

BENCH NO.1.

**THE UTTAR PRADESH REAL ESTATE APPELLATE TRIBUNAL
AT
LUCKNOW.**

Appeal No.16 OF 2025

Mohammad Shahid Khan Appellant.

Vs.

The Uttar Pradesh Real Estate Regulatory Authority ... Respondent.

Hon'ble Mr. Justice Suneet Kumar, Chairman.

Hon'ble Mr. Rameshwar Singh, Administrative Member.

1. Heard Sri Vanshaj Shukla, Advocate, holding brief of Sri Saghar Mehdi, learned counsel for appellant. The case is proceeding *ex parte* against the respondent.
2. The appellant/allottee by the instant appeal is raising challenge to the judgment and order dated 02.01.2025, passed by the UP Real Estate Regulatory Authority, at Lucknow (for short, Regulatory Authority), in Complaint No. LKO162/11/124841/2024, whereby, the complaint filed under Section 31 of RERA Act came to be rejected on the ground being barred by principles of *res judicata*.
3. Learned counsel for appellant submits that the complaint came to be filed requesting the Regulatory Authority to take appropriate action under Section 40(2), read with, Section 63 of the RERA, Act against the defaulting the promoter.
4. The short question that arises for consideration is as to whether the second complaint of the same cause of action was maintainable.
5. The facts, *inter se*, parties are not in dispute.
6. The appellant is an allottee of plot bearing no.B-1, Allayah Heritage Apartment, Dalibagh Compound, Lucknow. It is informed that the project

did not see the light of the day. Aggrieved, appellant approached the Regulatory Authority by instituting a complaint under Section 31 of RERA Act (Complaint No.LKO162/09/99987/2022) seeking refund of the deposit along with interest thereon. The complaint came to be decreed vide judgment and order dated 09.06.2023. It is thereafter the subsequent complaint, which is subject matter of this appeal, came to be instituted seeking consequential penal relief, which could have been considered by the executing authority in execution proceedings.

7. On specific query, learned counsel for appellant informs that execution proceedings are pending against the respondent promoter and recovery certificate (RC) came to be issued on 20.12.2023. It appears that the RC till date has not been executed against the respondent judgment debtor.
8. In the afore noted backdrop, in our opinion, the second complaint under Section 31 of RERA Act was not maintainable being barred by principles of *res judicata*. It is settled principle of law that the principle of *res judicata* is applicable in proceedings before quasi-judicial authority.
9. On specific query, learned counsel for appellant could not point out any illegality, infirmity or jurisdictional error in the impugned order.
10. The question is accordingly answered.
11. The appeal being devoid of merit, is accordingly **dismissed**. However, liberty is granted to the appellant to pursue the pending execution proceedings to its logical conclusion and it would be open for the appellant to make an appropriate application, therein, for seeking penal action against the respondent promoter.
12. No order as to costs.

Dated : 12.05.2026
Irfan

(Rameshwar Singh)

(Suneet Kumar)