

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-132/2025

UPPAL CHADHA HI-TECH DEVELOPERS PVT. LTD.Appellant

Versus

UTTAR PRADESH REAL ESTATE REGULATORY AUTHORITYRespondent

Counsel for Appellant
SYED MOHAMMAD ABID
SNIGDHA SINGH

Counsel for Respondent

Hon'ble Mr. Justice Suneet Kumar, Chairman
Hon'ble Mr. Rameshwar Singh, Administrative Member

1. Heard Ms. Snigdha Singh, learned counsel for the appellant-promoter and respondent no.2/allottee, in person.
2. Pursuant to order dated 19.01.2026, appellant has not deposited the decretal amount passed vide judgement and order dated 16.12.2020. Recovery Certificate has been issued against the appellant in execution proceedings to recover the amount of money.
3. Learned counsel for the appellant-promoter submits that the consequential order passed in execution proceedings has been impugned in the present appeal, therefore, it is urged that appellant need not satisfy the decree at this stage.
4. Learned counsel for the appellant informs that they have carried the order dated 19.01.2026 in appeal before the Hon'ble High Court. On query, learned counsel for the appellant submits that the said appeal has not yet been listed.
5. Be that as it may, mere filing of an appeal does not operate as stay of the decree/order, vide (*Girdharilal Chandak v. Mehbi Ispahani, 2011 (5) CTC 252*). Further, the bogey of 'judicial finality' cannot be pressed into

service to deny a party the fruit of a judicial decision [*Ref. K. Subramaniam v. M/s Krishna Mill, 2025 Live Law (SC) 1098*].

6. Having regard to the proviso to Section 43(5) of RERA Act 2016, we are not impressed with the submission of the learned counsel for the appellant that without depositing the decretal amount, which is not under challenge, the appeal can be heard. The appellant cannot be permitted to circumvent the decree indirectly and bypass the mandate of Section 43(5) of RERA Act, 2016, contending that the order under challenge does not direct payment of money to the allottee.
7. Sub-section (5) of Section 43 confers upon any person aggrieved to prefer an appeal before the Tribunal. The proviso to Sub-section (5) provides where a promoter files an appeal with the Tribunal, 'it shall not be entertained' without the promoter 'first having deposited' with the Tribunal, the 'total amount to be paid to the allottee, including interest' before the said appeal is heard. In other words, promoter, assailing a consequential order in execution proceedings of an unchallenged judgment/decreed, is required in the first instance to deposit the decretal amount granted in favour of the allottee being the total amount to be paid to the allottee.
8. In the given facts, the decree, inter se, parties has attained finality, therefore, the amount as per the decree, till the date of filing appeal is required to be deposited by the appellant promoter before the said appeal is heard.
9. In *Ratan Buildtech Private Limited Vs. Anil Kumar (RERA Appeal No. 72 of 2025)*, decided on 04.09.2025, Hon'ble High Court while answering the question with regard to the power and nature of deposit made under Section 43(5) on considering binding precedents, including, *Harinagar*

Sugar Mills Ltd. Vs. State of Bihar and others; (2003) 11 SCC 40,
answered the question in para-37. Para-37 is extracted:

“37. Thus in view of the judgments referred above and on the plain interpretation of Section 43(5) read with the context in which, the appeal is prescribed under the RERA Act, it is clear that the interest and/or compensation, awarded can be challenged before the Tribunal after making the pre-deposit as required for the entertainment of the appeal. The said amount can be appropriated towards the adjudicated amount decided by the authority or the adjudicating authority as the case may be and there is no entitlement of refund unless the appeal is allowed and the order impugned is quashed by the Tribunal. The issue is answered accordingly.”

10. Having regard to the ambit and scope of Section 43(5) of RERA Act 2016 and the afore-noted proposition of law, the **appeal stands dismissed** for non-compliance of the mandate of proviso to sub-Section Section 5.
11. The executing authority shall proceed in accordance with law to execute the judgment and decree dated 16.12.2020, to its logical conclusion.

(Rameshwar Singh)

(Suneet Kumar)

Dated: 23.02.2026
SYEDTANVEER