

LEGAL UPDATES

RAJASTHAN HC: SARFAESI PROVISIONS WERE INVOKED, UPHOLDS RERA AUTHORITY'S JURISDICTION ON COMPLAINT AGAINST BANK

In a case filed by Union Bank of India ("petitioner") before Rajasthan HC, the issue was the resolution adopted by RERA that all matters shall be resolved by a single bench as well as the decision made by a single member of RERA about a semi-completed residential complex in which the petitioner claimed a security interest and asserted that it was outside of RERA's jurisdiction. The case came before the division bench constituting Chief Justice Akil Kureshi and Justice Uma Shanker Vyas. The Petitioner contended that an order was issued by a single member of RERA regarding a partially completed residential complex that was outside RERA's jurisdiction. As the petitioner was not a real estate agent, promoter, or allottee, therefore, RERA was not eligible to take up the complaint. HC observed the question of the applicability of the RERA when SARFAESI Act is active and stated that in scenarios where there is an event of direct conflict between two central laws, usually, the subsequent legislation takes precedence over the former. The RERA's provisions will take precedence over those of the SARFAESI Act in the case of a conflict. HC opined that RERA has the authority to issue instructions to each and every bank claiming security interest in the property covered by any agreement between parties. The HC further ruled that the RERA authority would also have jurisdiction to hear the complaint brought by a harmed party as soon as the bank or financial institution used one of the remedies provided by Sec. 13(4) of the SARFAESI Act. Hence, the case was dismissed.