

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

**Appeal No.-32/2025  
Institution Date: 11/03/2025**

Before

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

Parth Devloper,  
Address: 13-14, Dava Bazar,  
R&T Marge,  
Indore, MP-452001 : Appellant

Versus

Yougesh Mahazan & Mukesh Verma  
R/o Patel Colony, Manaver,  
Dhar, MP-454446 : Respondents

Counsel for the parties

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For the Appellant : Advocate DeepakShrivastava  
For the Respondent : Advocate Rahul Namdev  
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**O R D E R**

**(Delivered on - 05/01/2026)**

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

The Appellant preferred this appeal under Section 44 of the Real Estate (Regulation and Development), Act of 2016 (hereinafter referred to as, 'the Act of 2016') being aggrieved by the order dated 10/06/2022 passed by the Enforcement Officer of the Real Estate Regulatory Authority (hereinafter referred to as, the Authority') in case no. M-MNW-20-0666, whereby Ld. Enforcement Officer directed the Appellant to complete the work of Swimming Pool, Club House, Garden, Main Gate, Power House and other amenities within 4 month.

02. It is undisputed between the parties that the Appellant developed a real estate project in the name of "Balaji Enclave" in village Karshthali, Tehsil Manawar,

District Dhar M.P. The Respondent, who is allottee has been allotted a plot no. 166 and sale deed of that plot was executed on 24/02/2014.

03. The facts, which are necessary for disposal of this appeal, in short are that the Appellant in its real estate project not developed full amenities whatever mentioned in the brochure and Ld. Enforcement Officer found that the Appellant not completed the amenities work and finally passed impugned order dated 10/06/2022 and directed the Appellant to complete the remaining work within 4 months in the real estate project.

04. The Appellant being aggrieved by that order filed this appeal on the ground that the order of the Authority is without jurisdiction, which is not maintainable. The Appellant not issued any brochure to any of the allottee, the brochure filed by the Respondent is fake, not issued by the Appellant and major objection raised in this appeal that Appellant was not provided a proper opportunity of hearing to put his case before the Ld. Authority and Authority accepted the case of Respondent blindly the impugned order is not sustainable in the eye of law and prayed for to set aside the impugned order.

05. The Respondent submitted that the Appellant was provided an opportunity of hearing but Appellant not avail that opportunity properly. The development work is still remaining in the project, the Appellant is not completing the work and Appellant filed this appeal on the wrong grounds prayed for to dismiss this appeal.

06. Having heard the both parties. Perused the appeal memo and gone through the record of the Authority.

07. We examine the legality, propriety and correctness of this impugned order. This impugned order has been passed

by the Enforcement Officer of the Authority. So far as our view is concerned, Enforcement Officer is not an Authority.

08. To answer this question, we have to refer the case law of '*New Tech Promoters and Developers Pvt. Ltd. V/s State of UP*' and other in Civil Appeal No. 6753 of 2021, order dated 11/11/2021'.

09. Hon'ble Apex Court in '*New Tech Promoters and Developers Pvt. Ltd. V/s State of UP*' and other in Civil Appeal No. 6753 of 2021, order dated 11/11/2021 culled out the power of the Authority and power of the AO, in the case of New Tech (supra), the relevant para 86 is reproduced hereunder:-

*86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of [Sections 18](#) and [19](#) clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, **it is the regulatory authority which has the power to examine and determine the outcome of a complaint.** At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under [Sections 12, 14, 18 and 19](#), the adjudicating officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with [Section 72](#) of the Act. If the adjudication under [Sections 12, 14, 18 and 19](#) other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."*

10. While perusing the impugned order, we do not find reference of delegation of power of Authority to the Enforcement Officer under Section 81 of the Act of 2016.

The composition of Authority is defined in Section 21 of the Act of 2016, which reproduced hereinbelow:-

**21. Composition of Authority.** —*The Authority shall consist of a Chairperson and not less than two wholetime Members to be appointed by the appropriate Government.*

11. Enforcement Officer is not a part of the Authority. Officers and other employees of Authority are defined in Section 28 of the Act of 2016, which reproduced herein below.

**28. Officers and other employees of Authority.** —(1) *The appropriate Government may, in consultation with the Authority appoint such officers and employees as it considers necessary for the efficient discharge of their functions under this Act who would discharge their functions under the general superintendence of the Chairperson.*

(2) *The salary and allowances payable to, and the other terms and conditions of service of, the officers and of the employees of the Authority appointed under sub-section (1) shall be such as may be prescribed.*

12. The term Enforcement Officer is used in the Regulations made under Section 85 of the Act of 2016. First time the definition of the Enforcement Officer is provided in clause 17 of MP Real Estate Regulatory Authority (Conduct of businesses) Regulations 2021 and in this it is clearly provided that the Authority shall appoint the Enforcement Officer. Meaning thereby, Enforcement Officer is an officer appointed under Section 28 of the Act and Authority consist of chairperson and two members. The Enforcement Officer is not include in composition of the Authority.

13. As discussed above, the Hon'ble Apex Court in case of *New Tech (supra)* clearly culled out the functions of the Authority and functions of the Adjudicating Officer and it is the function of the Authority to direct the promoter of the real estate project to complete that project, if not completed

as per layout or any brochure in which amenities were published.

14. On the basis of aforesaid discussion, we found that the impugned order is not passed by the Authority. It is passed by the Enforcement Officer who is not an Authority and if any order passed by the Enforcement Officer, who is not having a jurisdiction to pass that order, the order can be categorized that order passed by the *coram non judice* and if any order passed by the *coram non judice* having no force and it is *non est*.

15. We find that this appeal is passed by the *coram non judice*.

16. We are of the view that there is a clear illegality in the impugned order. Hence, this impugned order is not sustainable in the eye of law.

17. We are not inclined to discuss anything on merits in this appeal. This order should be remanded back to the Authority with a direction that the Authority reconsider the complaint *de novo* and provide an opportunity of hearing to the both parties.

18. Consequently, this appeal is allowed. Impugned order dated 10/06/2022 is set aside. The case remitted back to the Authority for *de novo* trial.

19. Both parties are directed to appear before the Authority on 16/01/2026 at 11.00 am.

20. There is no order as to cost.

21. Copy of this order be sent to the Authority for necessary compliance along with original record of the Authority.

22. Copy of this order be provided to parties free of cost.

23. If there is any interim application is pending, stands disposed of.

24. If there is any interim order of stay, stands vacated.

25. After noting the result, case be consigned to the Record Room.

Place: Bhopal

Date: 05/01/2026

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

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