

**MADHYA PRADESH REAL ESTATE APPELLATE
TRIBUNAL AT BHOPAL**

Appeal No.131/2020
Institution Date: 13/10/2020

Before

Hon'ble Shri Justice V.P.S. Chauhan, Chairman
Hon'ble Shri P.C. Gupta, Member (Judicial)

Bhopal Development Authority
Address: Office of BDA, Press Complex,
Zone-I, M.P. Nagar, Bhopal,
Madhya Pradesh, India : Appellant

Versus

Roop Laxmi Singh
Address: B-218, Fortune Pride,
E-8, Bhopal (M.P.) : Respondent

Counsel for the parties

For the Appellant : Advocate Mehul Bharadwaj
For the Respondent : Advocate Tushar Raikwar

O R D E R

(Delivered on 08/01/2026)

***per se* P.C. Gupta Member (Judicial)**

The appellant filed this appeal being aggrieved by the order dated 04/08/2020 passed by the adjudicating officer (A.O) in Case No. M-BPL-19-0685, whereby learned A. O. directed the appellant to pay compensation Rs. 02/- per square feet per month from 27/08/2014 till the date of possession as also directed for future compensation and Rs. 10,000/- compensation for mental and physical agony. The appellant in this appeal also challenged order dated 02/01/2020 passed by the authority in the same case number, whereby learned authority directed the appellant to complete the work and provide possession to the respondent as also

initiated proceedings under Section 59 of the Real Estate (Regulation and Development) Act 2016 (hereinafter referred to as 'the Act of 2016') for violation of the Provisions of Section 3 of the Act.

02. The brief facts which are necessary for the disposal of this appeal in short are that the respondent is a land owner of the land situated in Khasra No. 354/3, area 0.37 acre. The appellant is a development authority, executed a Joint Venture Agreement to develop a real estate project on the land of respondent. As per the agreement the appellant would develop the real estate project on the land of the respondent and as a cost of the development the appellant would provide a semi developed plot, area 6,527 square feet to the respondent. This Joint Venture Agreement executed between the appellant and the respondent on 22/08/2012 and that agreement got registered on 27/08/2012. The Bhopal development authority after getting the permission from the concerned authorities started development work but not developed the project and not provided a semi developed plot to the respondent as agreed by the appellant in agreement dated 22/08/2012.

03. The Act came into force on 01/05/2017. Since project was ongoing, the appellant registered the project in the authority. The respondent being aggrieved by the breach of conditions of the agreement, filed an application before the authority. Authority registered that case at Case No. M-BPL-19-0685 and after providing opportunity of hearing to the appellant A.O. and Authority passed impugned orders.

04. The appellant being aggrieved by both impugned orders, filed this present appeal. The main contention of the appellant in this appeal is that the appellant is not having any relationship of allottee with the respondent. It is a breach of condition of Joint venture agreement executed between the appellant and respondent, therefore, the dispute does not

come under the ambit and scope of the Act of 2016. Learned authority and A.O. not considered this fact in proper perspective. Prayed for to allow this appeal.

05. In reply the respondent submitted that the appellant is a promoter and respondent is an allottee. The appellant allotted a plot no. 23 to the respondent, therefore, this dispute comes under ambit and scope of the Act of 2016.

06. Since legal question involved in this appeal, whether the dispute adjudicated by the authority and A.O. comes under the ambit and scope of the Act, therefore, it is being adjudicated first.

07. Having heard the both counsels and perused the agreement dated 22/08/2012 executed between the appellant and respondent. Respondent claimed possession of the plot. On the basis of existence of allottee and promoter relationship between the appellant and respondent.

08. The Act was enforced on 01/05/2016 and other Sections came into force on 01/05/2017. This questioned agreement executed between the parties on 22/08/2012.

09. Perused the agreement dated 22/08/2012, it is clearly reflected that the respondent is a land owner of the land area 0.37 acre, situated in Khasra No. 345/3, Village Babadiya Kalan. Respondent entered into the agreement dated 22/08/2012 with the appellant for development of the real estate project on his/her land and in return the respondent would get a semi developed plot no. 23 area 6,527 square feet. While going through the contents of the agreement found that it is an agreement for the development of the real estate project on the land of the respondent. No doubt the respondent by this agreement dated 22/08/2012 cause to allow the development work on his/her land by the appellant 'Bhopal Development Authority'.

10. Now we peruse the definition of the promoter as provided in Section 2(zk) of the Act. The relevant portion of 2(zk) is reproduced hereinunder-

Section 2

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(zk) “promoter means”-

(i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

11. On perusal of the above definition of the promoter the both persons, who construct the independent buildings, apartments or plots come under the definition of the promoter and the person who cause to be constructed the independent buildings, plots or apartments on his land, would come under the purview of the definition of promoter. Meaning thereby, who develops the real estate project and the owner, who permits the developer to construct the project on his land, are the promoters. What they get in exchange of the development is not material. A co-promoter cannot be considered an allottee, even if there is any condition for consideration receiving under the agreement.

12. The definition of the allottee is also relevant, provided in Section 2(d) of the Act-

2(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not

include a person to whom such plot, apartment or building, as the case may be, is given on rent;

13. The respondent is the owner of the land on which the real estate project was being developed. The respondent being an owner is not the allottee. The part of the land in question was not allotted to the respondent by the appellant, nor any sale agreement was executed in terms of the allotment of the land.

14. On the basis of aforesaid discussion we found that the respondent is also a promoter of the project, he is not an allottee. Promoter is not having relationship of the allottee and promoter in respect of questioned real estate project, therefore, the provisions of the Act are not applicable.

15. If any dispute arises between the co-promoters in relation to the agreement dated 22/08/2012 or if there is any breach in regards to the joint venture agreement between the parties or promoters they can take the recourse of civil suit or consumer redressal forum but the dispute would not come under the ambit and scope of the Act.

16. In this present appeal the dispute was arisen between the co-promoters. Learned authority and A.O. not considered this fact in proper perspective and decided a matter which does not come under the purview of the Act of 2016.

17. Consequently we allowed this appeal.

18. The both impugned orders dated 04/08/2020 and 02/01/2020 passed in same case no. M-BPL-19-0685 are hereby set aside and complaint filed by the respondent before the authority is dismissed.

19. There is no order as to cost.

20. Copy of this order be annexed in the record and record be sent to the Authority and A.O. for information and necessary compliance.

21. Copy of this order be provided to the parties free of cost.
22. If there is any interim application is pending, stands disposed of.
23. If there is any interim order of stay, stands vacated.
24. After noting the result, case be consigned to the Record Room.

Place: Bhopal

Date: 08/01/2026

Sd/-
(JUSTICE V.P.S. CHAUHAN)
CHAIRMAN

Sd/-
(P.C. GUPTA)
MEMBER (J)