

THE RAJASTHAN REAL ESTATE REGULATORY AUTHORITY
JAIPUR

Complaint No. RAJ-RERA-C-N-2024-7004

Jasvir Singh & Ors.

...Complainant

Versus

Indian Railway Welfare Organisation

...Respondent

Present

Smt. Veenu Gupta, Hon'ble Chairperson

- (1) Jasvir Singh Hunjan, Complainant herself present through VC.
- (2) Adv. Yogesh Sharma, for Respondent.

Date of Order: 07.07.2025

ORDER



1. The present complaint is filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016, concerning the project 'Rail Vihar Kota,' registered with the Authority under registration number RAJ/P/2017/496. The complainant sought relief in the form refund of Rs. 31,09,761/- (excessive amount paid) along with delay interest amounting to ₹13,11,159/- at the rate of 10.50% per annum for the period from 03.12.2018 to 04.02.2021, alleging delayed and incomplete possession of dwelling unit No. E-77, allotted to her in the housing project developed by the respondent Indian Railway Welfare Organization (IRWO).

2. The brief facts leading to the present complaint are that the respondent, IRWO, undertook the development of a residential project intended specifically for serving and retired employees of the Indian Railways on a "no profit, no loss" basis, as stated in its own promotional literature and IRWO booklet. As per the development plan, 167 single-storey residential units across three categories were to be constructed.

The project was to commence in July 2014 and was scheduled to be completed on or before January 2016. The complainant was allotted Unit No. E-77 in this project and made full payment amounting to ₹53,64,899/- as on 28.12.2020.

3. According to the complainant, despite having paid the full amount, she was compelled to accept possession of the unit on 04.02.2021, even though the construction was incomplete and the unit was not in a habitable condition. She has, therefore, approached this Authority seeking refund of excessive amount paid and interest for the delay in handing over valid possession.

4. In response, the learned counsel for the respondent raised a preliminary objection, asserting that the complaint is barred by the principle of *res judicata* under Section 11 of the Civil Procedure Code, 1908. It was submitted that the complainant had previously approached the Hon'ble Permanent Lok Adalat for similar relief, and the Lok Adalat had passed an order dated 13.03.2020 allowing the complaint. The respondents argued that since the matter has already been adjudicated and resolved between the same parties, the complainant is barred from agitating the same cause of action again before this Authority.

5. The complainant filed a detailed reply to the preliminary objections and pointed out that the Hon'ble Permanent Lok Adalat, in its order dated 13.03.2020, had clearly granted liberty to the complainant to



approach the competent Authority for further relief. The relevant paragraph of the said order is as follows:

“अवार्ड:- अतः अरुण शर्मा आत्मज ओ.पी. शर्मा आयु-48, जाति ब्राह्मण निवासी-मकान नं.60, इन्द्र कॉलोनी, जे.ए.एन मार्शल कॉलोनी, कोटा (राजस्थान) वगै. का प्रार्थना पत्र आंशिक रूप से स्वीकार किया जाकर अप्रार्थीगण को यह आदेश दिये जाते हैं कि प्रार्थीगण की जो-जो यूनिट्स बुक की गई थी, उन्हें आदेश की दिनांक से तीन माह के भीतर पूर्ण करें एवं इरवो के सक्षम प्राधिकारी से कमप्लीशन सर्टिफिकेट लेकर कब्जा-पत्र के साथ प्रार्थीगण को कब्जा लेने हेतु प्रेषित करें। जो राशि प्रार्थीगण में किस्तों के रूप में बकाया हैं, उसमें आदेश दिनांक 24.07.2019 के अनुसार किसी प्रकार का कोई ब्याज राशि पर कब्जा प्राप्त करने तक अप्रार्थीगण, प्रार्थीगण से प्राप्त करने के अधिकारी नहीं रहेंगे। केवल शेष मूल राशि प्राप्त करने का अधिकार अप्रार्थीगण को रहेगा। प्रार्थीगण रेरा रीयल स्टेट (रेगुलेशन एंड डेवलपमेंट) एक्ट के तहत अथवा अन्य प्राधिकारी के समक्ष इस संबंध में कार्यवाहियां करने हेतु स्वतंत्र रहेंगे। उक्त आदेश आज दिनांक 13.03.2020 को सुनाया गया।”

6. Having heard the parties and upon perusal of the records, this Authority finds that the preliminary objections raised by the respondents are untenable and are accordingly rejected. The order dated 13.03.2020 passed by the Hon'ble Lok Adalat explicitly grants liberty to the complainant to approach this Authority for further relief. It is evident from the said order that the respondent had failed to complete the project within the stipulated time, and such failure cannot serve as a valid defense for non-delivery of timely and proper possession.

7. The principle of **res judicata**, as enshrined under Section 11 of the Code of Civil Procedure, 1908, applies only when the following conditions are satisfied:

- The matter directly and substantially in issue in the subsequent proceedings was directly and substantially in issue in a former suit;

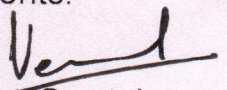


- The former suit was between the same parties or their representatives;
- The matter was heard and finally decided by a court competent to try such a suit;
- The decision was rendered after adjudication on the merits.

In the present case, the nature of Lok Adalat proceedings does not meet these statutory requirements.

8. Moreover, RERA is a specialized forum constituted under a beneficial legislation intended to protect the rights of homebuyers and ensure timely delivery of real estate projects. The nature of reliefs sought before this Authority—namely, refund, compensation, and determination of valid possession—fall squarely within its jurisdiction under Sections 12, 14, 18, and 31 of the Real Estate (Regulation and Development) Act, 2016.

9. In view of the above findings, the preliminary objections by the respondent are disallowed and the matter will be heard on merits.


(Veenu Gupta)
Chairperson

