

Government of UP

Industrial Development Department; Section -4

No. 5430/ 77-4-25 /69 Appeal/25

Lucknow: Dated 27.10.2025

Great Value Sharanam Apartment Owners Association Revisionist

Vs

NOIDA Authority Respondent

The instant application has been filed on behalf of Great Value Sharanam Apartment Owners Association under section 27(3) of UP Apartment (Promotion of Construction, Ownership & Maintenance) Act, 2010 with a prayer to set aside the impugned orders dated 19-12-2024 and 11-06-2025 passed by the Respondent No-1 (New Okhla Industrial Development Authority) in granting illegal FAR to Respondent No.-3 (M/s Great Value Projects India Ltd).

The applicants in the instant case had approached the Hon'ble Allahabad High Court in Writ C No- 20376/2025 wherein the Hon'ble High Court had observed as under-

"Considering the facts and circumstances, we are not inclined to entertain the writ petition. However, we hope and trust that in case the aforesaid revision along with stay application is still pending consideration, the stay application shall be decided by the Competent Court within three weeks from the date of production of certified copy of this order after giving opportunity of hearing to all the stake holders, and thereafter the revision may also be decided within two months period. It is made clear that creation of third-party interest, if any, would definitely be subject to the final disposal of the aforesaid revision."

In compliance with the directions of the Hon'ble High Court, notices were issued to the respondents. Respondent No. 1 & 3 submitted their rejoinders respectively on 03-09-2025 and 08-10-2025 which were taken on record. The applicants also submitted their rejoinder dated 08-10-2025 to the submissions made by the Respondent No 1 & 3. There is no response on the part of Respondent No 2. As directed by the Hon'ble High Court hearings were conducted on 08-09-2025, 22-09-2025 & 09-10-2025 in which the application for interim relief on behalf of applicants was also considered.

On behalf of Respondent No 3 the following preliminary objections were made:

- i) The orders under challenge dated 19-12-2024 & 11-06-2025 have been passed by Respondent No.1 under the Building Regulations under the provisions of UP Industrial Area Development Act, 1976 (UPIDA). Therefore, revision if any, against the impugned orders would only be maintainable under the provisions of UP Industrial Area Development Act. Since there exists no order of the competent authority under the UP-Apartments Act, 2010, the instant revision under section 27(3) of the said Act is not maintainable.
- ii) The applicants are not entitled to file this application. As per bye laws of the Apartment Owners Association (AOA), the quorum required is 30% of total members. The present resolution authorising the applicants to file the petition only has signatures of 91 people. In the absence of requisite quorum, the resolution authorizing the instant revision itself is non-est in the eyes of

law and therefore no legal proceedings can be entertained on the basis of such a faulty authorisation resolution.

- iii) A similar case had been bought by the owners of the Apartment of the same complex before the Revisional Authority in 2017 in which a similar prayer was made and the said revision was dismissed by the Revisional Authority after hearing both parties. Given that the matter has already been decided, the present petition is frivolous and is only an attempt on the part of the petitioners to browbeat the Respondent No.3.

In response to the preliminary objections raised on behalf of Respondent No.3, the advocate for the Revisionists, Mr Kartikey Dubey submitted that the AOA has been formed only in 2021 after the cited judgement was passed by this Authority and therefore the order of Revisional Authority in 2017 cannot bar them from filing a relief if interest of the Association is adversely affected by the orders of the Noida Authority. He further submitted that in the case of Design Arch Infrastructure Pvt Ltd Vs VC Ghaziabad Development Authority & others (reported 2013 SCC Online All 14815), Hon'ble High Court of Allahabad has held that the "*'Competent Authority' within the meaning of rule 2(C) as defined will include Vice Chairman of the Development Authority in whose development or area the building is situated.... In case of the Industrial Development Authority the Competent Authority shall be the Chief Executive Officer of the Industrial Development Authority. ...*" They further argue that any order passed by the competent authority or his delegatee as provided above will be challengeable before the State Government as per section 27(3) of the UP-Apartment Act.

He further cites that purchasing additional FAR is a property in which apartment owners have interest by virtue of the provisions of UP Apartment Act 2010 and therefore purchase of additional FAR is not permissible to be appropriated by the promoter without consent of the apartment owners obtained by the resolution in the meeting of the association by majority. In light of the precedent cited above it is argued that the orders under challenge are indeed maintainable under section 27(3) of UP Apartment Act.

In regard to the lack of quorum the applicants argue that the resolution authorizing filing of present application has been passed in the adjourned meeting of the members of the association in which the requirement of 30% quorum under rule 9 of the model bylaws is not applicable. Contracting the stand of the Revisionist, the advocate for Respondent No.3 argues that there is nothing on record to show that appropriate notice was issued or agenda was circulated to the members of the Apartment Owners Association in the first meeting. It was further submitted that in effect the present applicants don't have a majority in the association and in order to bypass the majority they resorted to this artifice of an adjourned meeting when in fact the first meeting have not taken place. In support of their claim, they (Respondent no 3) have submitted consent on behalf of over one thousand apartment owners annexed to their pleadings. This lends credence to their contention that the revisionists represent a minority group of Apartment Owners who are opposing the additional construction on account of the revised lay out duly sanctioned by Respondent No 1.

On perusal of the response submitted by Respondent No.1, it is apparent that before passing the impugned orders they received consent from 1165 flat owners for purchasing additional FAR on 28-02-2024. They also published advertisements in two national dailies on 16-05-2024 seeking objections/suggestions with respect to the proposal for the purchase of additional FAR. It appears that on 24-05-2024, 429 flat owners objected to the purchase of additional FAR and the ACEO of Respondent Authority after hearing both parties had

permitted the purchase of additional FAR to the Respondent No.3 on the basis of fact that the majority of the apartment owners were in agreement to the proposal of additional FAR. It becomes clear from the aforesaid discussions that the applicants are in a minority in Apartment Owners Association and that they are seeking to prevent the Respondent No.3 in giving effect to the construction that is permissible on account of the purchase of additional FAR. The Respondent No.1 has followed the due process before passing the impugned orders only after ascertaining that the majority of the flat owners are in favour of the proposal. Therefore, the main ground for reconsideration that consent of apartment owners has not been obtained, cannot be sustained.

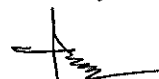
I am also inclined to agree with the contention of Respondent No.3 that the impugned orders have been passed under the building byelaws regulations of the UPIDA, 1976 and therefore no cause of action arises under the UP Apartments Act 2010. On this ground as well, the case of the Revisionist cannot be sustained. Also the Revisional Authority has already examined and disposed of the issue of the grant of additional purchasable FAR without the consent of apartment owners in Revision No. 2884/77-4-20-अपील 46/18 vide its order dated 28th August 2020 and has come to the conclusion that no interference is warranted in the Respondent Authority's order of sanctioning the revised layout since it has been passed after giving due public notice inviting objections and considering them in detail. It would not be out of place to mention that the case law cited by the revisionist only requires consultation of apartment owners on the part of the developer should alteration be made in common property areas. As has been pointed out earlier, this process has been carried out by the Respondent Authority before passing the impugned orders.

In light of the discussions above, I find no merit in the present revision petition on grounds of maintainability under the UP Apartments Act; on grounds that it has previously been adjudicated by this Revisional Authority and also on ground that the resolution authorizing the Revisionists to file the present revision does not have adequate majority as required under the Byelaws. There is no reason to interfere with the impugned orders passed by the Respondent No.1. Interim orders, if any, are set aside.

Sd/-
(Alok Kumar)
Additional Chief Secretary

Letter No. 5430/ 77-4-25 /69 Appeal/25 Dated:

1. Chief Executive Officer, Noida
2. Great Value Sharanam Apartment Owners Association, NOIDA (Email: aoa.gvs@gmail.com)
3. M/s Great Value Projects India Ltd, New Delhi (Email: kartikeydubey.adv@gmail.com)
4. Director, I.T Invest U.P. – to upload it on Department's website
5. Guard File.

Order by

(Jaivir Singh)
Joint Secretary