period of three years begins to run when the time specified arrives or the contingency happens. Therefore, the appellant/complainant should have filed the complaint within three years from 05.10.2016 (i.e.) on or before 05.10.2019 for claiming compensation. In these circumstances, the contention of the learned counsel appearing for the appellant/ complainant is rejected.

48. The learned counsel appearing for the appellant contended that the learned Adjudicating Officer failed to consider the Moratorium Period and without considering the same erroneously dismissed the complaint on the ground of limitation. Further, it has been contended that the finding of the learned Adjudicating Officer that all the issues were known to the complainant even from the year 2017 based on the reference regarding the meeting held on 20.09.2017 is not correct. The said contention cannot be accepted since the period of limitation for filing complaint starts from the date on which the promoter failed to comply with the promise as per the Construction Agreement. The Agreement for purchasing the plot and the construction of Villa were entered between the promoter and the home buyer as early as on 04.07.2015. Hence, as per Article 27 of the Limitation Act, the complaint ought to have been filed on or before 05.10.2019 much prior to the Moratorium period. As per the orders of the Hon'ble Supreme Court of India made in Suo Motu Writ Petition (C) No.3 of 2020 dated 10.01.2022, Covid-19 Pandemic moratorium period commenced on 15.03.2020 and ended on 28.02.2022. In the case of last date of filing falls within the said period (i.e.) between 15.03.2020 and 28.02.2022, the parties would get the benefit of moratorium. In the case on hand, the 3 years period for filing the complaint, expired on 05.10.2019, that is, much prior to Covid-19 Pandemic. Hence, the appellant/complainant cannot take advantage of the moratorium period between 15.03.2020 and 28.02.2022 when the complaint was filed only on 22.02.2022. Moreover, the Association was formed as early as on 11.09.2017 and having knowledge

of incomplete amenities, the complainant chose to file the complaint only on 22.02.2022 after the period of limitation. In such circumstances, the order of the Hon'ble Supreme Court relied upon by the learned counsel appearing for the appellant in **Suo Motu Writ Petition (C) No.3 of 2020 dated 10.01.2022** is not applicable to the facts of the present case.

49. For the reasons stated above, we do not find any error or irregularity in the order passed in C.C.P.No.118 of 2022 dated 23.12.2025 on the file of the Adjudicating Officer, TNRERA. The appeal is liable to be dismissed. Accordingly, the same is dismissed. Consequently, the connected Miscellaneous Application is also dismissed.

Sd/- xxxx
JUSTICE M.DURAISWAMY
CHAIRPERSON
14.10.2026

Sd/- xxxx
K.BABU
JUDICIAL MEMBER
14.10.2026

Copy to

1. The Adjudicating Officer, TNRERA

2. M/s. Bahri Estates Pvt. Ltd.
   rep. by its Managing Director

Hemant Bahri
Having its registered office at
D40/B, (Khasra No.467), First Floor, Flat No.3,
Indira Enclave, Neb Sarai, New Delhi,
South Delhi, Delhi - 110 068.

Also having offices at
M/s. Bahri Estates Pvt. Ltd.,
No.632, GF, Lane #3, Westend Margarita,
Saidullajab, Saket, New Delhi - 110 030.

M/s. Bahri Estates Pvt. Ltd,
1st Floor, Jamal's Nainar Enclave,
44, Eldams Road,
Alwarpet, Chennai - 600 018.

3. M/s.Bahri Realty Management Services Pvt. Ltd.
rep. by its Managing Director
Hemant Bahri
Having its registered office at
D40/B, (Khasra No.467), First Floor, Flat No.3,
Indira Enclave, Neb Sarai, New Delhi,
South Delhi, Delhi - 110 068.

Also having offices at
M/s.Bahri Realty Management Services Pvt. Ltd.
No.632, GF, Lane #3, Westend Margarita,
Saidullajab, Saket, New Delhi - 110 030.

M/s.Bahri Realty Management Services Pvt. Ltd.
201-202, Park "Shop, L Block, DLF City-II,
Gurgaon - 122 022.