



**IN THE ODISHA REAL ESTATE APPELLATE TRIBUNAL
AT BHUBANESWAR**

OREAT Appeal No.116/2023
(Arising out of C.C. No. 22 of 2023)

Soumya Ranjan Jena.

...Appellant

-Versus-

1. Priyata Lipsa
2. M/s Basera Designs Pvt. Ltd.
3. Secretary, ORERA, Bhubaneswar.

...Respondents.

For the appellant : Mr.D.M.Mishra, Advocate

For the respondent no.1 : Ms. T.Pattnaik, Advocate

For the respondent no.2 : None since 10.12.2025

For the respondent no.3 : None since 13.9.2024

CORAM :

Hon'ble Shri Justice P.Patnaik, Chairperson

Shri S.K.Rajguru, Judicial Member

Dr. B.K.Das, Tech./Admn. Member

ORDER

25.3.2026

The appeal is taken up for final order.

2) Aggrieved over the order dtd. 1.7.2023 passed in Complaint Case No.22 of 2023, the appellant, who has been described therein as the in-charge of the building site of the project undertaken by the promoter-company, has filed this appeal against the respondents praying to set aside the said order and to strike out his name from the said complaint case. The respondent no.1 of this appeal is



the complainant of the complaint case, the respondent no.2-company is the only respondent therein and the respondent no.3 is the learned Regulatory Authority whose order has been challenged in this appeal.

3) Facts and circumstances leading to the filing of this appeal are as follows:-

The present respondent no.1 being the complainant has filed Complaint Case No.22 of 2023 before the learned Regulatory Authority against the present respondent no.2-company showing it to be represented by its Managing Director, Mr. Manoj Kumar Pattnaik and the present appellant Soumya Ranjan Jena, the in-charge of the building site of the project namely "Basera Aangan", in front of Royal Garden, Patia Railway Station road, Patia, Bhubaneswar. In the complaint petition the complainant has alleged that on the basis of a Flat Purchase Agreement dtd. 29.7.2013 between her and Mr. Manoj Kumar Pattnaik, Director of the promoter-company 'Basera Designs Pvt. Ltd.', she was allotted a 3 BHK flat i.e. Flat No.B-108 in the first floor of project 'Basera Aangan'. Initially she paid an amount of Rs.15,00,000/- at the time of booking and three months after the agreement she paid a further amount of Rs.9,00,000/- to the promoter-company. Though the complainant was assured of delivery of possession of her allotted flat by January, 2015, but in October, 2014 she came to know from Mr. Manoj Ku. Pattnaik that due to delay in the construction work delivery of possession of the flat also would be delayed. She was however assured to be given the possession of the flat by 2018. However, in March, 2018 she was again informed that only half of the



construction work of her flat was over. Construction of the flat then continued for two years and in January, 2020 when the complainant and her husband visited the construction site to verify the progress of work, respondent-company's representative Mr. Soumya Ranjan Jena assured them to complete the finishing work of the flat. Then due to out-break of Covid pandemic the complainant and her husband were not able to enquire about the further progress of their flat till June, 2021. After that, when they went to the construction site of the project to verify the work progress, one Mr. Pramod Jena, uncle of Mr. Soumya Ranjan Jena introducing himself as the land owner did not allow them to enter into their flat which was ready for occupation. Said Pramod Jena misbehaved with the complainant and her husband using slang language and also threatened them to leave the place. Subsequently, from the Odia daily 'The Samaj' dtd. 18.6.2022 the complainant and her husband came to know that the promoter-company was involved in financial mis-appropriation. The aggrieved complainant therefore filed the aforesaid complaint case praying for execution and registration of the sale of Flat No.B-108 in her favour and also to provide her the occupancy certificate in respect of the project.

Pursuant to the notice issued by the learned Regulatory Authority, Sri Soumya Ranjan Jena appeared through his counsel on 1.3.2023 and filed a petition praying to strike out his name from the case record. The complainant files her objection to the petition on 10.5.2023. On the information furnished by the complainant that Sri Manoj Kumar Pattnaik, the Managing Director of the



Promoter-company was in Circle Jail, Choudwar, notice was issued to him in the said address, but as Sri Manoj Kumar Pattnaik did not appear inspite of due service of the notice on him, he was set ex parte vide order dtd. 12.6.2023. On the same day the petition dtd. 1.3.2023 filed by Sri Soumya Ranjan Jena was heard from both the sides. On 1.7.2023 the learned Regulatory Authority rejected the petition on the ground that there are prima facie materials against Sri Soumya Ranjan Jena with regard to his involvement in the project and there are grounds on the basis of which he has been stated to be a co-Managing Director of the company, which the complainant will establish in the hearing of the case while adducing evidence.

4) In the hearing of the appeal, the learned counsel for the appellant has submitted that the appellant is no way connected with the respondent no.2-promoter company with whom the respondent no.1 has entered into a sale transaction for the flat in question. It is further submitted that the respondent no.1 has not relied upon any document in support of her claim that the appellant is in-charge of the building site of the project 'Basera Aangan'. The learned counsel for the appellant has claimed that Manoj Kumar Pattnaik and Usha Rani Naik are the only Directors of the respondent no.2-company and the record of the office of Registrar of Companies, Cuttack is a proof of this fact. It is further submitted that without any evidence available now the learned Regulatory Authority have held the appellant to be a co-Managing Director of the respondent no.2-company. Pointing out to the fact that the appellant is not even a party to the sale agreement between the respondent no.1



and respondent no.2-company, the learned counsel for the appellant has claimed that the respondent no.1 has wrongly impleaded the appellant in her complaint case and that the learned Regulatory Authority in rejecting the petition dtd. 1.3.2023 vide the impugned order have violated the principle of natural justice. With the aforesaid contentions, the learned counsel for the appellant has made the prayer as mentioned earlier in paragraph-2.

5) On the other hand, the learned counsel for the respondent no.1 has submitted that the appellant is the Builder-cum-Director of Blocks A and C and for some Flats of Block B. The learned counsel for the respondent no.1 has claimed that the appellant is also involved in the selling of flats of the project 'Basera Aangan'. It is further submitted that Flat No.B-108 is still in the name of the appellant and his uncle Pramod Jena and therefore even though the appellant is not a party to the agreement for acquisition of ownership between the respondent no.1 and Sri Manoj Kumar Pattnaik, the Managing Director of the promoter-company, but after the absconding of the latter and his subsequent remand to judicial custody, the appellant is involved in the sale and registration of the flats of the project. Further claiming that a considerable portion of the project is in the name of the appellant and this is a prima facie fact of his involvement in the subject matter of C.C. No.22 of 2023, the learned counsel for the respondent no.1 has submitted that the impleadment of the appellant is necessary for the adjudication of the complaint case and therefore the appeal being without any merit is liable to be dismissed.



Though the respondent no.2-promoter after his appearance in the appeal through his counsel Ms. S.Mohapatra was being represented by her till 31.10.2025, but on 10.12.2025 said advocate Ms. S.Mohapatra requested the Tribunal to delete her name and the name of her associates from the case record submitting that consent had been given to respondent no.2 to engage any other lawyer on his behalf.

The respondent no.3-Regulatory Authority had appeared in the appeal through Advocate Mr. B.P.Tripathy till 12.8.2024, but thereafter remained unrepresented till the completion of hearing.

6) The respondent no.1 has impleaded the appellant in her complaint case showing him as the in-charge of the building site of the project “Basera Aangan” and it is her categorical averment in the complaint petition that in January, 2020 when she and her husband visited the construction site of the project to verify the progress work, Mr. Soumya Jena had assured them to complete the finishing work of her allotted flat. She has alleged in her complaint petition that after June, 2021 when she and her husband went to the construction site of the project to verify the progress of work, one Mr. Pramod Jena, the uncle of Mr. Soumya Jena did not allow them to enter their allotted flat even though it was ready for occupation and misbehaved with them using slang language and also threatened them to leave the place. No document has been filed by the respondent no.1 to show that the appellant was in-charge of the building site of the project. It is not the claim of the respondent no.1 that the appellant is one of the Directors of



the promoter-company. The learned Regulatory Authority in rejecting the petition dtd. 1.03.2023 of the appellant to strike out his name from the record of the complaint case have referred to the aforesaid allegations of the respondent no.1 (complainant). The learned Regulatory Authority have also relied upon the E.C. dtd. 4.4.2023 which shows the appellant to have been allotted a part of the project land in a court ordered partition. The learned Regulatory Authority have also found that the appellant has sold Flat no.003 of the project to one Swarnalata Jena on 1.1.2021. On these findings the learned Regulatory Authority came to a conclusion that, Soumya Jena has interest in the project land and there are grounds on the basis of which Soumya Jena has been stated to be a co-Managing Director of the promoter-company and this fact will be established by the complainant while adducing evidence.

On the other hand, in his petition dtd. 1.3.2023 the appellant has raised objection to his impleadment in the complaint case on the contention that he is no way involved in the sale transaction between the respondent no.1 and Mr. Manoj Kumar Pattnaik. It is further claimed by the appellant in the said petition that he is not the owner of the project land but is the son of one of the co-owners Sri Susanta Kumar Jena. The appellant has categorically denied the alleged incident in January, 2020 and that after June, 2021.

It is the settled law that, a necessary party in a civil proceeding is one without whom an effective decree cannot be passed. As already mentioned earlier, no document has been produced by the respondent no.1 to



show the appellant as one of the Directors of the promoter-company. The sale agreement dtd. 29.7.2013 relating to the flat in question is between the respondent no.1-allottee and the respondent no.2-promoter company represented by Sri Manoj Kumar Pattanaik, the Managing Director. There is absolutely no material with regard to the appellant's involvement in any manner in the transaction between the respondent no.1 and the respondent no.2 relating to the flat in question (B-108) of the project. It is also notable that, as per section 31(1) of the Real Estate (Regulation & Development) Act, 2016, an aggrieved person may file a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of the Act or the rules and regulations made thereunder against any promoter, allottee or real estate agent, as the case may be. This means the respondent of a complaint u/sec. 31 of the Act must belong to either of these three categories. In the instant case, there is no material to hold the appellant as a representative of the promoter-company, or an allottee or a real estate agent in respect of the project "Basera Aangan". The alleged incidents in the complaint even if are true do not place the appellant in the status of representative of the respondent no.2-promoter company.

7) For the reasons stated in the preceding paragraph, we are of the opinion that filing the Complaint Case No.22 of 2023 by the respondent no.1 impleading the respondent no.2-promoter company as a respondent being represented by its Managing Director, Shri Manoj Kumar Pattnaik is appropriate and sufficient, but the appellant



being neither involved in the transaction between the respondent no.1 and respondent no.2 nor in the development of the project, is certainly not a necessary party and even without his absence an effective order can be passed in the complaint case.

In the result, the impugned order dtd. 1.7.2023 of the learned Regulatory Authority in C.C. No.22 of 2023 is set aside. Resultantly, the appeal is allowed on contest against the respondent no.1 and without contest against the respondents no.2 and 3. The appellant's name as the representative of the promoter-company be accordingly struck out from the record of Complaint Case no.22 of 2023.

While parting with this order, we think it appropriate to impress upon the learned Regulatory Authority to dispose of the complaint case, which is of the year 2023, as expeditiously as possible, preferably by the end of May, 2026.

Send an authentic copy of this order along with the record of the complaint case No.22 of 2023 to learned Regulatory Authority for information and necessary action. Also send a copy of this order each to the appellant and the respondent no.1.

Justice P.Patnaik
Chairperson

Shri S.K.Rajguru
(Judicial Member)

(Dr. B.K.Das)
(Tech./Admn. Member)

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