



2026:CGHC:17484

AFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### MA No. 173 of 2023

Smt. Nidhi Sao W/o Shri Ashish Sao Aged About 40 Years Resident Of 301, Block-A Sun Heritage (Sun City Colony), Jagdalpur, District Bastar (C.G.) Through Her Power Of Attorney Holder Shri Ashish Sao, Son Of Shri Dalchand Sao, Aged About 49 Years, Resident Of 301, Block-A, Sun Heritage (Sun City Colony) Jagdalpur, District Bastar (C.G.) (Allottee)

... Appellant

versus

Greenearth Infraventures Private Limited, Resident Of 13a Panchsheel Nagar, Raipur (C.G.) Through Its Shri K.V. Singh (Director), Resident Of 13a, Panchsheel Nagar, Raipur (C.G.) (Promoter)

.... Respondent

(Cause title is taken from CIS)

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For Appellant : Mr. Manish Nigam, Advocate

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For Respondent : Mr. Mayank Kumar, Advocate

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**Hon'ble Shri Justice Bibhu Datta Guru**

**Judgment on Board**

**16/04/2026**

1. The appellant/allottee has preferred the present appeal under Section 58 of the Real Estate (Regulation And Development) Act,

2016 being aggrieved by the impugned order dated 15/09/2023 passed by the learned Chhattisgarh Real Estate Appellate Tribunal, Raipur (C.G.) (for brevity 'the Tribunal') in Appeal No.20/2022 (*Smt. Nidhi Sao Vs. Green Earth Infraventures*), arising out of the order dated 22.11.2018 passed by the learned Chhattisgarh Real Estate Regulatory Authority, Raipur, C.G. (for brevity 'the RERA') Case No. M-PRO-2018-00124 (*Smt. Nidhi Sao Vs. Green Earth Infraventures*), whereby, it was directed to the respondent/promoter to complete the finishing work of the apartment in question and to hand over possession of the same to the appellant/allottee within a period of two months and also directed that the appellant shall deposit the balance amount.

2. This is an admitted appeal. The following substantial question of law arises for adjudication of the matter :

“Whether the Chhattisgarh Real Estate Appellate Tribunal erred in law in dismissing the complaint filed by the appellant/allottee on the ground of limitation ?”

3. With the consent of learned counsel appearing for the parties, the appeal is heard finally.
4. The appellant/allottee lodged a complaint against the respondent/promoter before the RERA alleging, inter alia, that the appellant entered into a sale agreement on 26/05/2012, to purchase the Flat No. 210 in Block Orchid-4 situated in “Green Earth City” located in Amleshwar, Durg, developed by the respondent herein.

The appellant alleges that the respondent was pressurizing her to take possession of the said apartment while demanding additional payment. The appellant has also complained that the quality of construction of the apartment in question is substandard. Thereafter, the appellant filed a complaint under Section 31 of the Real Estate (Regulation and Development) Authority Act, 2016 (for brevity 'the Act') in the prescribed format (Form M), for return of amount and compensation on account of inferior quality of construction and failure of the construction work within time as prescribed in the sale agreement executed between the parties on 26/05/2012.

5. Notice regarding the said complaint was issued to the respondent. The respondent appeared before the RERA and submitted a written reply, denying the allegations made by the appellant. The respondent stated that the appellant failed to make payments within the stipulated time as per the sale agreement dated 26/05/2012. The respondent also denied the allegations regarding inferior quality of construction. It further stated that due to the appellant's failure to make timely payments, interest was levied on the outstanding amount in accordance with the terms of the sale agreement, and the same was demanded from the appellant. The allegation made by the appellant regarding the pressure to take possession of the apartment was also denied. Additionally, the respondent stated in the reply that the appellant had never raised any complaint or communicated any issue with them regarding

the said apartment. The respondent further stated in reply that a completion certificate for the apartment in question was obtained from the competent authority on November 1, 2017.

6. After hearing the parties and upon due appreciation of the entire facts and circumstances of the case, on the basis of material available on record, the RERA dismissed the complaint filed by the appellant. However, a direction was issued to the respondent to complete the finishing work of the apartment in question and to hand over the possession of the same to the appellant/allottee within a period of two months. At the same time, RERA also directed the appellant to deposit the balance amount in execution of registry of the said flat.
7. Aggrieved by the order of the RERA, the appellant preferred an appeal before the Tribunal, who by the impugned order dated 15/9/2023, dismissed the Appeal of the appellant/allottee by taking suo-moto cognizance of the point of limitation in filing the Complaint before RERA. Thus, this appeal by the appellant/allottee.
8. Learned counsel for the appellant/allottee submits that the order passed by the RERA as well as by the Tribunal are arbitrary, erroneous and has been passed without following due provisions of law. Learned counsel further submits that the Tribunal erred in law in holding that the complaint filed by the appellant before the RERA was barred by limitation, despite the fact that the Act does

not prescribe any specific period of limitation for filing complaints before the RERA. In absence of an express statutory provision, the importation of the Limitation Act cannot be assumed as a matter of course. According to the learned counsel, the Limitation Act, by its own framework, applies to “Courts” unless its applicability is expressly or by necessary implication extended to quasi-judicial authorities. The Authority under RERA, being a specialized regulatory body with a distinct adjudicatory mechanism, does not fall within the strict ambit of a “Court” as contemplated under the Limitation Act. In support of his contention, he placed reliance upon the decision of the Supreme Court in the matter of **Ganesan (represented by its power agent G. Rukmani Ganesan) Vs. Commissioner, Tamil Nadu Hindu Religious and Charitable Endowments Board and Others** reported in **(2019) 7 SCC 108**.

9. On the other hand, learned counsel appearing for the respondent would support the order impugned passed by the learned Tribunal. He would submit that the complaint filed by the appellant on 4/9/2018 whereas the cause of action arose on 25/5/2015, which fact can be seen from the agreement. Thus, the Tribunal rightly observed that the complaint filed by the appellant before the RERA is barred by limitation. Learned counsel would also submit that the appeal filed by the appellant before this Court under Section 58 of the Act itself is not maintainable in view of reliefs claimed by the appellant, as the appeal is under valued and

also suffers from deficit of Court fee.

10. In reply to the aforesaid objection raised by the respondent regarding under valuation of appeal and deficit of Court fee, learned counsel for the appellant would submit that the appellant is pressing only relief clause (i) & hence the objection of respondent is sustainable.
11. I have heard learned counsel for the parties, perused the record and the impugned orders with utmost circumspection.
12. Upon hearing the learned counsel for the appellant and perusing the record, the core issue that arises for consideration is whether the Tribunal was justified in dismissing the appeal on the ground of limitation by holding that the complaint filed before the RERA was time-barred.
13. At the outset, it is necessary to examine the statutory framework of the Act. A careful reading of the Act reveals that there is no prescribed period of limitation for filing a complaint under Section 31 before the Authority or the Adjudicating Officer. The statute is conspicuously silent on this aspect. For the sake of convenience, Section 31(1) of the Act is quoted below :

**“31. Filing of complaints with the Authority or the adjudicating officer-** *(1) Any 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 this Act or the Rules and Regulations made thereunder against any promoter, allottee or real estate agent as the case*

*may be.”*

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14. In such circumstances, the question arises whether the provisions of Article 137 of the Limitation Act, 1963 can be imported into proceedings under the Act. It is a settled principle of law that the Limitation Act applies primarily to “courts” and not to quasi-judicial authorities, unless expressly provided or necessarily implied.
15. The RERA is a specialized regulatory body created for expeditious adjudication of disputes between allottees and promoters. It does not strictly fall within the ambit of a “Court”.
16. In the matter of **Ganesan** (supra), the Supreme Court in paras 27 and 28 held as under:-

*“27. Section 29(2) provides that where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation and the provisions contained in Sections 4 to 21 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law. Whether prescription of appeal or limitation of any suit or application in any special or local law relates to suit, application or appeal to be filed in court or it may refer to statutory authorities and tribunals also, is the question to be answered. Different special or local laws have been enacted by the legislature covering different subjects, different rights and liabilities,*

*methodology of establishing, determining rights and liabilities and remedies provided therein. Special or local law may also provide remedy by institution of suits, appeals and applications in the courts i.e. civil court and to its normal hierarchy and also create special forum for determining rights and liabilities and provide remedies. Most common example of creating statutory authorities for determining rights, liabilities and remedies are taxing statutes where assessing authorities have been provided for with hierarchy of authorities. The remedy of appeal and revision is also provided in the taxing statutes in which the authorities are different from the normal civil courts. Section 29(2) in reference to different special or local laws came for consideration before this Court in a large number of cases. This Court had occasion to consider the provisions of the Limitation Act, 1963, in reference to different statutes which contain provisions of suits, appeals or applications to the courts/ authorities/ tribunals. There are series of judgments of this Court holding that provisions of the Limitation Act are directed only when suit, appeal or application are to be filed in a court unless there are express provisions in a special or local law.*

*28. Section 29(2) also came for consideration before this Court in several cases. There is another set of cases where it was held that the provisions of the Limitation Act, 1963 are to be applied even for suit, appeal or application under special/local law is to be filed before statutory authorities and the tribunal. We shall notice both sets of cases to find out the ratio which needs to be applied in the present case.*

*29. The first case to be noticed is Town Municipal*



*Council, Athani v. Labour Court. In the above case applications under Section 33-C(2) of the Industrial Disputes Act, 1947 were filed by various workmen of the appellant. The question which was considered by this Court in the above case was as to whether Article 137 of the Schedule of the Limitation Act, 1963 governs applications under Section 33-C(2) of the Industrial Disputes Act, 1947. Referring to various articles of the Limitation Act, 1963, this Court laid down the following: (SCC pp. 882-83, para 12).*

*"12. ... The scope of the various articles in this division cannot be held to have been so enlarged as to include within them applications to bodies other than courts, such as a quasi-judicial tribunal, or even an executive authority. An Industrial Tribunal or a Labour Court dealing with applications or references under the Act are not courts and they are in no way governed either by the Code of Civil Procedure or the Code of Criminal Procedure. We cannot, therefore, accept the submission made that this article will apply even to applications made to an Industrial Tribunal or a Labour Court."*

*30. A three-Judge Bench of this Court in Nityananda, M. Joshi v. LIC, had occasion to consider the applicability of Article 137 of the Limitation Act to an application filed under Sections 33-C(1) and (2) of the Industrial Disputes Act, 1947 before the Labour Court. The three-Judge Bench categorically held that the scheme of the Limitation Act is that it only deals with application to courts, and the Labour Court is not a court within the Limitation Act, 1963. The following was laid down in para 3: (SCC p. 200)*

*"3. In our view Article 137 only contemplates*

*applications to courts. In the Third Division of the Schedule to the Limitation Act, 1963 all the other applications mentioned in the various articles are applications filed in a court. Further Section 4 of the Limitation Act, 1963, provides for the contingency when the prescribed period for any application expires on a holiday and the only contingency contemplated is "when the court is closed". Again under Section 5 it is only a court which is enabled to admit an application after the prescribed period has expired if if th the court is satisfied that the applicant had sufficient cause for not preferring the application. It seems to us that the scheme of the Limitation Act is that it only deals with applications to courts, and that the Labour Court is not a court within the Limitation Act, 1963."*

(emphasis added)

17. In the light of the aforesaid law laid down by the Supreme Court, it is manifest that the applicability of the provisions of the Limitation Act, 1963 in the context of various statutes that provide for the filing of suits, appeals, or applications before courts, authorities, or tribunals. The provisions of the Limitation Act are primarily attracted when such proceedings are instituted before a court of law, unless their applicability is expressly or by necessary implication extended under a special or local statute. Thus, the provisions of Article 137 of the Limitation Act will not be applicable to a complaint under Section 31(1) of the Act before the RERA.
18. In the case at hand, the appellant filed a complaint before the RERA under Section 31 (1) of the Act, 2016 which is a creature

under the special Act wherein there is no provision of limitation and even there is no express provision or implication of applicability of the Limitation Act. Thus, the Tribunal committed gross error by applying the provisions of Article 137 of the Limitation Act to the complaint filed by the appellant under Section 31(1) of the Act before the RERA.

19. It is pertinent to mention here that from the language of the Act 2016, the intention of the legislature to exclude the applicability of the provisions of the Limitation Act is manifestly clear. The provisions of the Limitation Act, which the legislature did not incorporate in the Act, 2016, cannot be imported into it by analogy. An enactment being the will of the legislature, the paramount rule of interpretation, which overrides all others, is that a statute is to be expounded 'according to the intent of them that made it'. 'The will of the Legislature is the supreme law of the land, and demands perfect obedience. If the Legislature willfully omits to incorporate something of an analogous law in a subsequent statute, or even if there is a *casus omissus* in a statute, the language of which is otherwise plain and unambiguous, the Court is not competent to supply the omission by engrafting on it or introducing in it, under the guise of interpretation, by analogy of implication, something what it thinks to be a general principle of justice and equity. To do so 'would be entrenching upon the preserves of Legislature', the primary function of a Court of law being *jus dicere* and not *jus dare*.

20. In the light of what has been stated above, I am of the considered view that the Tribunal was in error in importing whole hog the principle of Article 137 of the Limitation Act into the Act, 2016. In fact, the scheme of the Act, 2016 clearly indicates that the RERA is an authority under the said Act. The Chairman of the RERA is to be appointed by the Government and he is entrusted with various functions under the Act, 2016. There is no question of treating the Chairman of the RERA as a Court under the Act, 2016. The definition of 'Court' refers to the Civil Court constituted by the Legislature in the State for administration of justice. The Constitution of Court in this country has been by Legislative enactments.
21. In view of the aforesaid facts & circumstances, it is held that by applying Article 137 of the Limitation Act to the case at hand, the Tribunal committed gross error in dismissing the appeal of the appellant on the ground of Limitation. Thus, the order impugned is bad in law.
22. When the complaint under Section 31(1) of the Act filed by the appellant was dismissed by the RERA, the appellant filed an appeal before the Tribunal. However, without entering into the merits of the case, the Tribunal dismissed the appeal on the ground that the complaint filed under Section 31(1) of the Act was beyond the prescribed period of limitation and barred by limitation.
23. A perusal of the Tribunal's order itself, particularly paragraph 11, reveals that the respondent/promoter had not raised any objection

regarding limitation before the RERA. Moreover, the RERA had also not framed any issue for determination on the question of limitation. Despite this, the Tribunal proceeded to dismiss the appeal solely on the ground of limitation, without adjudicating the matter on merits.

24. In view of the aforesaid discussion, this Court is of the considered opinion that the Tribunal committed a manifest error in dismissing the appeal solely on the ground of limitation, particularly when no such objection was raised before the RERA and no issue on limitation was framed or adjudicated. The Tribunal, for the first time at the appellate stage, relied upon limitation without it being raised or considered earlier. This kind of approach shows a procedural irregularity, as the matter was decided on a ground that was not properly raised or examined. The Tribunal ought to have confined its consideration to the legality and propriety of the order passed by the RERA and adjudicate the appeal on merits. The impugned order, therefore, cannot be sustained and is liable to be set aside.
25. As a sequence, the appeal is **allowed** and the aforesaid substantial question of law is answered accordingly. The impugned order dated 15.09.2023 passed by the Tribunal is set aside. The matter is remanded back to the Tribunal with a direction to decide the appeal filed by the appellant/allottee afresh on merits.

26. It is made clear that this Court has not expressed any opinion on the merits of the matter and the Tribunal may proceed with the matter, in accordance with law and on its own merits, without insisting upon the question of limitation.

SD/-

**(Bibhu Datta Guru)**  
**Judge**

Gowrli/  
Amardeep

### Head Note

Article 137 of Limitation Act will not be applicable to a complaint u/S 31(1) of Real Estate (Regulation And Development) Act, 2016 filed before the Real Estate Regulatory Authority (RERA).