

**REAL ESTATE APPELLATE TRIBUNAL
FOR NCT OF DELHI & UT OF CHANDIGARH
5TH FLOOR, MSO BUILDING
I.P. ESTATE, ITO, NEW DELHI-110 002**

Reserved on : 21.01.2026.
Date of Decision : 04.02.2026.

M/s Omaxe Heritage Pvt. Ltd. Appellant

Through : Mr. Mayank Wadhwa, with
Mr. Shashank Mishra,
Advocates, with
Ms. Neha Chaturvedi, A.R.

Vs.

Real Estate Regulatory Authority, New Delhi Respondent
Through its Secretary

Through : Mr. Biraja Mahapatra, with
Mr. Nishant Yadav,
Advocates.

CORAM:
Member (J)

(Appeal No.195/REAT/2025)

ORDER :

M/s Omaxe Heritage Pvt. Ltd. has filed this appeal against the order dated 16.09.2025 passed by the Real Estate Regulatory Authority (hereinafter referred to as the Authority) wherein the appellant has been directed to give details in respect of 3088 allottees and the payments received from them against the total cost. The appellant has also been directed to inform the names of the allottees with whom addendums have been executed by the appellant. The Authority in the said impugned order has also noticed that against 3088 agreements to sale executed by the

appellant, only 728 out of them have been registered.

2. The appellant has also subsequently amended the petition to challenge the orders dated 08.10.2025 and 15.10.2025, which read as under :-

Order dated 08.10.2025

- “1. *None appeared on behalf of the Noticee.*
2. *We note with grave concern that the information sought has not been provide by the Noticee to the Authority inspite of repeated reminders.*
3. *We direct all the Directors of the Noticee Company to appear before this Authority on the next date of hearing. If they fail to appear we will be constrained to follow coercive process.*
4. *Office is directed to issue the directions for appearance of the Directors of the Noticee today itself through Ld. Counsel for Noticee and all other modes.*
5. *Re-list on 15.10.2025 at 2.30 p.m.”*

Order dated 15.10.2025

- “1. *Adv. Shashank Mishra appeared on behalf of the Noticee.*
2. *Ld. Counsel was asked to file his Vakalatnama with NOC.*
3. *He assured that he will file Vakalatnama with proper NOC from previous Ld. Counsel within 3 days.*
4. *The Authority notes with concern non appearance of Directors in spite of sufficient notice and without any reason. It appears that the Promoters are trying to hide facts from the Authority. We fail to understand*

how Agreements in more than 2500 cases could not be signed till date especially when the Completion Certificate has been received in respect of the project.

5. *Ld. Counsel after consulting his clients submitted that the Directors would definitely appear before the Authority on the next date of hearing.*

6. *In case Directors fail to appear before the Authority on the next date of hearing or provide information as earlier sought by the Authority, it will be presumed that they have nothing to say and same would be also construed as admittance of failure on their part for executing and registering 'Agreement for Sale' before collecting more than 10% of the unit amounts.*

7. *Re-list the case on 24.10.2025 at 2.30 p.m."*

3. Ld. Counsel for the appellant submits that the said proceedings under RERA file No.F.1/60/PR/2019 bearing the title Omaxe Heritage Pvt. Ltd. ("Omaxe Chandni Chowk" Project) are suo-moto proceedings initiated by the Authority in what is purported to be in execution of the earlier suo-moto proceedings initiated by the Authority on the basis of an RTI application received by them dated 13.04.2022. Ld. Counsel submits that the said earlier suo-moto proceedings initiated by the Authority in the year 2022, were disposed of vide order dated 31.10.2023 with the following directions :-

"1. The Noticee promoter shall inform the Authority about different payment plans offered to prospective buyers. The Noticee promoter shall incorporate payment plan offering pre-possession rebates in the 'Agreement to Sale' itself in all future transactions and not by way of Addendum to the "Agreement to Sale".

2. *The Addendum to “Agreement for Sale” incorporating rebate in payments already entered into shall be registered as per the provisions of the Act and Rules at the earliest.*
3. *The Noticee, being the promoter and the lessee, shall register the sub-lease between MCD and sub-lessees, with them being the confirming party at earliest as per the Concessionaire Agreement.”*

4. Ld. Counsel submits that apart from the aforesaid three directions, the appellant was also burdened with a penalty of Rs.10.0 lakhs under Section 61 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act) for non-disclosure of loan availed of Rs.440.0 crores for construction of the project thereby violating Section 4(2)(i)(B) of the Act and Rule 14(e)(ii)F of the National Capital Territory of Delhi Real Estate (Regulation and Development) Rules, 2016 (hereinafter referred to as the ‘Rules’). Ld. Counsel submits that the said penalty imposed of Rs.10.0 lakhs has since been deposited by the appellant under intimation to the Authority.

5. The appellant has pleaded that the directions issued by the Authority in the suo-moto proceedings which were disposed of by order dated 31.10.2023 have already been complied with, over and over again, but the Authority has somehow, despite the compliances carried out as directed, kept the proceedings alive by issuing fresh directions on every occasion

the matter has been taken up. It is submitted that after the passing of the order dated 31.10.2023, the Authority has listed and taken up the matter on 17 dates and despite the compliance of directions issued on 31.10.2025, there are fresh directions issued on every date, thus, continuously widening the scope of inquiry, when, in fact, after the issue of Occupancy Certificate on 16.10.2023 and handing over of possession thereafter, the Authority had no jurisdiction as it itself holds at several points in the order dated 23.10.2023. It is further submitted that the directions issued vide the impugned orders dated 16.09.2025, 08.10.2025 and 15.10.2025 have no bearing on the directions issued under the order dated 31.10.2023.

6. It is pleaded that the suo-moto proceedings initiated against the appellant in the year 2022 were based on an application received by the Authority under the Right to Information Act, alleging that appellant had offered assured or fixed returns to investors in contravention of Section 7 of the Act. It is pleaded that the Authority was informed that there was no assured or fixed returns guaranteed to the investors and only commitment charges were promised to the buyers in lieu of advance payments made by them with a view to give assurance to the buyer regarding timely completion of the project and not as assured returns. It is submitted that the commitment charges were to be paid on monthly basis upon the advance receipt of the instalments. It is further pleaded that these

commitment charges though paid out as a certain percentage over a certain period of time cannot be equated with payment of assured/fixed returns but are actual in the nature of discounts against total sale consideration paid by the allottee for the purchase of real estate space.

7. Ld. Counsel further submitted that even otherwise there is no bar under the Act or the Rules to the Promoter floating schemes to expedite sale of the project. It is submitted that Section 7 of the Act, on which the Authority has relied to proceed against the Appellant, does not bar the Promoter from floating such schemes. It is submitted that, in fact, Rule 13 provides for the Promoter to enlist such schemes to facilitate sale of the project. Further, the Authority itself in the order dated 31.10.2023, while discussing the issue has noted in paras 11 to 14 as under :-

“11. We are well aware that the practice of giving pre-payment rebates, pre-possession and post possession rebates and returns do exist in the real estate market as have been offered by the Noticee. To regulate these market practices and to safeguard the interest of allottees vis-à-vis the promoter the rules framed under RE(RD) Act, 2016 provide for pre-payment rebates.

12. As per clause 1.5 of 1 TERMS of The National Capital Territory of Delhi Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2016, (hereinafter referred to ‘Rules’) the promoter may allow pre-payment rebates. Clause 1.5 is reproduced below for ready reference:

1.5 The Promoter may allow, in its sole discretion, a rebate for early payments of installments payable by the Allottee by discounting such early payments @%

per annum for the period by which the respective installment has been preponed. The provision for allowing rebate and such rate of rebate shall not be subject to any revision/ withdrawal, once granted to an Allottee by the Promoter.”

13. Further section 13(2) of the Act provides that “Agreement for Sale” shall specify, inter-alia, “....dates and manner by which payment towards the cost of the apartment, plot or building, as the case may be, are to be made by the Allottee...”
14. The RE(RD) Act, 2016 read with the Rules gives an option to the promoter to offer pre-payment rebate to the allottees. How these benefits are to be delivered to Allottees is left to the bilateral arrangement and agreement between the promoter and Allottee, which however, shall become part of the “Agreement for Sale”. The language of clause 1.5 of the term of “Agreement for Sale” as provided under the Rules, however, makes it clear that this agreement of passing of benefit of the pre-payment should culminate with the offer of possession of the unit.”

8. Thus, it is submitted that the premise of Section 7, forming the basis for the RTI application and based on which the suo-moto proceedings were initiated does not apply to warrant those suo-moto proceedings.

9. Ld. Counsel for the appellant next submitted that so far as the issue of registration of Agreements to Sell are concerned, they had taken all necessary steps, including calling upon the allottees in writing to come forward to register the said Agreements and all such allottees who came forward for registration, their Agreements to Sell were registered, but where the Promoter, despite requests and reminders did not come forward

to register the Agreements, the Promoter had no Authority to force them to register the Agreements and, thus, was virtually forced to accept subsequent payments / instalments, to ensure that funds for timely completion of the project were available. Secondly, it is submitted that the order to enforce registration of Agreements to Sell was passed by the Authority, after the Project had already been completed and possession handed over to the allottees. Hence, when the promises extended to the allottees had been honoured and possession handed over to them, despite the Appellant requesting them to come forward for registration of the Agreements, many of the allottees did not come forward to do so and that Promoter cannot be held liable for this act of the allottees.

10. Ld. Counsel for the appellant next submitted that the direction issued by the Authority to also register the Addendums could not be enforced for the same reason and also for the reason that the Sub-Registrar refused such registration of Addendums. It is also submitted that non-registration of Addendums is not in violation of Section 17 of the Registration Act.

11. Ld. Counsel for the Appellant next submitted that so far as the direction issued by the Authority vide order dated 31.10.2023 that the Noticee, being the promoter and the lessee, shall register the sub-lease between MCD and sub-lessees, with them being the confirming party at

the earliest as per the Concessionaire Agreement is concerned, the delay is not attributable to the appellant as the Municipal Corporation of Delhi, despite the order of the Hon'ble High Court dated 04.02.2025 has not taken steps necessary for registration of the Conveyance Deed, despite the appellant reminding them again and again. So far as the appellant is concerned, it has always been ready and willing to perform its part as the confirming party.

12. Ld. Counsel for the respondent Authority, on the other hand, submitted that the proceedings against the appellant were initiated by way of suo moto proceedings based on an RTI query received by its office. Ld. Counsel submits that there is no bar that once the suo moto proceedings are initiated by the Authority, the Authority has no powers, in the same proceedings to seek fresh and further information from the promoter which is necessary for the purpose of proper adjudication and closure of the proceedings. Ld. Counsel submits that it is pursuant to these provisions in law that the suo- moto proceedings were initiated by the Authority against the promoter and with each information being furnished by the promoter, there were fresh questions arising therefrom and, hence, in the same proceedings, further directions had to be given by the Authority. It is submitted that the statute has vested specific suo-moto powers on the Authority and it is in pursuance of those provisions and the power vested,

that the Authority continued seeking further information and on the failure of the promoter to provide the information asked for, the Authority, on 08.10.2025 and also on 15.10.2025 directed all the Directors of the noticee company for their personal appearance. It is submitted that the Authority has simply exercised the authority vested in it to meet the ends of justice and to protect the interests of the investors in the project and the exercise of Authority is duly authorized under the provisions of the Act and, thus, the promoter has no choice but to submit to the jurisdiction of the Authority and continue providing the information as and when asked for by the Authority.

13. Ld. Counsel next submitted that the suo-moto proceedings were initiated initially in the year 2022 and were concluded on 31.10.2023 with the direction to the promoter to provide the details of payment plan offering pre-possession rebates in the agreement to sale itself in all future transactions and not by way of addendum and to register the addendums already entered into. The promoter was also directed to register the sub-lease between MCD and the sub-lessee, with the promoter being the confirming party as per the concessionaire agreement. The information sought was provided by the appellant but certain deficiencies were noticed in the information provided, which necessitated further directions in the matter and also the subsequent directions as contained in the orders

impugned in these appeals.

14. The suo-moto powers of the Real Estate Regulatory Authority are provided for in Section 35(1) of the Act and the Authority is empowered under the said section to suo-moto call upon any promoter or allottee or real estate agent, at any time, to furnish in writing such information or explanation relating to its affairs as the Authority may require. The said sub-section (1) of Section 35 reads as under :-

“Powers of Authority to call for information, conduct investigations.— (1) Where the Authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules or regulations made thereunder, it may, by order in writing and recording reasons therefor call upon any promoter or allottee or real estate agent, as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require and appoint one or more persons to make an inquiry in relation to the affairs of any promoter or allottee or the real estate agent, as the case may be.”

15. In addition, Section 37 of the Act also empowers the Authority for the purpose of discharging its functions under the provisions of the Act and the rules and regulations made thereunder, to issue directions from time to time to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary. The said Section 37 reads as under:-

“Powers of Authority to issue directions.—The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may

be, as it may consider necessary and such directions shall be binding on all concerned.”

16. There is no dispute over the factum of powers being vested in the Authority to initiate suo moto proceedings against the promoter, allottee, as also the real estate agents. This is an enabling provision and necessary for the Authority to effectively perform its duties cast under the Act and to ensure that the interests of all the stake holders, particularly the buyers, are safeguarded and more importantly the project is completed and handed over to the buyers as per the schedule fixed.

17. However, while exercising the suo-moto powers vested in it under the statute, there is an element of caution to be exercised by the Authority, more especially in cases where the project has been completed and possession of the units has been handed over to the buyers. There is an inbuilt requirement of caution by way of a prior enquiry and / or investigation into elements / information which is forming the basis for initiation of the suo moto proceedings. This can also be done by seeking information from the Promoter by way of a formal letter initially instead of straightaway taking resort to the enabling powers under Section 35 and 37 of the Act. Suo-moto proceedings cannot solely be based on a mere complaint received by the Authority or an RTI query being filed before it, as is the case in the present appeal. It is important to notice that the project

which is under construction and where completion certificate is yet not issued, the entire project remains under the control and supervision of the Authority. In terms of Rule 14(d) of the 'Rules', there are Quarterly Progress Reports (for short QPRs) mandatorily required to be filed before the Authority every quarter, giving details of their sales, the progress of the project and other miscellaneous things. These QPRs carry enough data which enable the Authority to keep a check on the progress in construction and the moneys collected, which are required to be kept in an escrow account. Thus, there is complete information becoming available with the Authority from the time the construction of the project commences. The Authority, therefore, especially in cases where the Occupancy Certificate has been issued by the Municipal Authority, cannot call upon the promoter to furnish once again all the information which already stands furnished in the QPRs. Such exercise of suo-moto power is not envisaged under the Act. However, in the event of receipt of a complaint from any allottee, there cannot be any dispute that the Authority must exercise the power vested in it to redress the grievance of the complainant but caution needs to be exercised while suo-moto proceedings are sought to be initiated based on anonymous complaints or other applications under the garb of RTI with incorrect names and addresses which could even be engineered by the competitors of the promoters, which is not an unknown act in the real estate parlance.

18. In the present set of facts, the Authority first commenced the suo-moto proceedings in 2022, questioning the assured returns offered by the promoter to entice the buyers for investments in their project. Ld. Counsel for the respondent could not point out any provision of law which bars the promoter from promulgating such schemes for facilitating expeditious sale of their project. In fact, the Haryana Real Estate Regulatory Authority in the matter of Anu Mehta Vs. M/s Vatika Limited decided on 10.11.2021, while disposing the complaint filed by the complainant Anu Mehta under section 35 of the Act, has enforced the clause providing for payment of assured returns as agreed between the complainant and the promoter. The Authority directed the promoter to pay the amount of assured return as agreed upon with the complainants from October 2018 till the date of handing over possession. The said judgment is cited to bring home the point that there is no bar on the promoter offering assured returns to the buyers on their investments till the offer of possession. In this competitive segment of real estate where every promoter wants his project to be sold earlier than others, offering of any kind of assured return as an enticement, while the project is registered with the Authority and is progressing and the user of funds is monitored, as provided in Section 4(D) of the Act, cannot be equated to certain ponzi schemes floated by some unscrupulous fraudsters. In fact, as noted earlier, the Authority itself has recognized this

practice of giving pre-payment rebates in paras 11 to 14 of its order dated 31.10.2023, while also making a reference to Clause 1.5 of the terms of the National Capital Territory of Delhi Real Estate (Regulation and Development) (Agreement for Sale) Rules, 2016 and Section 13(2) of the Act. Hence, any proceedings by the Authority questioning the assured returns on investments by the buyers cannot be treated as violation of any of the provisions of the Act. The issuance of Show Cause Notice dated 10.06.2022 by making a reference by the Authority to Section 7 of the Act is misplaced.

19. So far as the direction with regard to the contents of the addendum forming part of the Agreement to Sale is concerned, there appears to be no wrong in the direction issued. Additionally, the direction to register the Agreements to Sale is a prescription under the statute itself and the binding relationship between the builder and the buyer commences only after the registration of the Agreement to Sale. There is no illegality in the said direction either and every promoter is obliged under Section 13(1) of the Act to not accept a sum more than 10% of the cost of the unit booked, without entering into a written Agreement for Sale and also to register the said Agreement. Any violation thereof by the stakeholders is necessarily required to be curbed by the Authority.

20. As noted earlier, the promoter is obligated under Rule 14(d) of the

National Capital Territory of Delhi Real Estate (Regulation and Development) (General) Rules, 2016 to upload on the webpage of the project within fifteen days from the expiry of each quarter a list of number and types of apartments or plots booked; list of number of garages booked; status of the project; and also status of approvals. The said Section 14(d) of the Rules reads as under :-

“the promoter shall upload the following updates on the webpage for the project, within fifteen days from the expiry of each quarter, namely:-

- (i) list of number and types of apartments or plots, booked;
- (ii) list of number of garages booked;
- (iii) status of the project, -

- (A) status of construction of each building with photographs;
- (B) status of construction of each floor with photographs;
- (C) status of construction of internal infrastructure and common areas with photographs.

- (iv) status of approvals, -

- (A) approvals received;
- (B) approvals applied and expected date of receipt;
- (C) approvals to be applied and date planned for application;
- (D) modifications, amendment or revisions, if any, issued by the competent authority with regard to any sanctioned plans, layout plans, specifications, license, permit or approval for the project.”

21. The above information quarterly uploaded on the webpage for the project is sufficiently exhaustive and inter-alia makes available to the Authority information with respect to the bookings being made and

payments collected and this information, being furnished to the Authority is to be examined and analysed by the Authority under its supervising jurisdiction on a consistent basis to ensure that the provisions of the statute as well as the rules made there under are complied with in letter and spirit and the Agreements to Sale are signed between the buyer and the builder are compliant of the Act and the Rules and are registered.

22. In the present set of facts, admittedly, QPRs were being regularly filed by the promoter before the Authority and the information furnished included information with respect to the bookings made and the receipt of moneys from the buyers. As a part of its supervisory function, the Authority is obligated to ensure that the sales being affected and the moneys being received by the promoter are as per the requirements of the statute and also in terms of the Agreement between the parties. Admittedly, this exercise has not been undertaken by the Authority and the suo-moto proceedings, not based on QPRs but on information received from an outside source by way of an RTI application, were commenced against the promoter. But then again, instead of issuing expeditious instructions in the matter, the proceedings are allowed to continue and the final order is passed on 31.10.2023, i.e., after the project had received the Occupancy Certificate and the process of handing over of possession had commenced.

23. Chapter II of the Act provides for registration of real estate project as also registration of the real estate agents. Section 3 of the Act provides for prior registration of the real estate project with the Real Estate Regulatory Authority. Sub-clause (b) of Section 3(2) of the Act provides that no registration of the real estate project shall be required where the promoter has received completion certificate for a real estate project prior to commencement of this Act. The inference of the provision is that once the project had been completed and the Occupancy Certificate issued, the Authority shall not require a promoter to register the project if the Completion Certificate has been issued prior to the commencement of the Act. Post the commencement of the Act, the inference is that the jurisdiction of the Authority does not cease but after the possession has been handed over to the buyers and there are no complaints received from any of the buyers in the project, is substantively indicative of the satisfaction of the aims and objects of the statute to safeguard the interest of the stakeholders especially the buyers. The deficiency of timing and delay in taking action based on QPRs filed before the Authority is apparent on the face of the record. The matter at this stage is pending registration of the conveyance deeds in favour of the allottees and there are directions issued by the Hon'ble High Court of Delhi in W.P. (C) 1256/2025 dated 04.02.2025 to the land owning agency, i.e., the Municipal Corporation of Delhi, to expedite the process and at this belated stage, especially in the

absence of any complaint from any of the buyers to insist on widening an inquiry, including summoning of Directors, despite information submitted, lacks relevance and suffers from the vice of delay and laches and does not lend any credence or legal justification to the on-going suo-moto proceedings. The Authority cannot cover its own inaction of not having acted on information filed and available before it by belatedly seeking information, which has already lost its purpose after the handing over of possession to the allottees.

24. So far as the issue of registration of sub-lease between MCD and sub-lessees, with the appellant being a confirming party, as postulated in the Concessionaire Agreement, is concerned, the appellant has placed on record communications addressed by them to the Municipal Corporation of Delhi, requesting for expediting the process. Ld. Counsel has also placed on record, as earlier also noted, a copy of the order passed by the Hon'ble High Court of Delhi in the matter of Vinit Bahri and Anr. V/s Municipal Corporation of Delhi & Anr. in W.P. (C) 1256/2025 on 04.02.2025, wherein the Ld. Counsel appearing for the respondent Corporation had submitted, as recorded in para 6 of the order, that petitioners have to first apply to Respondent No.2, i.e., the appellant for confirmation and execution of the sub-lease deed and after this process is complete, the Municipal Corporation will process the case in accordance with law and

the provisions of the Concessionaire Agreement. Ld. Counsel for the appellant submits that they have already undertaken the steps as required of them in terms of the said statement made before the Hon'ble High Court of Delhi for confirmation and execution of the sub-lease deed and they have informed the same to the Municipal Corporation and are awaiting further processing of the matter at their end.

25. Keeping in view the facts of the case and the observations in the order dated 04.02.2025, Commissioner, Municipal Corporation of Delhi, is requested to look into the matter and pass appropriate directions, so that the process of registration of sub-lease deed in favour of the buyers is completed as expeditiously as possible. The appellant also shall ensure that there is no laxity on their part in expediting the process and any paperwork required by the Municipal Authority is complied with, on an urgent basis.

26. In view of the foregoing discussion, the appeal is allowed. The impugned orders dated 16.09.2025, 08.10.2025 and 15.10.2025 are set aside and the suo-moto proceedings initiated by the Authority in the matter are quashed. No order as to costs.

27. File be consigned to the record room.

(LORREN BAMNIYAL)
MEMBER (J)

4th February, 2026