

# Supertech Twin Tower Demolition: A Critical Analysis

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## Abstract

*In this paper an attempt is made to discern the various legal issues for which the Supertech twin tower demolition took place on August 28<sup>th</sup> 2022. The Supertech twin tower demolition case was a very “significant” legal dispute in India that dealt with the construction & development of a residential project in Noida, Uttar Pradesh. The case centered around two high-rise towers that were built by Supertech Limited, a leading and prominent real estate developer in India. The controversy began in 2010, when the construction of the Twin Towers began. The project was marketed as a luxury residential development with premium apartments & a range of amenities, including a swimming pool, gym, and shopping mall. The local residents & environmental groups, who raised concerns over the impact of the buildings on the surrounding area & the environment. These concerns led to a petition being filed in the Allahabad High Court in 2012, alleging that the Twin Towers project was in violation of building codes and regulations. The petitioner claimed that the buildings were constructed in an area designated as a green belt & that they were also taller than the maximum height allowed by the building codes. The court ordered an investigation into the allegations & found that the buildings were indeed in violation of the building codes. The court also found that the construction of the Twin Towers had caused significant harm to the environment, including the destruction of trees and other vegetation in the area. The court therefore ordered the demolition of the buildings, which was upheld by Hon’ble Supreme Court of India and the said demolition was carried out in 2022. In the process, the Supertech Limited had also incurred a loss of about 500 cores.*

## 1. Introduction

Real estate refers to the “property” & “land”, including the buildings & natural resources, such as crops, minerals, or water. It encompasses residential properties, such as houses & apartments, as well as commercial properties, such as office buildings, retail spaces, & industrial parks<sup>1</sup>.

<sup>1</sup> Real Estate: Definition, types, how to invest in it, available at: <https://www.investopedia.com/terms/r/realestate.asp> (Last visited on January 27, 2023)

Real estate can refer to both the “physical property” itself as well as the business of buying, selling, & developing land, buildings, & other structures. Real estate transactions often involve the services of real estate agents, brokers, & other professionals to help individuals and companies buy, sell, or rent properties.

In addition to its tangible assets, real estate also has a significant impact on the economy, as it affects everything from local housing markets to large-scale commercial development projects.

Real estate companies play a crucial role in the development & growth of communities by constructing residential, commercial, & retail properties. These companies are responsible for acquiring land, designing of building structures, & managing the sale or rental of these properties. Real estate companies come in all sizes, ranging from small local firms to large multinational corporations. They work with a variety of “stakeholders”, including architects, engineers, contractors, government agencies, financial institutions to ensure the successful completion of their projects<sup>2</sup>. Real estate companies play a significant role in the economy, creating jobs, generating revenue, driving economic growth. They also play a vital role in shaping the built environment & influencing the quality of life in communities.

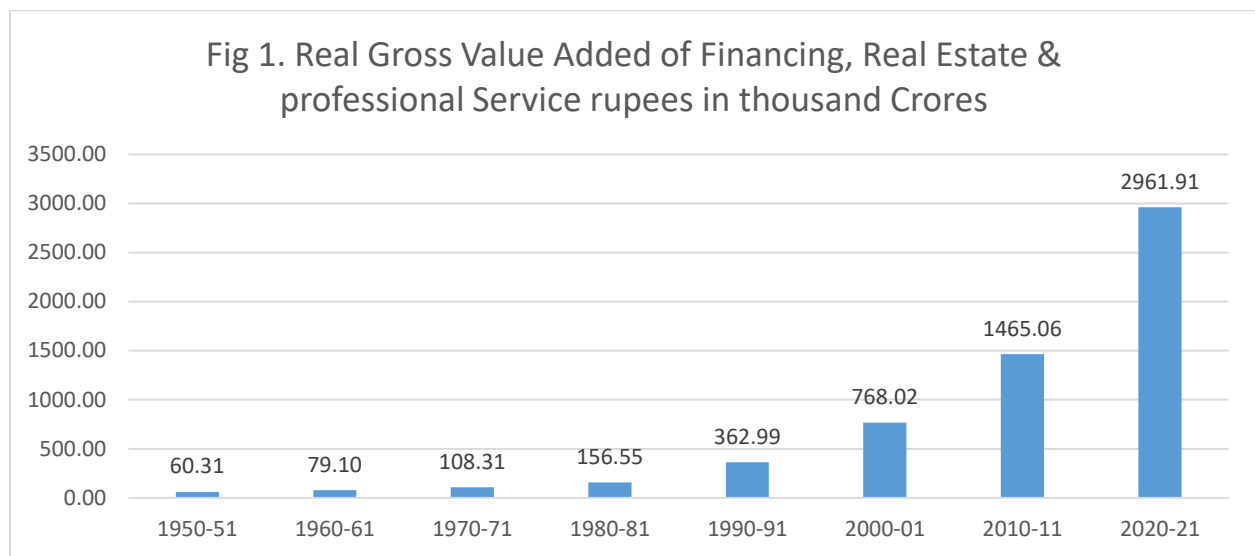
### **1.1 Economy of Real Estate**

Real estate is a crucial “sub-sector” of the Indian economy that has grown significantly over the years. In terms of the real gross value added, including financing & professional services, the contribution of this sector increased from “Rs.60.31 thousand crores” in 1950-51 to “Rs.2961.91 crores” in 2020-21, as depicted in Figure 1. This growth is a testament to the importance of the real estate sector in India's economic development<sup>3</sup>.

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<sup>2</sup> Responsibilities of real estate developer, available at: <https://www.commonfloor.com/guide/responsibilities-of-a-real-estate-developer-17256.html> (Last visited on February 1, 2023)

<sup>3</sup> Economic survey 2022-23 statistical appendix, available at: <https://www.indiabudget.gov.in/economicsurvey/doc/Statistical-Appendix-in-English.pdf> (Last visited on February 1, 2023)



Source: *Economic Survey of India-2022-23 statistical appendix page 7*

## 1.2 Financial loss of Supertech Ltd.

As per the company's Chairman R.K. Arora the overall loss of the company is around “Rs.500 crore”, taking into account the amount were spent on land & construction cost, the charges paid to the authorities for various approvals, interest paid to banks over the years and the 12 (%) per cent interest paid back to buyers of these two towers, among “other” costs.<sup>4</sup>

## 2. Brief about Supertech Limited Company

The Supertech Limited is a leading and prominent real estate development company in India, established in “1988”. The company has a presence in various cities across India & has developed a number of residential, commercial, & retail projects. Supertech Ltd. is known for it’s quality construction & innovative designs, & has been awarded several industry awards for its contributions to the real estate sector in India. The company has a strong reputation for delivering projects on time & has a large customer base. Supertech has a focus on sustainability & incorporates green technologies into its projects, making it a socially responsible & environmentally conscious developer<sup>4</sup>.

<sup>4</sup> Supertech, available at: <https://www.supertechlimited.com/common/about-history.php> (Last visited on February 3, 2023)

## **2.1 History about supertech twin tower case**

The Supertech Twin Tower case was a real estate dispute in India that took place in the early 2010s. The case centered around 2 residential high-rise towers in Noida, Uttar Pradesh. In 2013, the Noida Authority, a local government agency, ordered the “demolition” of the Twin Towers, citing structural irregularities, including the use of sub-standard materials, deviations from approved plans, & unauthorized construction.

The developer, Supertech Limited, challenged the demolition order in court, alleging that the Noida Authority was influenced & motivated by political considerations & that the order was “arbitrary” & “unjustified”. The case was heard by several courts, including the Uttar Pradesh High Court (i.e. Allahabad HC) & the Supreme Court of India, & was widely covered by the media.

The legal dispute had a significant impact on residents of the Twin Towers (TT), many of whom had purchased units in the buildings & were now at risk of losing their homes. The case also highlighted the lack of transparency in the Indian real estate sector & the need for stronger “regulations” & oversight to ensure that developers are held accountable for their actions & that residents are protected from potential dangers related to construction & safety.

In the end, the Supreme Court of India “upheld” the demolition order, citing the safety risk posed by the towers. The residents of the Twin Towers were relocated to alternative housing, & the towers were eventually demolished in 2022.

## **3. Methodology**

While performing a “Supreme Court” case analysis, the following methodology was be adopted:

**3.1 Research of the case:** The first step is to thoroughly investigate the case, including reading the relevant court decisions, opinions, & orders. This includes reading the petition, response, & any other filings submitted to the court.

**3.2 Identify the legal issues:** Once the case has been thoroughly researched, the next step is to identify the legal issues at hand. This involves understanding the facts of the case & the laws that apply, & determining the “key” arguments of both parties.

**3.3 Analyze the legal precedent:** It is important to understand the “legal precedent” that applies to the case & the previous court decisions that may have influenced the outcome of the case. This includes investigating similar cases & the legal reasoning used by the court in those cases.

**3.4 Evaluate the arguments:** The next step is to “evaluate” the arguments presented by both parties & determine their strengths & weaknesses. This involves analyzing the legal reasoning & evidence presented, & assessing how well it supports the arguments of each party.

**3.5 Determine the impact of the case:** The impact of the case should be considered, including the potential impact on future cases, on the parties involved, & on society as a whole<sup>5</sup>.

## **4. Detailed Facts of the case**

### **4.1 Factual and Procedural history**

The appeals being discussed originate/stem from a ruling made by the Division Bench of the High Court of Judicature at Allahabad on April 11, 2014, which was in response to a “writ petition” put forward by the 1<sup>st</sup> respondent, the Residents Welfare Association (RWA) of the Emerald Court Group Housing Society (ECGHS)<sup>6</sup>.

### **4.2 The High Court directions**

The appeal(s) before the court arose from a decision made by the “Division Bench” of the High Court of Judicature at Allahabad on 11/04/2014. The decision was based on a “writ petition” filed by the RWA of the ECGHS. The case pertains to the demolition of Towers 16 & 17, located in Emerald Court on “Plot No. 4”, Sector 93-A, Noida, which were constructed by Supertech Limited. The High Court gave several directions, including the “demolition” of the towers, the “recovery” of demolition costs from the appellant, the granting of “sanction” for prosecution & the “refund” of amounts

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<sup>5</sup> Writing a case study analysis, available at: <https://writingcenter.uagc.edu/writing-case-study-analysis> (Last visited on February 10, 2023)

<sup>6</sup> In supreme court of India, available at: [https://main.sci.gov.in/supremecourt/2014/14414/14414\\_2014\\_34\\_1501\\_29602\\_Judgement\\_31-Aug-2021.pdf](https://main.sci.gov.in/supremecourt/2014/14414/14414_2014_34_1501_29602_Judgement_31-Aug-2021.pdf) (Last visited on February 10, 2023)

invested by purchasers with interest. The correctness of the said directions is being “challenged” in the present appeals before this Court<sup>7</sup>.

### **4.3 The Emerald Court project**

The appellant was granted a plot of land in “Sector 93A” measuring “48,263 sq. mtrs.” by NOIDA in November 2004. The purpose of the land was for the development of a group housing society named “Emerald Court”. The first lease agreement between NOIDA & the appellant was signed on March 16, 2005, & the possession certificate was issued the following day, March 17, 2005. Subsequently, on June 20, 2005, NOIDA approved the construction plan for the development of fourteen towers. Each tower was to have ground & nine floors & was sanctioned under the New Okhla Industrial Development Area Building Regulations & Directions 1986. Construction on these fourteen towers commenced after the plan's approval<sup>8</sup>

### **4.4 First Revised Plan**

NOIDA allotted the appellant a plot of land measuring “48,263 sq. mtrs.” in Sector 93A for the development of Emerald Court, a group housing society, on 23 November 2004. A lease deed was executed on 16 March 2005, & on 20 June 2005, NOIDA sanctioned the building plan for the construction of “fourteen” towers, each with “Ground+9” floors, under the “New Okhla Industrial Development Area (NOIDA) Building Regulations and Directions (BDR) 1986”. Construction work on these “fourteen” towers began accordingly.

Later on 21 June 2006, a “supplementary lease deed” was executed between the parties, under which NOIDA allotted an additional land area of “6556.51 sq. mtrs.” to the appellant, increasing the total leased area to “54,819.51 sq. mtrs”. A “possession certificate” for the extra/additional land was issued to the appellant on the day of 23<sup>rd</sup> June 2006.

Subsequently, on 5 December 2006, NOIDA notified the “New Okhla Industrial Development Area (NOIDA) Building Regulations & Directions (BRD) 2006”. On the day of 29<sup>th</sup> December 2006, the first “revised plan” for the Emerald Court was sanctioned by NOIDA under the new regulation(s).

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<sup>7</sup> Supertech Limited v Emerald Court Owner Resident Welfare Association & ors , Civil Appeal No. 5041 of 2021, para 4 at page 6

<sup>8</sup> *Supra* note 7 at 6

This plan included two “additional” floors in the already sanctioned towers, three new wings in Tower-16, a shopping complex, & a green area in front of Tower-1.

On 10 April 2008, a “completion certificate” was granted in relation to the first eight towers (G+11). However, as per the purchasers, the brochure(s) of the appellant contained older information in accordance with the 1<sup>st</sup> (first) revised plan when the flats were sold, which depicted an area in front of Tower-1 as a “green area”<sup>9</sup>.

#### **4.5 Second Revised Plan**

In November 2004, the appellant was allotted a plot of land by NOIDA in Sector “93A” to develop a group housing society named Emerald Court. On March 16, 2005, the first lease deed was executed between NOIDA & the appellant, & a possession certificate was issued on March 17, 2005. NOIDA approved the building plan for the construction of fourteen towers with Ground+9 floors on June 20, 2005, under the New Okhla Industrial Development Area (NOIDA) Building Regulations & Directions (BRD) 1986. The appellant was allotted an additional land area of 6556.51 sq. mtrs., increasing the total leased area to 54,819.51 sq. mtrs. through a “supplementary lease deed” executed on June 21, 2006. A “possession certificate” for the additional land was issued on June 23, 2006.

The New Okhla Industrial Development Area Building Regulations and Directions 2006 were notified on December 5, 2006, and NOIDA sanctioned the first revised plan for Emerald Court under the new regulations on December 29, 2006. This plan included two additional floors in the already sanctioned towers, three new wings in Tower-16, a shopping complex, and a green area in front of Tower-1. A “completion certificate” was granted for the first eight towers (G+11) on April 10, 2008. However, the brochure of the appellant contained information in accordance with the 1<sup>st</sup> (first) revised plan when the flats were sold, which showed the area in front of Tower-1 as a green area, according to the purchasers.

On February 28, 2009, the State of Uttar Pradesh issued a notification that increased the F.A.R from 2 (as per the NBR 2006) to 2.75 for new allottees. Old allottees like the appellant could purchase F.A.R up to 30% (thirty-three) percent of their existing base F.A.R of 1.5. On July 3, 2009, NOIDA

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<sup>9</sup> *Supra* note 7 at 7

decided to enhance the purchasable F.A.R to 2.75 & bring the stipulation to purchase thirty-three percent F.A.R for old allottees at par with other allottees. The appellant claims that it planned the construction of Tower-16 & Tower-17 to cater to the additional F.A.R that may be available for purchase at later on date. On November 19, 2009, the appellant purchased 30% (thirty-three percent) of its existing base F.A.R of 1.5 at the cost of Rs. 8 (eight) crores, increasing its available F.A.R to 1.995. However, it appears that the construction of the “disputed” towers - Apex and Ceyane - had already started before the grant of this sanction by NOIDA.

On July 16, 2009, the appellant informed the flat owners that the new towers would have separate entry-exit, amenities, & infrastructure would be separated from the existing “fifteen” towers by the construction of a boundary wall. The appellant represented to the flat-owners that a revised building plan was sanctioned, replacing the existing Tower-16 (G+11) & shopping complex (G+1) with twin towers Tower-16 & Tower-17, each of G+24 floors & a height of 73 meters. On September 11, 2009, the “Chief Fire Officer” of Gautam Budh Nagar issued a report for the grant of provisional Non-Objection Certificate (NOC) for Tower-16 & Tower-17, subject to compliance with the National Building Code (NBC), 2005. A completion certification was granted in relation to six towers (G+11) on September 16, 2009, & the completion map showed the green area in front of Tower-1, where Tower-16 & Tower-17 were<sup>10</sup>

#### **4.6 Third Revised Plan**

The State of U.P (Uttar Pradesh) issued a notification on February 20, 2010, permitting old allottees to purchase a F.A.R of up to 2.75, without any restriction on the maximum purchasable F.A.R. However, this notification did not grant the right to purchase the F.A.R to any allottee. On March 19, 2010, the UP Apartments Act 2010 came into effect, mandating the “consent” of flat owners before making any changes to the sanctioned plans & prohibiting changes in the percentage of undivided common interest of the owners without their consent.

On November 30, 2010, the New Okhla Industrial Development Area (NOIDA) Building Regulations (BR) 2010 came into force, setting out the minimum & maximum distance between adjacent building blocks, with a maximum of 16 meters & a minimum of 9 meters if the blocks had dead-end sides facing each other.

<sup>10</sup> *Supra* note 7 at 9



On August 18, 2011, the “Chief Fire Officer” granted a temporary NOC for Tower-16 & Tower-17 with a proposed height of 121.5 meters & thirty-eight floors. However, a permanent NOC was subject to inspection after the installation of proper fire safety equipment.

On October 25, 2011, the appellant purchased an additional F.A.R, raising the available F.A.R from 1.995 to 2.75 at a cost of “Rs 15 crores”. NOIDA issued a letter to the appellant, imposing various requirements, including compliance with the provisions of the UP Apartments Act 2010.

On March 2, 2012, NOIDA sanctioned the “third revised plan” for Emerald Court, allowing the height of Tower-16 and Tower-17 to be increased from 24 floors to 40 floors, with a building height of 121 meters. The third revised plan included requirements for compliance with the UP Apartments Act 2010 and other similar requirements from the second revised plan<sup>11</sup>.

**Details of Sanction and Construction Plan as given below:**

Title	Date of Sanction	Buildings	Details
Original Plan	20 June 2005	Towers-1-14	G+9 floors
First Revised Plan	29 <sup>th</sup> December 2006	Tower: 1-15	G+11 floors, height of each floor is 37 mtrs
		Tower -16	T-16 was to comprise of cluster of wings comprising of 1(G+11floors) and (G+4 floors ) with a height of 37 mtrs.
		Shopping Complex	G+1
Second Revised Plan	26 <sup>th</sup> November 2009	Towers: 1-15	G+11 floors, height of each floor is 37 mtrs
		Tower: 16-17	G+24 floors, height of each tower increased to 73 mtrs
Third Revised Plan	2 <sup>nd</sup> March 2012	Towers: 1-15	G+11 floors, height of each tower is 37 mtrs

<sup>11</sup> *Supra* note 7 at 12

		Tower: 16-17	G+ 40 floors, height of each tower is increased to 121 mtrs
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*Source: Supertech Limited v Emerald RWA SC Judgment page 41*

### 5. Complaints against the Revised Plans

On March 9, 2012, the appellant informed the first respondent that the purchaser(s) of flats in Tower-16 and Tower-17, which were still being constructed, would have separate entry-exit, amenities, & infrastructure. On March 29, 2012, the “CFO's” office issued a notice to the appellant concerning certain deficiencies & violations in complying with fire safety requirements, based on a complaint by the first respondent.

On April 24, 2012, the CFO wrote to NOIDA, based on another complaint by the first respondent, regarding the violation of the minimum distance between Tower-16 & Tower-17. The letter stated that according to “Building Construction Regulations (BCR), 2006”, there should be a “minimum distance” of “half” (1/2) the height of the building between 2 building block(s), & as per Noida Regulations (NR), 2010, there should be a distance of sixteen (16) meters between buildings whose height is more than 50 meters.

On May 3, 2012, & May 22, 2012, the first respondent filed an RTI application with NOIDA to obtain the sanctioned plans in relation to Plot No. 4 of Sector “93A”. Although the appellant was required to display the sanctioned map at its site, it refused to grant consent to release the sanctioned plans & maps to the first respondent.

On June 19, 2012, NOIDA issued a show cause notice to the appellant, stating that the construction was not in accordance with the third revised plan & that a copy of the said plan haven't been “exhibited” at the site office. The appellant replied to the show cause notice on June 26, 2012. On June 26, 2012, NOIDA issued a completion certificate to the appellant for Tower-15 (G+11).

On June 28, 2012, the first respondent wrote to NOIDA complaining of violations & misrepresentations made to the owners by the appellant & sought the cancellation of the layout plan of the two new towers, T-16 & T-17. The first respondent followed up with letters dated August 9 &

August 29, 2012, demanding information & indicating that the construction was being carried out by the appellant in violation of the norms<sup>12</sup>.

### **5. 1 Proceedings before the Allahabad High Court**

On December 10, 2012, the first respondent approached the High Court with a writ petition to challenge the revised plan approved by respondent 2 for the construction of new tower(s) in plot no. 4, Sector “93A”. The first respondent sought to “quash” the plan & requested directions for demolishing the towers on the grounds that the approval & construction violated the provisions of the “U.P. Apartments Act of 2010”, along with other reliefs.

The RWA was provided with the sanctioned maps & related documents during the pendency of the writ proceedings, as ordered by the High Court. The parties subsequently exchanged pleadings. On January 27, 2013, the appellant filed a counter affidavit stating that the first respondent was not recognized by the appellant under the UP Apartments Act 2010. The appellant argued that the first respondent should have approached the Chief Executive Officer (CEO) of NOIDA & then the State Government before filing the writ petition in the High Court. The appellant further contended that the writ petition was filed after three years in December 2012, when the building was in an advanced stage of construction, & therefore, the writ petition was time-barred. The approval for Tower-16 & Tower-17 was granted under the NBR 2006 in 2009.

The final authorization was issued on March 2, 2012, allowing for the increase in the height of the towers from 24 to 40 floors after the appellant purchased additional F.A.R. As per the NBR 2006, there was no “minimum distance” requirement between two building blocks, & the mandatory requirement of 16 meters between two building blocks for buildings higher than 55 meters in the NBC 2005 was not included in the NBR 2006. Therefore, the distance requirement did not apply to T-16 & T-17. The NBR 2010 mandated the distance requirement, but it was not applicable to T-16 & T-17 as they were initially sanctioned under the NBR 2006<sup>13</sup>.

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<sup>12</sup> *Supra* note 7 at 14

<sup>13</sup> *Supra* note 7 at 17

## 5.2 NOIDA in it's "counter affidavit" dated 7<sup>th</sup> February 2013 stated:

- (i) The appellant obtained the plot in accordance with NBR 2010 & the approval was granted subject to compliance with UP Apartments Act 2010.
- (ii) Plot No. 4 constitutes a single integrated project & is not divided into two separate projects.
- (iii) The approval for the space frame connecting T-1 with T-16/T-17 was only given after the design was endorsed by I.I.T. Roorkee.

On 11 April 2014, the High Court allowed the "writ petition" & directed the appellant to demolish T-16 & T-17 at its own expense. The Competent Authority was ordered to approve the prosecution of NOIDA officials under the "UPUD Act 1973" within three months. Additionally, the appellant was instructed to refund the amount received from flat buyers who had reserved flats in T-16 & T-17 with a yearly compounded interest of fourteen percent (14%). The High Court held that the first respondent had the standing to initiate proceedings under "Article 226" of the Constitution. The NOIDA's approval in breach of the applicable building regulations impinges on the rights of each apartment owner, who is represented by the first respondent. As a result, the first respondent is a "person aggrieved" & is entitled to bring the writ petition. The flats were handed over to the purchasers by September 2009, & the RWA was established & enrolled with the Registrar of Societies in the same year.

(i) The only recourse available to the first respondent was to initiate writ proceedings, as they were not prevented from approaching the CFO, NOIDA under the UP Apartments Act, 2010 or the State u/s 27 of the UPIAD Act, 1976. Despite raising their complaint with NOIDA, no notices were issued, & there was no follow-up. The first respondent could have approached the State Government u/s "27" of the UPIAD Act, 1976 only if NOIDA had issued an order.

(ii) The building owner's association is an "aggrieved person" & has the right to initiate writ proceedings because they were not given a notice when the competent authority received an application for the amendment of the declaration under "Rule 4" of the "Uttar Pradesh Apartment (Promotion of Construction, Ownership & Maintenance) UPAPCOM Rules 2011".

(iii) The parties' rights are determined by the rules & regulations applicable at the time of sanction. Although the original building plan was sanctioned when NBR 2006 was in force, the approval for purchasing additional F.A.R was made in 2011, & the sanction given on 2 March 2012 further imposed a condition of applicability of the Uttar Pradesh (UP) Apartments Act 2010. Therefore, “both” the NBR 2010 & NBC 2005 shall apply.

(iv) NOIDA has permitted the purchase of additional F.A.R & granted the subsequent sanction treating the project as a single project, & the plans submitted & sanctioned were for a single project. Therefore, the contention of the appellant that the project was in two phases is not supported by the record, & the appellant has attempted to mislead the court.

(v) According to “Regulation 24.2.1(6)” of the NBR 2010, the spacing between two adjacent building blocks shall be “6 meters” for buildings up to the height of 18 meters, & the spacing shall be increased by 1 meter for every 3 meters above 18 meters, subject to a maximum distance of 16 meters. “Para 8.2.3.1” of the NBC 2005 states that for buildings higher than 55 meters, 16 meters open space must be left in the sides & rear. Since the height of T-17 is 121 meters, the distance between the building blocks must be at least 16 meters. However, the distance is only 9 meters & is “deficient” by 7 meters.

(vi) The appellant “obtained” sanctions for the layout map in violation of the mandatory requirement for space to be maintained between building blocks & clear space, in collusion with NOIDA.

(vii) According to the provisions of the “UP Fire Prevention and Fire Safety Act (UPFPFSA) 2005”, a minimum distance of 7.5 meters between building blocks & clear space must be provided, which was violated in the 3<sup>rd</sup> revised plan of 2012.

(viii) The nomenclature of the blocks was changed in each successive plan, & finally, the buildings were numbered as “T-1 to T-17”. However, it is clear from the sanctioned plans that the appellant got the layout approved, consisting of separate blocks. T-1 and T-16/17 are separate building block(s).

(ix) The plan sanctioned by NOIDA grossly violated the building regulations, the mandatory distance between building blocks, & the movement space required, seriously affecting the apartment owners' rights & the safety of their apartment blocks.

## **6. Proceedings before this Court**

On April 28, 2014, the appellant challenged the High Court's judgment by filing a SPL (Special Leave Petition) under “Article 136” of the Constitution. On May 5, 2014, this Court issued an order maintaining the “status quo” in respect of T-16 and T-17, prohibiting the transfer of the property or the creation of third party rights by the builder or the purchaser.

During the hearings on July 19, 2016, and July 27, 2016, the appellant & NOIDA proposed engaging an expert agency to provide their views on the issue. The Court appointed the “National Buildings Construction Corporation Limited (NBCC)”, a government-owned enterprise, to “examine” various facts related to the dispute, particularly those related to whether T-16 and T-17 have dead-end sides facing each other, as per “Regulation 24.2.1.6” of the NBR 2010.

The NBCC submitted its report on October 13, 2016. Additionally, the first respondent had commissioned I.I.T Delhi and I.I.T Roorkee to report on the issue of 'dead ends,' & their reports were submitted to the Court.

This Court issued “interim orders” on September 6, 2016, & January 11, 2017, directing that a group of applicants receive ten percent (10%) per month towards their investment return.

On September 22, 2017, the Court directed the “Amicus Curiae”, Mr Gaurav Agarwal, to create a portal link to coordinate with the appellant & the flat purchasers regarding refund-related issues. Furthermore, the Court directed that the principal amount, along with an interest of fourteen percent (14%), should be given to flat purchasers who did not wish to wait for the decision of this Court in the present (SPL) Special Leave Petition.

On July 30, 2018, this Court classified home buyers into different groups based on their refund options, with the assistance of the Amicus Curiae.

## 7. Submissions by Counsel

Mr. Vikas Singh, senior counsel representing the appellant, argued the following points very carefully:

Regarding the construction of T-16 and T-17 not violating the distance rule under NBR 2010:

NBR 2010 does not apply to T-16 and T-17 since they were first sanctioned under the second revised plan issued under NBR 2006. Under NBR 2006, the distance provision in “Regulation 33.2.3” (i) was not mandatory, & it was up to the CEO to determine the distance requirement depending on the layout plan's exigencies. Even if this provision was mandatory, it would not govern the distance between T-16 & T-17, which are part of the same block. Furthermore, if this provision were to be strictly enforced, it would also impact the first revised plan, where the heights of the fifteen other towers are 37.5 meters, while the distance with the adjacent blocks was less than half the height, i.e., less than 18.75 meters. Tower-16 & Tower-17 are part of the same building block, along with Tower-1, Tower-2, and Tower-3, which is connected by a space frame to Tower-1. Therefore, “Regulation 24.1.2(6)” of NBR 2010, which provides for a distance to be maintained between "adjacent building blocks" (Bhawan Samuh/cluster of buildings), is “not applicable” to the distance between Tower-17 & Tower-1.

NOIDA has explained the concept of a building block in a note submitted to the High Court. When using the F.A.R, the only requirement is to maintain a certain percentage (%) as an open/green area. Group housing projects can envisage adjacent towers or even a block of towers to ensure a large open green space instead of scattered small spaces throughout the project.

In the alternative, even if Tower-17 & Tower-1 are not part of the same building block, Tower-17 being a "tower-like structure," paragraph 8.2.3.2 of the NBC 2005 is applicable under “Regulation 24.2.1(6)”. According to paragraph 8.2.3.2, the minimum distance for buildings with a height of less than 37.5 meters is 9 meters, while for buildings with greater height, it is 12 meters. Furthermore, according to paragraph 8.2.3.2(d), the deficiency of this distance at the ground level can be made up at the upper levels. Therefore, maintaining a minimum distance of 16 meters between "tower-like structures" is not an inviolable requirement.

The minimum distance between Tower-1 & Tower-17 varies from 9.88 meters (at the ground level) to 25.75 meters (at the upper level) since the total height of Tower-1 is 27.61 meters while that of Tower-17 is 84.5 meters. Therefore, it is in compliance with NBC 2005.

The Model Bye-Laws 2016 issued by the Ministry of Urban Development, Government of India, prescribe a 9 meters space around any building regardless of the height beyond 40 meters.

Regarding the construction of Tower-16 and Tower-17 not violating the UP Apartments Act 2010: The construction was sanctioned before the Act came into force, so prior consent was not required. The flat owners of Tower-1 to Tower-15 who already had possession of their flats are not "intended purchasers" & their consent was not necessary for the construction of additional floors. Obtaining the consent of all flat owners would be impractical, & the consent of the RWA would suffice<sup>14</sup>

## **8. Major “Issues” of Supertech Twin Tower demolition**

The following were some of the key issues in the case:

### **8.1 There is violation of statutes**

**8.1.1 NBR 2006:** NOIDA Building Regulation and Directions 2006 - As per the revised plan, Tower-17 & Tower- 1 were required to maintain a ground-level distance of 9 meters & be linked through a space frame at the upper level.

**8.1.2 Violation of NBR 2010:** NOIDA approved the third revised plan under NBR 2010 which increased the height of Tower -16 & Tower -17 to 121 mtrs. According to NBR 2010, there should be a distance of 16 meters between a buildings of 121 meters height. Therefore, the actual distance of 9 meters between Tower -16 and Tower- 17 was in violation of NBR 2010. The Court determined that the third revised plan was illegal as a result.

### **8.1.3 Violation of “fire safety” norms**

Supertech applied for a fire No Objection Certificate (“NOC”) for constructing Tower -16 & Tower -17, but it was found that the construction violated fire safety norms. The “Chief Fire Officer” granted a temporary fire NOC with the condition that Supertech comply with NBC 2005 for fire safety arrangements. However, NBC 2005 stipulate(s) that the side & rear space around particular building

<sup>14</sup> *Supra* note 7 at 25



must be “16” mtrs. The distance between Tower -16 & Tower- 17 was only “9” mtrs., which did not comply with the minimum distance requirement. Consequently, the temporary fire NOC given by the Chief Fire Officer was automatically “cancelled” due to non-compliance with the NBC 2005 requirement for rear distance.

## **9. Judgement**

To summarize the findings, the statements, dates, events, materials referred to & analyzed in this judgment indicate(s) that-

(i) The supplementary lease deed that allotted land to the appellant is governed by the same terms and conditions as the original lease deed, as both the lands were part of the same original Plot No. 4.

(ii) The construction of Tower-16 and Tower-17, approved by NOIDA on November 26, 2009, & March 2, 2012, violated the minimum distance requirement under NBR 2006, NBR 2010, & NBC 2005.

(iii) The appellant attempted to circumvent the minimum distance requirement violation by claiming that Tower-1, Tower-16, & Tower-17 were part of one building block, but this is inconsistent with the appellant's statements to the flat buyers & the counter affidavit submitted to the High Court.

(iv) Another false argument was made that Tower-16 & Tower-17 were dead end sides, which exempted them from complying with the minimum distance requirements, but this was contradicted by a comprehensive report submitted by NBCC.

(v) The construction of Tower-16 & Tower-17 without complying with the building regulations violated fire safety norms.

(vi) The removal of a garden area next to T-1 in the second revised plan of November 26, 2009, to make way for the construction of Tower-16 & Tower-17 violated the UP Apartments Act 2010, as the consent of the flat owners was not sought before the change was made.

(vii) Tower-16 and Tower-17 were not part of a separate phase with separate amenities & infrastructure, as the supplementary lease deed stated that they were part of the original project. Therefore, the consent of the individual flat owners or RWA was necessary under the U.P. Apartments Act 2010 & U.P. 1975 Act before their construction, as they reduced the undivided interest of the flat owners in the common area.

(viii) The construction of Tower-16 & Tower-17 was achieved illegally through collusion between NOIDA officers & the appellant's management, violating Building Regulations & fire safety norms<sup>15</sup>.

(ix) The High Court's order for the demolition of Tower-16 & Tower-17 (“Apex” & “Ceyane”) stands & cannot be interfered with;

(x) The appellant must carry out the demolition within 3 (three) months of the judgment; & NOIDA officials and experts from the Central Building Research Institute Roorkee must “supervise” the demolition to ensure the safety of existing buildings & infrastructure;

(xi) If CBRI is unable to supervise the demolition, NOIDA will appoint another expert agency;

(xii) The appellant is responsible for the cost of demolition and all related expenses, including fees for the experts;

(xiii) The appellant must refund all amounts invested by existing flat purchasers (except those who have already received refunds) within two months of the judgment, along with 12% interest per annum from the date of deposits until the date of refund;

(xiv) The appellant must pay Rs. 2 crore to the RWA as costs within one month of the judgment.

## **10. Conclusion & Policy Suggestions –**

In conclusion, the Supertech Twin Tower demolition case was a “landmark case” that brought to light the importance of enforcing building codes & regulations & the need for developers to be held accountable for their actions. The case demonstrated the power of the Indian judiciary in protecting

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<sup>15</sup> *Supra* note 7 at 127

the rights of residents in high-rise buildings & serves as a reminder of the need for greater accountability in the real estate sector.

The case highlights the need for the Indian government to take steps to strengthen the enforcement of building regulations & improve the oversight of construction practices, to ensure the safety and well-being of residents in high-rise buildings & support the growth and development of the real estate sector. Some of the suggestions include -

**10.1 Strengthening building regulations:** The Indian government should take steps to strengthen building regulations & ensure that developers comply with the rules & regulations related to construction and safety. This can include implementing stricter penalties for violations, improving the oversight & inspection of construction practices, & increasing transparency in the approval and construction process.

**10.2 Improving enforcement:** The enforcement of building regulations should be improved to ensure that developers are held accountable for their actions. This can include increasing the resources available for the enforcement of building regulations, & improving the coordination & collaboration between government agencies, including the Noida Authority, to ensure that regulations are enforced consistently and effectively.

**10.3 Ensuring the safety of residents:** The safety of residents in high-rise buildings should be a top priority, & steps should be taken to ensure that residents are protected from potential dangers related to construction and safety. This can include improving the fire safety regulations and implementing mandatory inspections and audits of high-rise buildings to ensure that they meet the necessary standard(s).

## 11. References/Bibliography

### Websites-

- Real Estate: Definition, types, how to invest in it, *available at:*  
<https://www.investopedia.com/terms/r/realestate.asp> (Last visited on January 27, 2023)
- Responsibilities of real estate developer, *available at:*  
<https://www.commonfloor.com/guide/responsibilities-of-a-real-estate-developer-17256.html>  
(Last visited on February 1, 2023)
- Economic survey 2022-23 statistical appendix, *available at:*  
<https://www.indiabudget.gov.in/economicsurvey/doc/Statistical-Appendix-in-English.pdf>  
(Last visited on February 1, 2023)
- Supertech, *available at:* <https://www.supertechlimited.com/common/about-history.php> (Last visited on February 3, 2023)
- Writing a case study analysis, *available at:* <https://writingcenter.uagc.edu/writing-case-study-analysis> (Last visited on February 10, 2023)
- In supreme court of India, *available at:*  
[https://main.sci.gov.in/supremecourt/2014/14414/14414\\_2014\\_34\\_1501\\_29602\\_Judgement\\_31-Aug-2021.pdf](https://main.sci.gov.in/supremecourt/2014/14414/14414_2014_34_1501_29602_Judgement_31-Aug-2021.pdf) (Last visited on February 10, 2023)
- Issue wise analysis of why SC ordered demolition of illegal twin towers constructed by supertech, *available at:* <https://www.scconline.com/blog/post/2021/09/01/demolition-of-illegal-twin-towers-constructed-by-supertech/> (Last visited on February 19, 2023)

### Case Law-

- Supertech Limited v Emerald Court Owner Resident Welfare Association & ors , Civil Appeal No. 5041 of 2021