BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

Appeal No.141/2025

In: Complaint No.RAJ-RERA-C-2023-6854

Mr. Chirag Arora, S-25, Shyam Complex, Hathoj Kardhani Vistar, Kalwar Road, Jaipur-302012.

----Complainant-Appellant

Versus

1. R-Tech Infra Capital Galleria LLP, Shop Nos.8 & 10, Third Floor, Cross Point Mall, Shiv Complex Scheme, Jail Circle, Alwar-301001.

2. JKD Pearl India Developers Private Limited, SA, Govindi House Kanota Bagh, Takte Shahi Road, JLN Marg, Jaipur-302004.

3. Vikas Goyal S/o Ramkesh Goyal, H.No B-229, Lok Vihar, Pritampura New Delhi-110034.

……..Respondents

Appeal No.142/2025

In: Complaint No.RAJ-RERA-C-2023-6838

Mr. Sunder Shyam Arora, S-25, Shyam Complex, Hathoj Kardhani Vistar, Kalwar Road, Jaipur-302012.

----Complainant-Appellant

Versus

1. R-Tech Infra Capital Galleria LLP, Shop Nos.8 & 10, Third Floor, Cross Point Mall, Shiv Complex Scheme, Jail Circle, Alwar-301001.

2. JKD Pearl India Developers Private Limited, SA, Govindi House Kanota Bagh, Takte Shahi Road, JLN Marg, Jaipur-302004.

3. Vikas Goyal S/o Ramkesh Goyal, H.No.B-229, Lok Vihar, Pritampura New Delhi-110034.

……..Respondents

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

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PRESENT:

For appellant : Mr. Jay Vardhan Joshi, Advocate

For respondent : Mr. Piyush Ganguly, Advocate

O R D E R

Reserved on 08th October, 2026

Pronounced on 15th October, 2026

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

The complainant-appellants filed the present appeals under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "RERA Act, 2016") against the impugned-order dated 10/06/2025 passed by the learned Adjudicating Officer, RERA, Jaipur, in Complaint No.RAJ-RERA-C-2023-6838 and Complaint No.RAJ-RERA-C-2023-6854, being decided by this common order. During the course of hearing, records of the learned Adjudicating Officer were called for, which were received by this Tribunal.

2) The appeal in brief:-

The appellants, the allottees, do not challenge the finding of liability against the promoter. They challenge only the quantum of compensation awarded by the learned Adjudicating Officer ("AO") under Section 71 of the RERA Act, 2016 and seek : (a) enhancement of compensation to Rs.10,00,000; (b) alternative usable space or proportionate compensation, for area lost to a pillar and (c) costs & interest.

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3) Facts:-

3.1 Four commercial shops, C-3F-01 to C-3F-04, were booked in "Capital Galleria", Manu Marg, Alwar (RERA Reg. No. RAJ/P/2017/073, registered 22/08/2017; stated completion date 25/02/2021). Shops C-3F-01 to 03 were booked by appellant Sunder Shyam Arora (Appeal No.142/2025) and C-3F-04 by his son Appellant Chirag Arora (Appeal No.141/2025) for a total consideration of Rs.46,76,320, paid in full by June 2017. Agreements for sale were executed in April 2017. The shops were bought for a cafeteria business, funded partly by a commercial loan from HDFC Bank.

3.2 Possession was handed over on 25/08/2018 (offer dated 03/08/2018) and sale deed has been executed on 19/10/2022 and letter of satisfaction was also issued on 13/09/2022. Respondent No.1 relies on a completion certificate dated 26/02/2020 issued by an empaneled architect. It has not been approved by the Authority, and the project remains in lapsed status. The Authority's order dated 09/04/2025 recorded this and offered the allottees a choice between compensation and refund with interest; they chose to continue in the project.

3.3 Both allottees filed complaints before the AO under Section 31 for compensation, which were decided by the common order dated 10/06/2025, wherein the learned AO found that:

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- the approved layout shows escalators, none was provided, and the architect's certificate itself records a front-side staircase not in the approval;
- a staircase and wall were built in front of the shops, which the promoter did not specifically rebut;
- possession without a valid completion certificate is not lawful possession;
- the promoter built and delivered the project, so diversion of funds was not shown, and no compensation for financial loss on the amount invested was due;
- maintenance, formation of an RWA, and carpet/super built-up area are matters for the Authority and were not decided.

3.4 The AO directed Respondent No.1 to pay each complainant Rs.1,000/- per month per shop from 25/08/2018 until the completion certificate is approved by the Authority, Rs.30,000/- for mental agony and Rs.20,000/- as costs, within 45 days, failing which, interest at 6% p.a. runs on the whole amount.

3.5 Heard learned counsel for the parties and perused the record received from the Regulatory Authority. The contentions of both the parties may be summarized, as under :-

4) Contentions: -

Appellant: The award is inadequate against the delay, structural deviations (escalators, mechanical parking, lifts, staircase and wall, floor-level and façade

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changes, conversion of parking), loss of livelihood, and a claimed additional loan-interest burden of about Rs.78,500/- (2.5% above the normal rate). A pillar of about 12 sq. ft. stands inside the units, reducing usable area by about 150 sq. ft. and making two shops unviable; the AO awarded nothing for it. Other grievances: no registered agreement for sale despite more than 10% being collected (Section 13); no conveyance deed (Section 17); no electricity connection; maintenance at Rs.3/- per sq. ft. charged on an incomplete project; billing on super built-up rather than carpet area; and a false completion entry on the RERA website with withdrawal of the designated account (Sections 4(2)(l)(D), 18(1)(a)).

Respondent No. 1: As recorded in its reply before the AO : the project is complete and a completion certificate was obtained; possession was taken in 2018; there is no deviation from the approved site plan; the complaint is a belated pressure tactic; and the allottee is in default of maintenance charges. No separate reply to the appeal is filed. Respondent No. 1 has not filed an appeal or cross-objection against the AO's findings.

5) Issues:

1) What is the scope of the appellants under Section 71 of the Act?

2) Does the record justify enhancing the compensation awarded?

3) Was the usable-area grievance required to be adjudicated by the AO, and with what result?

4) What is the position on the remaining grievances?

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6) Analysis:

6.1 The statutory scope under Section 71 is limited to compensation for contraventions of Sections 12, 14, 18 and 19, adjudged with regard to the factors in Section 72. Matters that fall within the Authority's powers (registration, compliance with promoter obligations, interest, maintenance, conveyance) are outside it. See ***Newtech Promoters and Developers Pvt. Ltd. v. State of U.P., (2021) 18 SCC 1***, on the division of functions between the Authority and the AO. This Tribunal, sitting in appeal over the AO, is likewise confined to this field.

Issue 2 — Enhancement of compensation

6.2 The AO's findings on liability are not under challenge and are unaffected. The only question is quantum. Section 72 requires regard to the unfair advantage gained, the loss actually caused, and the repetitive nature of the default. Compensation must rest on proof, not assertion.

6.3 The appellant claims Rs.10,00,000/- for loss of livelihood and mental agony, plus loan-interest loss. The record does not support this figure:

The appellant took possession in August 2018 and has held the shops since. He chose, before the Authority, to continue in the project and forgo refund. Having made that choice, he cannot attribute the whole risk of the venture to the promoter.

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The AO found, on the material, that funds were not diverted. The allegations of fraud and false completion-marking in the grounds are not backed by any finding of the Authority on record.

6.4 The AO's periodic award already compensates the continuing loss of use and visibility due to missing escalators and the obstructing staircase, and it runs until the completion certificate is approved. It is therefore tied to the duration of the default. A further lump sum for "loss of livelihood" on the same facts would compensate the same injury twice. The Rs.30,000/- for mental agony and Rs.20,000/- for costs are within the range the evidence supports.

6.5 The Tribunal finds the quantum fixed by the AO to be reasonable under Section 72 and sees no ground to interfere. The prayer for enhancement to Rs.10,00,000/- is declined.

Issue 3- Remaining grievances

6.6 Registered agreement for sale (Section 13), conveyance deed (Section 17), maintenance charges and the allottee's counter-claim for arrears, formation of an association, carpet/super built-up area billing, and the RERA-website and designated account allegations (Sections 4(2)(l)(D), 18(1)(a)) concern the Authority's regulatory and promoter-obligation jurisdiction. The AO rightly declined to decide them, and this Tribunal makes no finding. The electricity-connection ground is [not shown to have been raised before the AO

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and is unsupported by any document]. It is open to the appellant to pursue it before the Authority. Both sides' rights on maintenance dues are left open.

6.7 Interest for delay under the proviso to Section 18(1) is likewise for the Authority. Nothing here prevents the appellant from pursuing it there; to the extent permitted by law and the Authority's order dated 09/04/2025.

All the issues are thus decided. The order passed by the learned AO is just and reasonable and liable to be affirmed.

7) Order

For these reasons, both Appeal Nos.141/2025 & 142/2025 are dismissed and the impugned-order dated 10/06/2025 passed by the learned Adjudicating Officer, RERA, Jaipur, in Complaint No.RAJ-RERA-C-2023-6838 & Complaint No.RAJ-RERA-C-2023-6854 is affirmed.

8) All other grievances (registered agreement and conveyance deed, maintenance and counter-claims, area billing, electricity connection, delay interest and promoter-compliance allegations) are left open to be agitated before the competent Authority in accordance with law.

9) There shall be no order as to costs in these appeals.

10) Pending applications, if any, stand disposed of.

11) A copy of this order shall be sent to both parties and the learned Adjudicating Officer, and the records are being returned back.

Files be consigned to record after compliance.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson

Anil Goyal/Suppl.1 & 2

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