RAJASTHAN REAL ESTATE REGULATORY AUTHORITY, JAIPUR

Complaint No. RAJ-RERA-C-N-2025-8718

SANDHYA CHOUDHARY ...Complainant

VERSUS

MAHIMA REAL ESTATE PVT. LTD., ...Respondent

HON'BLE MEMBER SMT. RASHMI GUPTA

PRESENT :

Complainant Sandhya Choudhary and her husband present in person with advocate Prakrat Jaimini

Advocate Umesh Shringi present for respondent.

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Date of Order : 24.06.2026

: ORDER:

1) The present complaint has been filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') with regard to the Group Housing Project 'Mahima's Sansaar Phase-II "Spring Villa-II" registered with the Authority bearing registration number RAJ/P/2022/2000.

2) As per complainant, brief facts of complaint are that complainant was allottee of Villa No.187; ATS executed on 03.06.2024; total consideration of Rs.1,21,84,435/- (inclusive of all charges); paid Rs.1,14,59,037/-; under clause 6.1 of ATS, respondent was obligated to hand over complete possession of villa, including Occupancy Certificate (OC) and all statutory approvals, on or before 31.03.2025; respondent failed to hand over possession of villa till date; and failed to obtain OC; complainant

sought delay compensation in the form of simple interest on paid amount of Rs.1,14,59,037/- calculated from 01.04.2025, till actual handover of possession; complainant prayed;

a) direct respondent to hand over possession of Villa No.187, along with the OC and all amenities as promised;

b) award interest/compensation for delay at the prescribed rate till actual possession is handed over;

c) impose penalties on respondent;

d) refund/adjust unauthorized 5% GST addition with interest.

3) In the reply filed by respondent pleaded that an Intimation of Possession (IoP) dated 27.11.2025 was issued to complainant but complainant did not deposit amount; as per clause 6 of ATS, respondent assured to handover possession of unit along with ready and complete common areas with all specifications, amenities & facilities of the Project in place on 31.03.2025, unless there is delay or failure due to war, flood, drought, fire, cyclone earthquake or any other calamity caused by nature effecting the regular development of real estate project "Force Majeure"; respondent pleaded that in August and September 2024, monsoon activities remained highly active in Jaipur city; due to heavy rainfall, construction material

and labour supply were disrupted for approximately 2 months, which affected project construction timeline; obtained CC on 22.03.2025 & OC on 23.05.2025; IoP was not issued to all allottees at one go, but was issued to allottees in a sequential order; sale deeds would be executed & possession would have been handed over upon absolute satisfaction; IoP was issued on 27.11.2025 to complainant for taking possession of said villa after deposition of entire outstanding amount; reminder letters were issued on 31.01.2026 & 20.02.2026; but till date, no action has been taken by complainant; respondent is ready to execute sale deed on payment of balance amount and hand over possession; prayed that complaint is liable to be dismissed.

4) Miscellaneous application filed by the complainant in which complainant stated that complainant is ready and willing to execute sale deed and to pay undisputed balance amount of Rs.12,73,224/- without prejudice to claim for delay interest.

5) In rejoinder filed by complainant, it is pleaded that complainant has paid a substantial amount of Rs.1,14,59,037/- and has always remained ready and willing to comply with her lawful obligations; unsupported invocation of Force Majeure is untenable and does not absolve respondent from its obligations and liability; routine factors like seasonal monsoons cannot be treated as Force Majeure; it is a settled position of law, as held in Halliburton Offshore Services

Inc. VERSRS Vedanta Ltd., 2020 SCC Online Del 542 (Delhi High Court), that Force Majeure cannot be invoked where the event was foreseeable or where performance was still possible with reasonable effort. Regular climatic conditions cannot be used as an excuse to avoid contractual performance.

Further pleaded that IoP dated 27.11.2025 does not constitute a complete and unconditional offer of possession; respondent has arbitrarily sought to levy delay payment interest along with said demand raised along with IoP, despite admitted delay in project and issuance of possession intimation well beyond the committed timeline; total payable amount is inclusive of GST, and any demand over & above said amount is arbitrary; in Pioneer Urban Land & Infrastructure Ltd. VERSUS Govindan Raghavan, (2019) 5 SCC 725, the Hon'ble Supreme Court held that one-sided and unfair contractual terms, including the imposition of additional or undisclosed charges, are not binding on the allottee. Builders cannot impose arbitrary financial burdens beyond what was transparently agreed.

Complainant prayed to:

a) direct respondent to hand over possession of subject unit;

b) Direct respondent to pay interest to complainant for the period commencing from committed date of possession, i.e. 31.03.2025, till date of actual handing over of possession;

c) declare that respondent, being itself in default of committed possession timeline, is not entitled to levy delay-payment interest, charges for alleged delay in sale deed execution, or any penal charges whatsoever upon complainant in relation to disputed final demand and/or non-execution of sale deed/registration occasioned by own delay & breach of respondent;

d) declare that respondent is not entitled to levy GST over & above agreed total consideration of Rs.1,21,84,435/- in absence of clear, prior & informed disclosure and consent, and consequently hold that demand @5% GST amounting to Rs.6,06,298/- is not binding upon complainant;

e) direct respondent to refrain from levying any further undisclosed or arbitrary charges and to act strictly in accordance with ATS & provisions of the Act.

6) In reply to rejoinder, respondent pleaded that complainant has changed the relief in rejoinder, as sought in complaint; respondent has repeatedly requested complainant to pay outstanding amount and take possession; complainant was fully aware of applicable taxes (GST) and duties at time of booking/allotment, in ATS, allotment letter, all the

demand letters, GST has separately been mentioned.

7) During arguments, counsel for complainant reiterated similar facts as mentioned in complaint and rejoinder.

8) During arguments, counsel for respondent reiterated same facts as mentioned in reply & in reply to rejoinder.

9) Having heard the arguments and perused the records, the Authority observed that;

   a) as verified by law researcher, current status of project on RERA portal is 'completed & OC issued';

   b) there is no dispute about paid/receipt of total amount is Rs.1,14,59,037/-; both the parties are ready for possession; the dispute is regarding delay interest and GST charges;

   c) as per clause "H" of ATS, clearly provides, "The Basic Sale Consideration of Unit does not include and thus, the Allottee(s) shall additionally bear and pay following taxes, charges, deposits, etc. ("Additional Payments)":

      a) Interest free maintenance security deposit ("IFMD") of Rs.58,467/-.

      b) Estimated GST/applicable taxes as per prevailing rates.

   Sale Consideration of the Unit shall be Rs.1,21,84,435/- comprising of Basic Sale Consideration of Unit and IFMD. Sale

Consideration along with applicable GST/Taxes shall be "Total Payable Amount".

Therefore, the Complainant is bound to pay the applicable GST as per prevailing rates.

d) Defense of respondent regarding force majeure citing heavy monsoon rains in Jaipur is unacceptable and unsubstantiated; routine seasonal variations cannot mitigate liability of promoter for delay in project & respondent is supposed to be fully aware of challenges of construction during monsoon season, agreed date of possession was well in knowledge of respondent

e) As per ATS, committed date for handing over possession was 31.03.2025; obtained CC on 22.03.2025 & OC on 23.05.2025, IoP issued on 27.11.2025;delay is approx. 8 months; respondent is liable to pay delay interest to complainant on total deposited amount (i.e., Rs.1,14,59,037/-) from committed date of possession (i.e. 31.03.2025) till date of valid offer of possession (i.e.27.11.2025 date of IoP);

f) However, as stated in misc. application filed (05.03.2026) complainant is ready to pay Rs.12,73,224/- but no calculation for this amount has been given;

g) So far as delay interest & applicable GST charges are concerned; complainant was supposed to clear the balanced sale consideration of Rs.7,25,398/- (Rs.1,21,84,435 minus Rs.1,14,59,037) plus Rs. 58,467/- towards IFMD charges (as mentioned in Schedule-H of ATS), at the time of registration of sale deed. Therefore, respondent is not entitled for any interest on this amount of Rs. 7,83,865/-.

h) Complainant is entitled for interest from respondent, on deposited amount (i.e.Rs. 1,14,59,037/-) from the expected date of possession (31.03.2025) till date of issue of IoP (i.e. 27.11.2025).

10) Therefore, in view of the above observation the complaint is hereby disposed of with following directions:

a) Complainant will pay outstanding dues of Rs.7,83,865/-;

b) complainant will pay GST amount separately at the applicable rates, on sale consideration;

c) respondent is directed to pay delay interest at the highest (MCLR) of SBI plus 2% (i.e., 8.80% + 2% = 10.80% per annum) to the Complainant on the total deposited amount of Rs.1,14,59,037/-, from expected date of possession (i.e. 31.03.2025) till the date of offer of possession (i.e.27.11.2025).

d) Complainant has to borne registration charges of the sale deed.

11) Any amount outstanding and payable by the Complainant to the Respondent, or *vice versa*, shall be set off and adjusted against each other. The net balance, if any, shall be payable by the party against whom such balance lies.

12) Compliance be made within 45 days after uploading of this order on the RERA web portal. Thereafter respondent shall submit its compliance report to this Authority within 15 days thereafter.

13) The case is now removed from the cause list of the Authority and consigned to record. The order be uploaded on the web portal of the Authority and be also sent to all the concerned parties with placing a copy of order in file.

(Rashmi Gupta)
Member