



2026:AHC:129768

Reserved on 08.05.2026

Delivered on 01.07.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40310 of 2025

Great Value Sharanam Apartment Owners Association

.....Petitioner(s)

Versus

State of U.P. and 8 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Abhijeet Mukherji
Counsel for Respondent(s)	:	C.S.C., Kaushalendra Nath Singh, Rishu Mishra, Shivam Yadav

Court No. - 51

HON'BLE ARUN KUMAR, J.

1. Heard Sri Tarun Agrawal, learned Senior Counsel, assisted by Sri Abhijeet Mukherji, for the petitioner, Sri Shivam Yadav, learned counsel for the respondent no.4, Sri Rahul Agarwal, learned Senior Counsel, assisted by Sri Kartikey Dubey, Sri Priyanshu Jaukani & Ms. Sakshi Agarwal, for the respondent no.6 and Sri Abhishek Shukla, learned Additional Chief Standing Counsel for the State respondents.

2. The dispute relates to the development of a residential project by the respondent builder, the respondent no.6, on land leased by the New Okhla Industrial Development Authority (NOIDA), the respondent no.4, and the subsequent grant of additional Floor Area Ratio (FAR), which has been challenged by the petitioner association.

3. The genesis of the project dates back to 12.07.2010, when the NOIDA Authority executed a lease deed in favour of the respondent

builder for an area measuring 72,957.60 square metres. Following the execution of the lease deed, the builder obtained sanction of the Phase-I layout plan on 19.10.2010. In the sanctioned plan, the central portion of the land was not shown as part of the project, while the area that is presently the subject matter of dispute was specifically earmarked as "future blocks." During the same period, the builder also released a project brochure depicting the said area as reserved for future development.

4. Subsequently, on 14.09.2012, the NOIDA Authority sanctioned the Phase-II layout plan. Under this plan, the disputed area was designated for the construction of "Iconic Towers," and a total construction area of 2,00,112 square metres was approved. Significantly, this sanctioned map was never challenged by any stakeholder and remained operative.

5. A further development took place on 16.07.2015, when the NOIDA Authority executed a second lease deed in favour of the builder, granting an additional central portion of land measuring 8,255.65 square metres. As a result, the total project area increased to 81,213.25 square metres. Consequently, the permissible construction area under the sanctioned FAR of 2.75 increased to 2,23,336 square metres.

6. In light of the enlarged land area, the builder sought revision of the sanctioned plan, and on 19.01.2017 a revised map was approved. Under this revised plan, the central portion was incorporated into the project, the proposed Iconic Towers were placed on hold, and the disputed land was once again shown as an area reserved for future development. At the same time, the sanctioned construction area was reduced from 2,00,112 square metres to 1,81,051.389 square metres. A fresh brochure released in 2017 similarly depicted the disputed area as reserved for future development, thereby indicating that prospective purchasers were informed of the possibility of future construction on that land.

7. In 2018, twelve allottees expressed dissatisfaction regarding the amenities available within the project and filed Writ Petition No. 34927 of 2018 challenging the revised map sanctioned on 19.01.2017. By order dated 12.10.2018, the High Court disposed of the writ petition while granting liberty to the petitioners to file a revision before the State Government. The revision was subsequently dismissed on 28.08.2020. Although the allottees challenged this dismissal through Writ Petition No. 6486 of 2021, the writ petition was ultimately withdrawn on 03.09.2025, after the builder addressed and resolved the grievances relating to amenities.

8. Meanwhile, the builder, the respondent no. 6, sought to obtain additional FAR for the project. For this purpose, consent was sought from the allottees. Out of 1,440 home buyers, 1,165 granted consent while 275 declined. According to the builder, no coercive measures were adopted against those who refused consent, and sale deeds were executed even in favour of several non-consenting allottees.

9. Separately, the builder was involved in disputes with the NOIDA Authority concerning the grant of "zero period" benefits and the rates applicable for any future grant of additional FAR. Consequently, on 12.06.2023, the builder filed a revision before the State Government. The revision did not seek grant of additional FAR; rather, it sought clarification that if additional FAR were to be granted, it should be charged at the applicable rates. During the pendency of this revision, the NOIDA Authority rejected the builder's application for additional FAR on 07.07.2023 on the ground that objections raised by certain home buyers had not yet been resolved. Nevertheless, the authority acknowledged that more than one thousand home buyers had already provided their consent.

10. The State Government decided the builder's revision on 24.07.2023. It granted various zero-period benefits and directed that if additional FAR were granted in future, it should be charged according to

the prevailing policy. The State Government did not adjudicate upon the builder's entitlement to additional FAR itself.

11. Thereafter, the State Government issued a Government Order dated 21.12.2023 granting a two-year zero period to legacy stalled projects affected by the COVID-19 pandemic and permitting such projects to apply for additional FAR at prevailing rates. On 10.04.2024, the NOIDA Authority recognized the builder's project as a legacy stalled project and extended the benefit of the said Government Order.

12. Following these developments, the builder applied afresh for additional FAR. The NOIDA Authority initiated a detailed process for considering the application. Public notices were published in newspapers on 16.05.2024, and the petitioner association submitted objections on 24.05.2024. Several opportunities of hearing were provided between July and September 2024. According to the respondent, the petitioner association repeatedly sought adjournments and failed to demonstrate that a majority of home buyers opposed the proposal. Even in a representation dated 21.08.2024, the association stated that it required further consultation with home buyers regarding approval or disapproval of additional FAR.

13. To ascertain the true position, the NOIDA Authority conducted a verification exercise of the consent and objection lists. After removing duplicate signatures and invalid entries, the authority determined that there were 978 valid consents and 228 valid objections. It concluded that approximately 68% of all flat owners and 81% of participating allottees supported the grant of additional FAR. On the basis of this majority support, the NOIDA Authority granted additional FAR to the builder by order dated 19.12.2024.

14. Subsequently, on 11.06.2025, the revised map sanction for the fourth phase, covering the land reserved for future development, was approved. The petitioner association challenged the order granting

additional FAR by filing a revision before the State Government. The revision was dismissed by order dated 27.10.2025 on three principal grounds: first, that the petitioner association did not represent the majority of home buyers; second, that the NOIDA Authority had followed due process and afforded adequate opportunities of hearing; and third, that the revision itself was not maintainable.

15. Aggrieved by the orders dated, 27.10.2025 and 24.07.2023, passed by the respondent no.1, and 19.12.2024 and 11.06.2025, passed by the respondent no.4, the petitioner association has filed the present writ petition. The dispute, therefore, centers on the validity of the grant of additional FAR and the subsequent approvals, granted by the NOIDA Authority, notwithstanding the respondent's contention that the disputed land had consistently been earmarked for future development since the inception of the project and that the grant of additional FAR was supported by a clear majority of home buyers.

16. It is contended by the learned Senior Counsel appearing on behalf of the petitioner that, the impugned order dated 19.12.2024, whereby the respondent authority sanctioned an additional FAR of 0.60 to the builder, is illegal, arbitrary, and contrary to the rights of the apartment owners. According to the petitioner, the builder, the respondent no.6, had already utilized or earmarked the entire permissible FAR available under the original project approvals. In the revised sanctioned plan of 19.01.2017, a balance constructible area of approximately 42,285 square metres was reserved for "future development." The petitioner accepts that the builder is entitled to develop this balance area because it forms part of the original permissible FAR. However, the petitioner strongly objects to the builder's decision to purchase an additional FAR of 0.60, which permits construction over an extra area of about 48,728 square metres, thereby substantially increasing the project's density and built-up area.

17. It is submitted, that no valid consent was ever obtained from the apartment owners for the purchase of additional FAR. The builder relies

upon consent forms collected from buyers during 2017–2018 when possession and sale deeds were being executed. The petitioner’s senior counsel argues, that these forms were obtained under coercive circumstances because signing the maintenance agreement containing the consent clause was made a mandatory condition for obtaining possession and execution of the sale deed. Furthermore, the forms were blank and generic, containing no disclosure regarding the extent of future FAR, the nature of future construction, or the consequences of such development. Therefore, the petitioner submits that these documents cannot constitute informed and voluntary consent as required by law.

18. It is further contended that even if the 2017–2018 consent forms are assumed to be valid, they related only to the future development area available within the original sanctioned FAR and cannot be stretched to authorize the purchase of additional FAR sought years later in 2022 and sanctioned in 2024. The consent under the statutory framework must be specific, informed, and proximate in time to the proposed alteration. A blanket consent obtained several years earlier cannot be treated as perpetual authorization for future increases in FAR. Moreover, the petitioner association had been consistently objecting to the grant of additional FAR since its formation in 2021, thereby clearly withdrawing or repudiating any such alleged consent. In support of the aforesaid arguments, the learned Senior Counsel for the petitioner, relied upon a Coordinate Bench decision of the Bombay High Court, dated 07.10.2010, passed in First Appeal No. 786 of 2004, Madhuvihar Cooperative Housing Society and others Vs. M/s Jayantilal Investments and others. The relevant paragraph nos. 46 and 47, are as under:

“(46) THUS, there is consistent view of this Court, that the blanket consent or authority obtained by the promoter, at the time of entering into agreement of sale or at the time of handing over possession of the flat, is not consent within the meaning of section 7(1) of the MOFA, inasmuch as, such a

consent would have effect of nullifying the benevolent purpose of beneficial legislation.

(47) IT is, thus, clear that it is a consistent view of this Court, that the consent as contemplated under section 7(1) of the MOFA has to be an informed consent which is to be obtained upon a full disclosure by the developer of the entire project and that a blanket consent or authority obtained by the promoter at the time of entering into agreement of sale would not be a consent contemplated under the provisions of the MOFA.....”

19. It was further argued that the grant of additional FAR directly affects the undivided interest of existing apartment owners in the common areas and facilities. By adding new towers and apartments, the number of occupants sharing common infrastructure increases, while the proportional undivided interest of existing owners correspondingly decreases. Since such undivided interest constitutes a vested property right, any alteration affecting it requires the consent of all apartment owners under Section 5(3)(a) of the U.P. Apartments Act, 2010. Even if the Court concludes that unanimous consent is not necessary, the petitioner submits that at least the requirement of obtaining prior written consent from the requisite majority of allottees under Section 14(2)(ii) of the Real Estate (Regulation and Development) Act, 2016 must be satisfied. According to the petitioner, neither requirement has been met in the present case.

20. A reliance has been placed by the learned senior counsel for the petitioner on the judgment of the Hon'ble Supreme Court in the case of **Supertech Limited vs Emerald Court Owner Resident Welfare Association and Others**, reported in (2021) 10 SCC 1. The Hon'ble Supreme Court, while dealing with the question of undivided interest of individual flat owners, has held as under, in paragraph 153:

“Hence, it is abundantly clear that the construction of T-16 and T-17 in accordance with the second revised plan and the third revised plan reduced the value of the undivided interest held by each individual flat owner in the common areas and

facilities, thereby violating Section 5 of the UP 1975 Act and Section 5 of the UP Apartments Act 2010, since the flat owners' consent was not sought. Further, the third revised plan encroached upon the garden area in front of T-1, thereby resiling from the representation that had been made to the flat owners at the time when they purchased the apartments in T-1, without their consent. Therefore, it constituted a violation of Section 4(1) read with the proviso to Section 4(4) of the UP Apartments Act 2010.”

21. A further reliance has been placed on the Division Bench decision of this Court in the case of **Designarch Infrastructure Pvt. Ltd.. and another vs Vice Chairman, Ghaziabad Development Authority and others**, reported in 2013(9) ADJ 594. The relevant sub-paragraph (14) of paragraph 65 of the aforesaid judgment reads as under:

“The FAR or any additional FAR is a property, appended to rights in the property on which the building is constructed, and is thus a property in which the apartment owners have interest by virtue of the provisions of the UP Apartment Act, 2010. The purchase of additional FAR is not permissible to be appropriate by the promoter without any common benefits to the apartment owners. The consent of the apartment owners obtained by resolution in the meeting of the apartment owners by majority will be necessary for purchasing additional FAR. Its utilization will also be subject to the consent of the apartment owners.”

22. Another significant argument raised by the Senior Counsel for the petitioner concerns the procedural history of the matter. The respondent authority had previously rejected the builder's application for additional FAR on 07.07.2023 due to lack of consent from apartment owners. The petitioner argues that this order attained finality because it was never challenged by the builder. Consequently, the respondent authority could not subsequently reverse its position and sanction additional FAR without obtaining fresh consent from the home buyers. The petitioner maintains that the sanction granted in December 2024 effectively ignores the earlier rejection and the objections raised by the apartment owners' association.

23. It is further argued that the subsequent decision-making process was tainted by violation of principles of natural justice. The State Government, by its order dated 24 July 2023, directed the respondent authority to process and sanction additional FAR without impleading or hearing the apartment owners or their association. The petitioner asserts that this order was passed *ex parte* and remained undisclosed for a considerable period. Since the impugned sanction of additional FAR was based substantially on this government direction, the petitioner contends that both the government order and the consequent sanction order are liable to be quashed for having been passed without affording affected home buyers an opportunity of hearing.

24. It is argued that the authority adopted an arbitrary methodology by treating a large number of disputed or withdrawn consent forms as partially valid and effectively diluting the objections submitted by apartment owners. According to the petitioner, this exercise artificially inflated the number of consents while minimizing genuine objections, thereby rendering the decision-making process irrational and perverse.

25. In response to the preliminary objections regarding its locus standi, the Senior Counsel for the petitioner maintains that the present writ petition has been duly authorized by resolutions passed in validly convened meetings of the Apartment Owners Association. He explains that the meetings were held in accordance with the association's by-laws, including provisions governing adjourned meetings and quorum requirements. The association had consistently informed residents about the FAR issue, passed resolutions authorizing legal action, and pursued earlier litigation and statutory remedies. Therefore, the challenge cannot be dismissed as an action initiated merely by a few office-bearers acting without authority.

26. In nutshell, the petitioner's case is that the sanction of additional FAR is illegal because it was granted without obtaining valid and informed consent from apartment owners, adversely affects their

undivided proprietary interests, disregards prior objections and statutory requirements, relies upon stale and allegedly coerced consent forms, and stems from an ex parte governmental direction issued in violation of natural justice. Accordingly, the petitioner seeks the quashing of the orders granting additional FAR and all consequential actions taken pursuant thereto.

27. *Per contra*, the learned Senior Counsel appearing for the respondent no. 6 contends that, from the inception of the project, the area currently under development had always been earmarked for future construction. The lease deed executed by the NOIDA Authority in 2010 was followed by sanctioned maps that consistently identified portions of the land either as “future blocks,” “Iconic Towers,” or “area reserved for future development.” It is emphasised that these sanctioned plans were never challenged and that the construction now being objected to falls within areas that had long been designated for future development. Furthermore, brochures issued in 2010 and 2017 also clearly disclosed that the disputed land was reserved for future development, thereby ensuring that home buyers were aware of this possibility from the beginning.

28. The Senior Counsel for the respondent argues that subsequent modifications to the project were legally sanctioned. After acquiring an additional central portion of land through a second lease deed in 2015, the total project area increased, resulting in a corresponding increase in permissible construction area. A revised map was sanctioned in 2017 reflecting these changes. Importantly, according to the respondent, the revised map actually reduced the sanctioned construction area compared to the 2012 plan, demonstrating that the developer was not seeking excessive or unauthorized expansion. The answering respondent therefore maintains that all construction activities have remained within the framework of approved development plans and statutory permissions.

29. At the outset, the answering respondent denies the allegation that home buyers were coerced into signing consent forms for additional FAR as a condition for execution of sale or lease deeds. It is argued that out of 1,440 flat owners, only 1,165 provided consent while 275 declined. Significantly, sale deeds have already been executed for 159 of the non-consenting owners, demonstrating that consent was never a mandatory prerequisite for execution of conveyance documents. The respondent maintains that any delay in execution of remaining deeds is attributable solely to the concerned buyers and not to any coercive conduct on its part.

30. Senior Counsel for the respondent no.6, points out that, addressing objections from certain allottees, the previous litigation, concerning project amenities were resolved through statutory remedies and was ultimately withdrawn after the issues were addressed. The respondent submits that the current dispute does not arise from any violation of planning norms but rather from dissatisfaction among a small group of residents. In relation to the acquisition of additional FAR, the respondent states that consent was sought from all home buyers, and a substantial majority provided approval. Out of 1,440 home buyers, 1,165 initially consented, while only 275 refused. The Senior Counsel for the respondent stresses that no coercion was employed to obtain these consents, as even those who did not consent were granted sale deeds without any adverse consequences. This, according to the respondent, demonstrates the voluntary nature of the consent process.

31. Without prejudice to the foregoing, even assuming, though not admitting, that any consent was obtained by coercion, fraud, or undue influence, the legal consequence would not be that such consent becomes void ab initio. Under Section 19 of the Indian Contract Act, 1872, a document or agreement allegedly procured through coercion or fraud is merely voidable at the option of the person whose consent was so obtained. Such a document continues to remain valid and operative unless and until it is specifically challenged and set aside by a competent

court of law, which is supported by the Division Bench decision of this Court in the case of **Prachi Vs. Shailendra Kumar**, reported in 2019(9) ADJ 632. In the present case, none of the home buyers who executed the consents have come forward to dispute the same or to allege that their consent was obtained involuntarily. The challenge has been raised only by the office bearers of the petitioner association, who possess no independent authority to avoid or invalidate consents executed by individual home buyers. In the absence of any challenge by the concerned signatories themselves, the consents must be presumed to be valid and binding.

32. The learned Senior Counsel for the Respondent no.6, has relied upon various judgments to substantiate the aforesaid arguments. The Hon'ble Supreme Court, in the case of **Anil Rishi Vs. Gurbaksh Singh**, reported in (2006) 5 SCC 558, has held that, fiduciary relationship must be established before a presumption of undue influence against a person in position of active confidence is drawn. The factum of active confidence should also be established.

33. It is further submitted that the allegations of fraud and coercion raised by the petitioner association necessarily involve disputed questions of fact. Such allegations cannot be adjudicated on the basis of pleadings alone and require a detailed examination of evidence. The burden of proving fraud lies squarely upon the party alleging it, and such issues can only be determined after a proper trial before a competent civil court. The validity, voluntariness, and enforceability of the consents allegedly executed by 1165 home buyers are factual matters that require appreciation of evidence and cannot be conveniently adjudicated in the limited jurisdiction invoked in the present proceedings. Indeed, all the reliefs sought by the petitioner association are consequential in nature and are entirely dependent upon first obtaining a declaration that the impugned consents are invalid or unenforceable. Such a declaration necessarily requires adjudication of complex factual disputes, which falls within the domain of a civil court and not within the scope of the present

proceedings, which is supported by the decisions of Hon'ble Supreme Court in the cases of **Ram Sakal Singh Vs. Mosamat Monako Devi (Dead) and Others**, reported in (1997) 5 SCC 192, and **Khursheed and Another Vs. Shaqoor**, reported in 2024 SCC Online SC 2929.

34. It was further argued that, 'fraud and forgery are not a matter of presumption but are question of fact required to be proved by leading evidence', as held by a Coordinate Bench of this court, in the case of **Lakshmi Singh Chauhan Vs. The State of U.P. and others**, reported in 2024(12) ADJ 742.

35. The Senior Counsel for the respondent no.6, sought to clarify the circumstances surrounding the grant of additional FAR. He contended that the revision before the State Government in 2023 did not seek additional FAR itself but merely requested that, if granted, the FAR should be charged at prevailing rates. The State Government's order of 24.07.2023 addressed only issues relating to the grant of "zero period" benefits and the applicable rates for any future FAR approval. Consequently, the respondent contends that the petitioner association had no legal grievance against that order because it did not affect their rights or determine the grant of additional FAR. The respondent further relies on the Government Order of 21.12.2023, which granted benefits to legacy stalled projects and permitted applications for additional FAR. Following recognition of the project as a legacy stalled project, the respondent lawfully applied for additional FAR under the applicable policy framework.

36. A significant part of the argument of the Senior Counsel for the respondent no.6, related to the procedure followed by the NOIDA Authority before approving additional FAR. He submitted that the Authority issued public notices, invited objections, and provided multiple opportunities for hearings to the petitioner association. Despite these opportunities, the petitioner allegedly failed to demonstrate that a majority of home buyers opposed the proposal. The respondent points

out that even the petitioner association's own representation in August 2024 admitted that it needed time to consult home buyers regarding approval or disapproval of additional FAR. When conflicting consent and objection lists emerged, the NOIDA Authority conducted a detailed verification exercise, removing duplicate and invalid entries. This process revealed 978 valid consents and only 228 valid objections, meaning that 68% of all flats and 81% of participating allottees supported the proposal. On this basis, the Authority concluded that the majority favored the grant of additional FAR and accordingly approved it in December 2024. The respondent therefore maintains that the decision was based on objective verification and adherence to due process.

37. The learned Senior Counsel for the respondent no.6, raised another objection to the maintainability of the writ petition itself. He argued that the petitioner association does not represent the majority of home buyers and has initiated litigation solely through its office bearers. He emphasised that while more than a thousand home buyers consented to the additional FAR, the association relies only on a general body meeting allegedly attended by 93 members, whose identities have never been disclosed. Even if all 93 attendees are accepted as genuine, they cannot override the consent granted by the overwhelming majority of residents. It was further pointed out that the State Government, in its order dated 27.10.2025, expressly found that the petitioner association did not represent the majority. Instead of obtaining fresh approval from the general body, the association authorized the present litigation through its office bearers alone. Consequently, the respondent argues that the writ petition lacks representative legitimacy and should be dismissed as not maintainable.

38. It is further submitted that the allegations sought to be raised by the petitioner association regarding coercion, fraud, and invalidity of the consents are wholly misconceived and unsupported by the contemporaneous record. The agenda circulated for the General Body

Meeting dated 25.05.2025, which has been placed on record by the petitioner association itself, does not contain any agenda item concerning alleged coercion, fraud, misrepresentation, or illegality in obtaining consents from the home buyers. No discussion or deliberation on the validity of such consents was proposed or undertaken. The complete absence of any such issue from the agenda clearly demonstrates that the allegations now advanced are an afterthought, introduced subsequently only for the purposes of the present litigation.

39. It was also submitted on behalf of the respondent no.6, that the challenge is also hopelessly barred by limitation. According to the petitioner association's own case, the consents in question were obtained in the year 2018. Any challenge seeking cancellation of such consents or a declaration that they are voidable ought to have been brought within the period prescribed under the Limitation Act, 1963. Even assuming the petitioner's allegations to be correct, the limitation period expired long ago. The petitioner association is now attempting to invoke the extraordinary jurisdiction of this Hon'ble Court to indirectly secure relief that is otherwise barred in law. Such an exercise amounts to an impermissible attempt to circumvent the statutory bar of limitation and cannot be countenanced. The present petition, therefore, deserves to be dismissed not only on merits but also on the grounds of limitation, delay, and laches.

40. The Senior Counsel for the respondent no.6, further contends that the allegation that the consents were previously utilized for obtaining the revised sanction dated 19.01.2017 is factually incorrect. According to the respondent, no consent of home buyers was legally required for that sanction because the construction remained within the permissible FAR already disclosed at the inception of the project. Moreover, the sanctioned built-up area was progressively reduced over time rather than increased, thereby negating any suggestion that earlier consents were used to facilitate additional construction.

41. With regard to the order dated 07.07.2023, the respondent argues that the order did not invalidate or reject the consents furnished by the home buyers. Rather, the rejection of the proposal was based solely on unresolved maintenance-related concerns. The order itself acknowledged the existence of 1,067 consents. Following the order, the respondent claims to have substantially addressed the maintenance issues by resolving more than forty identified concerns and regularly submitting compliance reports to the NOIDA Authority. Consequently, the respondent asserts that the consents remain valid and capable of being relied upon.

42. The respondent also rejects the contention that the consents were vague or blanket consents. It is submitted that the consent forms expressly informed home buyers that the respondent intended to utilize the entire additional purchasable FAR available under the applicable regulations. At the relevant time, the New Okhla Industrial Area Building Third Amendment Regulations, 2015 permitted the purchase of up to 0.75 FAR, and this fact was specifically disclosed to the home buyers before obtaining their consent. The respondent emphasizes that this assertion has never been specifically denied by the petitioners and therefore stands admitted. It is also argued that none of the consenting home buyers have personally challenged their consents, and hence the association lacks the authority to dispute them on their behalf.

43. Addressing the reliance placed by the petitioners on the Bombay High Court decision in *Madhu Vihar Cooperative Housing Society (Supra)*, the Senior Counsel submitted that the judgment is wholly distinguishable. The case arose under the Maharashtra Ownership Flats (Regulation of the promotion of construction, Sale, Management and Transfer) Act, 1963 (MOFA), which differs substantially from the statutory framework of the Uttar Pradesh Apartment Act, 2010. Furthermore, the Bombay case involved proposed construction affecting common amenities and areas, whereas the present development is confined to land consistently earmarked as “future development” in the

sanctioned plans. Therefore, according to the respondent, the ratio of the said judgment has no application to the present dispute.

44. The respondent also contests the allegation that the order dated 24.07.2023 was passed in violation of principles of natural justice. It is argued that the revision before the State Government was filed prior to the order dated 07.07.2023 and did not challenge that order. The only issue under consideration was the rate applicable for additional FAR, should such FAR be granted in the future. Since the order merely determined the applicable rate and neither granted additional FAR nor adjudicated upon the rights of the petitioner association, the association was not a necessary party to the proceedings.

45. Regarding the contention that the sanctioned map relates to Phase 5 whereas the consents were granted for Phase 4, the respondent submits that the allegation is based on a clerical error. The project consists of only four phases, and the disputed construction is being undertaken on land that has always been designated as a future development area in the sanctioned plans. The respondent maintains that the consents were specifically obtained for this very area and that the reference to “Phase 5” is merely a typographical mistake.

46. Finally, the respondent disputes the petitioner’s assertion that consent of 100% apartment owners is required for the purchase and utilization of additional FAR. It argues that Section 5(3A) of the Uttar Pradesh Apartment Act, 2010 has already been interpreted by the Division Bench of the Allahabad High Court in *Designarch Infrastructure Pvt. Ltd. (Supra)*. According to that judgment, consent of the majority of apartment owners is sufficient for the utilization of additional FAR. Since 1,165 home buyers have admittedly granted consent, the respondent contends that the statutory requirement stands fully satisfied and that the petitioner’s demand for unanimous consent is contrary to binding judicial precedent.

47. The respondent's case is founded on three central propositions: first, that the disputed construction has always formed part of the project's approved future development plans; second, that the grant of additional FAR was made in accordance with statutory procedures and supported by a clear majority of home buyers; and third, that the petitioner association lacks the authority and representative support necessary to challenge these decisions. On these grounds, the respondent seeks dismissal of the writ petition.

48. The Senior Counsel appearing on behalf of the respondent no.4, Noida authority, has more or less adopted the arguments made on behalf of the respondent no.6. He laid great stress on the subjective evaluation of the consent forms submitted by the flat owners, the number of opportunity granted to them to object to the proposed grant of additional FAR and non furnishing of any objection by individual flat owners, for having given their earlier consent under coercion or undue influence. An attempt has been made by the Senior Counsel to plead that the petitioners by the present petition, are blackmailing the builder and the Noida Authority.

49. Learned Senior Counsel for the Petitioner rebutted the arguments raised by Respondent Nos. 4 and 6 by way of rejoinder. He contended that the central issue in the present dispute is not merely whether consent forms were signed by home buyers, but whether those consents constituted legally valid and informed consent for the utilization of additional FAR by the builder. In response to the respondent's attempt to distinguish the Bombay High Court's judgment in *Madhu Vihar Cooperative Housing Society (Supra)*, he argued that the case was cited not because the statutory framework of Maharashtra is identical to that of Uttar Pradesh, but because it elucidates the fundamental concept of "informed consent" in the builder-home buyer relationship. According to the petitioner, the principle emerging from *Madhu Vihar* is of universal application: where a builder seeks to undertake future development, the

consent of purchasers must be based on full disclosure of the extent and nature of the proposed construction.

50. He submits that while a portion of land was marked as "future development" in earlier sanctioned plans, the home buyers were never informed about the precise extent of additional FAR that would be purchased or how such FAR would subsequently be utilized. The consent forms allegedly signed by the home buyers were blanket and vague in nature, lacking any meaningful disclosure regarding the future construction proposed by the builder. Consequently, even if signatures were obtained, such consents cannot be treated as informed consent within the meaning of the law. The petitioner further asserts that the builder itself admits that consent was necessary; therefore, the real question before the Court is whether the consent obtained satisfies the legal standard of informed consent.

51. Addressing the builder's contention that allegations of coercion, fraud, or undue influence render the documents merely voidable and can only be challenged individually by affected home buyers through civil suits, the Senior Counsel argued that such a position undermines the very purpose of the U.P. Apartments Act, 2010. The Act was enacted to provide statutory safeguards and remedies to apartment owners and to regulate the builder-home buyer relationship. He emphasized that the issue is not solely one of contractual voidability but of statutory compliance. According to the petitioner, the Court is not required to conduct a detailed trial on fraud; rather, it must examine whether the consent forms relied upon by the builder satisfy the statutory requirement of informed consent. He further contended that the builder has not specifically denied the allegation that home buyers were compelled to sign blanket consent forms as part of the maintenance manual process and were effectively left with no meaningful choice.

52. The petitioner also disputes the builder's characterization of the order dated 07.07.2023. According to the petitioner, the earlier rejection

of the builder's request for additional FAR was not based solely on infrastructural deficiencies but also on objections raised by apartment owners. The petitioner points to the contents of the order itself and related correspondence from NOIDA, which specifically recorded objections of apartment owners against the grant of additional FAR. Since the order dated 07.07.2023 was never challenged and there was no material change in circumstances thereafter, the petitioner argues that the subsequent grant of additional FAR amounts to an impermissible review of an earlier decision. The petitioner further contends that reliance on the Government Order dated 21.12.2023 is misplaced because that order did not create any new substantive right to obtain additional FAR and, in any event, its applicability to the project is doubtful.

53. The petitioner similarly rejects the builder's reliance on the Supreme Court's judgment in the *Supertech (Supra)* case. According to the petitioner, the significance of that judgment lies in its interpretation of the concept of "undivided interest" in common areas and facilities. The petitioner argues that any increase in the number of residential units inevitably increases the burden on common facilities and consequently reduces the undivided interest of existing apartment owners. Therefore, the builder's contention that undivided interest is affected only when existing towers are vertically expanded is misconceived. The true test, according to the petitioner, is whether the additional development increases the density of occupation and the load on common amenities.

54. He further challenges NOIDA's position that the association's objections were confined to infrastructural deficiencies. The petitioner asserts that throughout the proceedings it consistently opposed the grant of additional FAR itself and that multiple documents on record demonstrate such opposition. Accordingly, the petitioner contends that both the builder and the authority have attempted to minimize the significance of the home buyers' objections, despite those objections forming an important part of the decision-making process.

55. In conclusion, the petitioner maintains that the impugned grant of additional FAR is legally unsustainable because the builder failed to obtain informed consent from the home buyers, sought to rely upon vague and blanket consent forms, disregarded objections previously accepted by the authorities, and attempted to alter the undivided interests of apartment owners without obtaining the unanimous consent required by law.

56. The controversy gives rise to the following questions:

(i) Whether the petitioner Association possesses the requisite representative character to maintain the present challenge?

(ii) Whether the consents furnished by 1,165 allottees in favour of grant of additional FAR are liable to be ignored on the basis of objections raised by a section of office-bearers of the Association?

(iii) Whether the sanction of additional FAR dated 19.12.2024 violates the provisions of the U.P. Apartment Act, 2010 or the Real Estate (Regulation and Development) Act, 2016?

(iv) Whether the impugned revisional order dated 27.10.2025 warrants interference under Article 226 of the Constitution of India?

POINT Nos. (i) and (ii)

57. The principal difficulty confronting the petitioner is that the challenge before this Court is not supported by material demonstrating that the majority of apartment owners oppose the grant of additional FAR. The record reveals that the project consists of approximately 1,440 apartments. The builder has produced material indicating that consent of 1,165 allottees was obtained. Even after verification by NOIDA Authority, the authority found that 978 consents remained valid as against 228 objections.

58. The petitioner does not dispute that a large number of consents were in fact furnished. Its case is that such consents were either uninformed or obtained under coercion. However, significantly, none of the individual allottees whose consent forms are relied upon has approached this Court seeking cancellation of his consent. The challenge is thus not by the consenting allottees themselves but by certain office-bearers of the Association. The distinction is crucial.

59. A representative body cannot, merely by passing a resolution, invalidate contractual declarations and consents furnished by hundreds of individual apartment owners who continue to stand by them. The Association cannot be permitted to substitute its opinion for the autonomous decisions of individual apartment purchasers. Even assuming the Association validly resolved to oppose the project, a collective resolution cannot retrospectively revoke individual declarations executed by hundreds of separate apartment owners. The Association cannot exercise a power of rescission on behalf of non-objecting owners.

60. The entire edifice of the petition rests on the allegation that consents were obtained under coercion. Even assuming such allegation is raised, the legal consequence does not automatically follow. A consent allegedly obtained by coercion is not void ab initio. At the highest, it is voidable at the instance of the person whose consent is alleged to have been improperly obtained. No individual signatory has instituted proceedings seeking rescission of consent. No declaration has been obtained from any competent forum declaring the consent forms invalid. No evidence has been produced to establish that the consenting allottees have withdrawn their consent. The Court cannot presume withdrawal where none exists. To the contrary, the material on record demonstrates that despite publication of notices and repeated opportunities granted by the Authority, a substantial number of consenting allottees never came forward to dispute their consent. The legal presumption therefore operates in favour of validity rather than invalidity.

61. Under Section 19 of the Indian Contract Act, 1872, it is an established principle of law that any agreement where consent is alleged to have been procured via coercion, fraud, or undue influence is not void *ab initio*. Rather, it is merely voidable at the option of the party whose consent was so caused.

62. This legal position was reaffirmed by the Division Bench of this Court in *Prachi (Supra)*. A voidable instrument remains perfectly valid, operational, and binding in law until its signatory takes active steps to challenge it before a competent civil court and obtains a formal declaration of invalidity.

63. In the present case, the record shows that out of the 978 flat owners whose consents were formally verified as genuine by the NOIDA Authority, not a single individual home buyer has stepped forward as a co-petitioner before this Court, filed an independent civil suit, or issued a formal notice to the respondent nos. 4 and 6, revoking their signature.

64. The challenge is brought exclusively by the office-bearers of the Association, relying on a General Body Meeting resolution attended by only 93 members, whose names have not been disclosed.

65. Furthermore, allegations of fraud, systematic coercion, and historical duress are intensely disputed questions of fact. The burden of proving fraud lies squarely upon the party alleging it, as held in the case of *Anil Rishi (Supra)*. Such matters cannot be decided based on summary pleadings within the extraordinary jurisdiction of Article 226 of the Constitution of India; they require full trial and the cross-examination of witnesses before a competent civil court, as held by the Hon'ble Supreme Court in the cases of *Ram Sakal Singh (Supra)* and *Lakshmi Singh Chauhan (Supra)*.

66. In the absence of any independent civil challenges brought by the signatories themselves within the statutory period of limitation, the individual consents must be presumed valid and legally binding.

POINT No. (iii)

67. The Petitioner Association has argued that the acquisition and utilization of an additional 0.60 FAR alters the density of the housing complex, reduces each buyer's undivided interest in the common areas, and therefore requires either unanimous consent under Section 5 of the U.P. Apartment Act, 2010, or specific contemporary consent under Section 14 of RERA, 2016.

68. This Court finds that the Petitioner's argument runs counter to established precedent. The scope and application of Section 5 of the U.P. Apartment Act, 2010, were thoroughly interpreted by a Division Bench of this Court in the landmark ruling of *Designarch Infrastructure Pvt. Ltd. (Supra)*. The Division Bench explicitly held:

"The FAR or any additional FAR is a property, appended to rights in the property on which the building is constructed... The consent of the apartment owners obtained by resolution in the meeting of the apartment owners by majority will be necessary for purchasing additional FAR. Its utilization will also be subject to the consent of the apartment owners."

69. The ruling in *Designarch (Supra)* establishes that unanimous (100%) consent is not required to utilize additional FAR; a valid majority decision of the apartment owners suffices.

70. In the present dispute, the independent audit drive conducted by the NOIDA Authority verified that 978 flat owners gave valid consents, while only 228 flat owners registered objections. This shows that 81% of the participating allottees formally supported the developer's expansion plans. This easily satisfies the majority standard required under the *Designarch* framework.

71. The Petitioner's reliance on the Supreme Court's ruling in *Supertech Limited (Supra)* is factually and legally misplaced. In *Supertech*, the developer actively built over designated green open spaces and gardens, violating mandatory structural safety distances

between tall buildings (reducing the distance from 16 metres to 9 metres) without any prior disclosure to the buyers.

72. The facts in the present dispute are entirely different:

- i) The developer, the respondent no.6, has produced clear evidence showing that no common areas, parks, roadways, or shared resident amenities are being reduced or modified.
- ii) The proposed construction is confined entirely to a specific plot area that has been consistently designated as an area for "Future Blocks" or "Future Development" across all sanctioned plans, layout maps, and marketing brochures since the project's inception in 2010.
- iii) The NOIDA Authority has confirmed that all urban planning regulations regarding population density, parking space allocations, open space indices, and fire safety margins continue to be fully satisfied.

73. The buyers entered this project with clear notice that further development could occur on this plot. The phrase "future development" would be rendered meaningless if the promoter were permanently barred from developing the land. Every allottee entered the project with notice that the disputed parcel was not earmarked as a park, green area, community facility, or open space but was specifically reserved for future development. Having purchased flats with full knowledge of such reservation and having accepted possession, conveyance and benefits under the project, the allottees are estopped from contending that no future development could ever take place on that land.

74. Apartment purchasers acquire rights recognized by statute and contract, but they do not acquire a vested right that the density of a township shall remain frozen forever. What the law itself permits cannot be treated as an invasion of a vested right merely because population density subsequently increases. At best, the petitioner complains of greater sharing of existing facilities, not extinction or diminution of the facilities themselves.

75. The petitioner has not produced any expert material demonstrating violation of planning norms. The Court is therefore unable to accept the broad proposition that every increase in number of apartments automatically requires unanimous consent of all apartment owners. Acceptance of such interpretation would virtually freeze every large township project and render statutory provisions permitting purchasable FAR otiose. The legislative framework itself contemplates grant of additional FAR. What is required is compliance with applicable statutory conditions, which in the present case have substantially been fulfilled. Mere apprehensions cannot displace the technical satisfaction recorded by the competent planning authority.

76. Regarding the temporal proximity of the consents, the Petitioner argued that consents given in 2017–2018 cannot be utilized to justify a layout sanction in 2024. However, a review of the consent instruments reveals that the signatories explicitly authorized the developer to utilize the maximum additional purchasable FAR available under the applicable building regulations (which permitted up to 0.75 FAR under the 2015 amendments). The developer sought an additional 0.60 FAR, which falls within the scope of that original authorization. Since these consents were never legally revoked or set aside, they remain valid. The challenge itself, suffers from substantial delay because the factual basis of the alleged grievance was known to purchasers for several years.

POINT No. (iv)

77. The Petitioner Association has alleged that the decision-making process was tainted by a violation of the principles of natural justice, pointing to the State Government's order dated 24.07.2023 and the NOIDA Authority's subsequent reversal of its previous rejection order dated 07.07.2023.

78. This Court notes that the scope of judicial review under Article 226 regarding administrative planning decisions is strictly limited. A Writ Court does not sit as an appellate authority over the administrative

satisfaction of local planning bodies unless the decision is shown to be perverse, arbitrary, or in direct violation of statutory mandates.

79. The record shows that the NOIDA Authority followed proper procedure before issuing the impugned sanction order dated 19.12.2024:

(i) It published public notices in major newspapers on 16.05.2024, inviting objections from all residents.

(ii) It provided multiple opportunities for formal hearings to the Petitioner Association between July and September 2024.

(iii) It conducted an exhaustive, signature-by-signature verification drive to eliminate duplicate entries and determine the true majority view.

80. This detailed process shows that the Authority acted transparently and in line with due process guidelines. The Petitioner's argument that the previous rejection order dated 07.07.2023 had attained finality is incorrect. That initial rejection was explicitly based on unresolved municipal maintenance issues, not a finding that the consents themselves were invalid. Once the developer addressed those concerns and the project was recognized as a legacy stalled project under the Government Order dated 21.12.2023, the NOIDA Authority was fully entitled to consider the fresh application.

81. The challenge to the State Government order dated 24.07.2023 is equally devoid of merit. The revision before the State Government primarily concerned issues relating to zero period and applicability of rates. The petitioner Association was not shown to be a necessary party to those proceedings.

82. More importantly, the final sanction dated 19.12.2024 was preceded by independent consideration undertaken by NOIDA Authority. Therefore, even assuming any procedural infirmity existed in the proceedings before the State Government, no prejudice has been established.

83. The present case does not involve encroachment upon parks, open spaces or common facilities; nor does it involve clandestine alteration of

the project contrary to representations made to purchasers. The land in question was consistently disclosed as earmarked for future development. The competent planning authority, after inviting objections, verifying consents and assessing compliance with applicable regulations, has sanctioned the additional FAR. A substantial majority of allottees support the proposal, while no consenting allottee has sought withdrawal or cancellation of his consent. In such circumstances, interference under Article 226 would amount to substituting judicial opinion for the technical and statutory satisfaction of the planning authority and would unjustifiably defeat the expressed will of the majority of apartment owners. No ground for such interference is made out.

84. In light of the detailed analysis above, this Court records the following conclusions:

- i. The individual written consents executed by the substantial majority of allottees (978 buyers) remain legally valid, operational, and unrevoked.
- ii. The legal challenge brought by the office-bearers of the Association cannot override the individual consents given by the flat owners.
- iii. The land earmarked for the expansion was consistently disclosed as a future development area from the project's inception, and no common facilities or open spaces have been compromised.
- iv. The statutory majority requirement for utilizing additional FAR, as laid down in *Designarch (Supra)*, has been fully satisfied.

85. Consequently, this Court finds no jurisdictional error, perversity, or violation of due process in the impugned orders. The Writ Petition is devoid of merit and is hereby **dismissed**. The Sanction Order dated 19.12.2024 and the Revisional Order dated 27.10.2025 are sustained.

86. The Respondent No.6 is directed to ensure strict, unyielding compliance with all conditions imposed by the NOIDA Authority,

structural safety regulations, fire safety standards, environmental norms, and parking requirements.

87. No order as to costs.

(Arun Kumar, J.)

July 1, 2026

Ashok Kr.