



**REAL ESTATE REGULATORY AUTHORITY (RERA)  
IN THE COURT OF ADJUDICATING OFFICER**

**4<sup>TH</sup> & 6<sup>TH</sup> FLOOR, BIHAR STATE BUILDING CONSTRUCTION CORPORATION BUILDING  
HOSPITAL ROAD, SHASTRI NAGAR  
PATNA-800023**

**RERA/CC/1329/2020  
RERA/AO/385/2020**

Smt. Neha Rani, W/o Sri Sonal Kumar, D/o  
Sri Kamlesh Sharma, R/o East Patel Nagar, Road  
No.Zero, Satya Niwas, Gandhi Murti, P.S. Shastri  
Nagar, Patna-800023.

... Complainant

Versus

1. M/s Imperia Structures Ltd.  
Through: its Managing Director, Sri Harpreet  
Singh Batra,
2. Sri Harpreet Singh Batra, S/o (Unknown) -  
Respondents No.1 and 2 residents of GH-F  
Pocket, Jaypee Greens Sports City, SDZ  
Sector-25, Yamuna Expressway Industrial  
Development Authority.
3. Sri Sushil Singh, S/o (Unknown) Regional  
Manager, Resident of M/s Imperia Structures  
Ltd.. Kanak Braj Complex, 2<sup>nd</sup> Floor, Boring  
Road, Patna-800001.

... Respondents

**Present:**

**Sri Ved Prakash  
Adjudicating Officer**

**Appearance:**

For Complainant : Sri Punit Kumar, Advocate

For Respondents : Authorised Representative.

**ORDER**

29-12-2020

This complaint petition is filed by the complainant,  
Smt. Neha Rani against the Respondent No.1, M/s Imperia  
Structures Ltd. through it's above Directors, Respondents

No.2 and 3 u/s 31 read with Section-71 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the “Act, 2016”) for refund of her principal amount Rs.19,10,496/- along with compound interest @ 18% per annum thereon and compensation of Rs.7.00 lacs for her economical, mental and physical harassment with litigation cost of Rs.1.00 lac, consequent to non-delivery of flat allotted to her.

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2. In nutshell, the case of the complainant is that the complainant, Smt. Neha Rani executed Agreement with Respondent No.1, M/s Imperia Structures Ltd. though it's authorised signatory of Patna Branch office with respect to purchase/sale of a flat having area 1350 sq.ft. along with one covered car parking space in Tower No.5 at 12<sup>th</sup> floor in project “Imperia Mirage – Phase-II” situated at GH-F Pocket, Jaypee Greens Sports City, SDZ, Sector-25, Yamuna Expressway Development Authority, U.P. on consideration of Rs.44,15,475/-. The complainant has agreed to pay total consideration through Demand Draft/Cheque/Cash and she has paid Rs.19,10,496/- to the Respondents out of the above consideration. The Respondents have agreed to deliver the possession of the flat within 4 years with grace period of 3 months. But after stipulated period, only structure of the building was constructed and no offer letter was given to the

complainant for delivery of possession of the flat. Then, the complainant approached to the Respondents several times, but they could not answer properly. The complainant has found no other remedy, then she requested for refund of her principal amount, but no fruitful result could come from their side. The complainant has suffered irreparable loss, as she has withdrawn several Fixed Deposits and she was purchasing the flat for her residence, but her hope has been ruined by the Respondents. Presently the rate of flat in the area is Rs.5,500/- per sq.ft. and a flat of such area 1350 sq.ft. will cost about Rs.74,25,000/-. Hence, being fed up with the behaviour of the Respondents, she has filed this complaint case with above reliefs against the Respondents.

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3. On appearance, the Respondents have filed reply/application pleading *inter-alia* that the company M/s Imperia Structures Ltd. is registered under Companies Act, 1956 having its registered office/principal place of work at A-25-Mohan Co-operative Industrial Estate, Sarita Vihar, New Delhi-110044. The company is a law abiding entity having impeccable reputation in Real Estate Industry and as part of its business activity, the company is developing many illustrious projects in Delhi N.C.R. Further, this complaint case is filed by the complainant with distorted and misleading facts just to harass and to extort money from the Respondents. This case

has been filed with wrong address against the Respondents to mislead the Court as it's registered office/principal place of business is at A-25 Mohan Cooperative Industrial Estate, Sarita Vihar, New Delhi-110044. Further case is that the project in question, in which the complainant has booked it's unit "Imperia Mirage – Phase-II" is located at Greater Noida and the same is registered under U.P. RERA having Registration No.UPRERA.PRJ4008 and only designated authority, U.P, RERA has got exclusive jurisdiction to entertain and decide complaint cases pertaining to above project, whose completion date, as per Registration Certificate, is 31<sup>st</sup> December, 2024. U.P. RERA has supervisory jurisdiction over the project "Imperia Mirage – Phase-II". Accordingly, this Court has no jurisdiction to adjudicate the disputes about the project "Imperia Mirage – Phase-II" situated at Noida, U.P. Hence, the complaint case of the complainant being not maintainable may be dismissed.

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4. Now, on basis of the pleadings of the complainant and reply/application of the Respondents, I have to see whether the present complaint petition of the complainant against the Respondents with respect to the project "Imperia Mirage – Phase-II" is maintainable in the present Court?
5. The learned lawyer for the complainant submitted that the reply filed by the Respondents is not supported with Affidavit and it is also vague in nature. He further submitted

that it is not clear from the reply as to from whom of the three Respondents, has filed the reply of the complaint petition. He further submitted that the Respondents have concealed the fact that their one Branch of the company is situated at Patna and all the transactions with the complainant have taken place in jurisdiction of this Court. Further he submitted that as per Section-20 Civil Procedure Code 1908, since the Respondents are running business at Patna in State of Bihar, so RERA Court at Patna has jurisdiction to entertain the complaint petition of the complainant. The learned lawyer by citing the ruling passed by the Hon'ble Supreme Court of India in M/s Himalaya Self Farming Group Vs. M/s Goel Feed Suppliers and Dashrath Roop Singh Rathod Vs. State of Maharashtra submitted that the petition/reply of Respondents is not proper and it may be rejected and reliefs sought by the complainant in the complaint petition may be granted against the Respondents, as this Court has jurisdiction to entertain this complaint petition.

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6. On other hand, the representative of the Respondents submitted that the company, M/s Imperia Structures Ltd. is registered under the provisions of Companies Act, 1956 having it's registered office\principal place of business at A-25, Mohan Co-operative Industrial Estate, Sarita Vihar, New Delhi-110044. The complainant has filed the present complaint case with wrong address to mislead the Court, as the principal office of

the Respondents is at the above address at New Delhi. The project in question, in which the complainant has booked her flat namely; “Imperia Mirage – Phase-II”, is located at Greater Noida and it is registered in U.P. RERA bearing Registration No.UPRERA.PRJ-4008 and only U.P. RERA has jurisdiction to entertain and decide the complaint cases pertaining to the project “Imperia Mirage – Phase-II”. This project has to be completed till 31<sup>st</sup> December, 2024. He further submitted that the present complaint case is total abuse of law, as this Court has no jurisdiction to entertain the present complaint case. The representative further submitted that since the project “Imperia Mirage – Phase-II” is registered in U.P. RERA, so U.P. RERA has supervisory jurisdiction. This Court has no jurisdiction to entertain the present complaint case of the complainant, hence, this complaint case may be dismissed.

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7. Government of India enacted the Real Estate (Regulation and Development) Act in 2016 and all the Sections of the Act finally came into force with effect from 1<sup>st</sup> May, 2017. Under this Act, appropriate Government shall establish Real Estate Regulatory Authority (RERA) for regulation and promotion of the Real Estate Sector in the State/Union Territories. The Authority shall strive to facilitate the growth and promotion of a healthy, transparent, efficient and competitive Real Estate Sector, while promoting the interest of the Allotees, Promoters

and Real Estate Agents. The Authority shall also establish an adjudicating mechanism for speedy redressal of disputes regarding registered Real Estate Projects.

8. The Government of Bihar has established the Real Estate Regulatory Authority (RERA), Bihar vide Notification No.588 dated 14-03-2018 for regulation and promotion of Real Estate Sector in the State of Bihar. In like manner, Government of Uttar Pradesh (U.P.) has established RERA, U.P. on 04-08-2018 for regulation and promotion of Real Estate Sector in the State of U.P.

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As per Section 4(1) of the Act, 2016:-

*“Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.”*

Section 4(2) prescribes documents required for registration of the project.

Section 3(1) says that *“No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any*

*planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act .”*

Admittedly, the present project “Imperia Mirage – Phase-II” situated at Tahsil and District-Gautam Budha Nagar, U.P. has been registered on 29-07-2017 in U.P., RERA bearing Registration No.UPRERA.PRJ-4008 and this is on-going project. Due to Covid-19 infections, U.P. RERA has granted 6 months grace period to the project “Imperia Mirage – Phase-II” and now the project is extended till 30-06-2025.

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Section 11 of the Act, 2016 maintains that:-

promoter / builder shall keep all the details of the project on website of the Authority and he/she shall be responsible for all obligations/responsibilities and functions under the Act or Rules and Regulations made thereunder or to the allottees as per Agreement for Sale or to the Association of the Allottees, as the case may be, till the conveyance of the apartments, plots or buildings, as the case may be, to the allottees or the common areas to the Association of Allottees or the competent authority, as the case may be.



The above provision make it clear that each and every project has to be registered with concerned RERA of the State and the Builder/Promoter has to furnish details including Account Number of the Project on Website of the RERA. Accordingly, there is supervision of concerned RERA of the State on the project, which are registered with it. Now, U.P. RERA has supervisory authority on the project “Imperia Mirage – Phase-II” of the Respondents, as the same is registered with U.P. RERA. No part of the said project “Imperia Mirage – Phase-II” is located in any part of the State of Bihar and in such view of the matter, there is no supervisory authority of the RERA, Bihar on this project.

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9. Section 31(1) of the Act, 2016 says:-

*“Any aggrieved person may file a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of this Act or the Rules and Regulations made thereunder against any promoter, allottee or real estate agent, as the case may be.”*

In this way, any aggrieved person (he/she) may file complaint case against the Promoter/Allottee/Agent, as the case may be, for contravention of the provisions of the Act, 2016 or Rules and Regulations made thereunder. The project

“Imperia Mirage – Phase-II” of the Respondents is registered in U.P. RERA. So, in case of any violation or contravention of any provisions of the Act or Rules and Regulations of U.P., RERA, the aggrieved person may file complaint case either before U.P. RERA or before the Adjudicating Officer, RERA, U.P. If any complaint case is filed before the Adjudicating Officer, RERA, Bihar or before the RERA, Bihar for any project situated at any place of U.P. and any order is passed, the same cannot be transferred for execution before the U.P. RERA, as there is no provision in the Act, 2016 like Rule-5 of the order XXI of Civil Procedure Code, 1908 to transfer the order/decreed for execution before the other RERA Court situated in other State like U.P.

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10. The learned lawyer for the complainant has much emphasised and submitted that Section-20 of Civil Procedure Code, 1908 applies to the present complaint case of the complainant, which is strongly opposed by the representative of the Respondents and he submitted that any Civil Suit may be filed for any violation in other State, but complaint case cannot be instituted in RERA, Bihar/Adjudicating Officer, RERA, Bihar for project situated at Noida, U.P.

Section-20 Civil Procedure Code, 1908 says:-

*“subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction - (a) the defendant or*

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*each of the defendants where, there are more than one, at the time of the commencement of the suit, actually and voluntarily resides or carries on business, or personally works for gain or (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides or carries on business or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution or (c) the cause of action, wholly or in part, arises.”*

It is important to know what is a suit? Explanation first to Section-9 of Civil Procedure Code, 1908 says:-

*“A suit in which the right to property or to an office is contested is a suit of Civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious , rites or ceremonies.”*

*Section-2 (2) of CPC has defined ‘decree’, which will clarify the ‘suit’. “Decree” means formal expression of an adjudication which, so far as regards the Court expressing it, conclusively*

*determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section-144, but shall not include - (a) any adjudication from which an Appeal lies as an appeal from an order, or (b) any order of dismissal for default.”*

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Hon’ble justice Pankaj Mithal of Hon’ble Allahabad High Court in judgment dated 01-10-2018 passed in Second Appeal Defective No.341/2018 - M/s Supertech Ltd. Vs. Subrat Sen - has held that :-

*“In definition of ‘decree’ three words are important namely; ‘Adjudication’, ‘Court’ and ‘Suit’ . The use of the said words exclusively show that adjudication by the Court in a suit only results in a ‘decree’. It is also necessary to note that suit commences with a plaint and ends when a judgment and order is pronounced, which culminates into a ‘decree’. The decision or order of Appellate Tribunal or that of RERA do not confirm to any of the above requirements of a ‘decree’ as defined in Section-2 (2) CPC”.*

*“The definition of ‘decree’ contained in above provision brings forth the three essential conditions viz. (i) the adjudication must be in a suit, (ii) the suit must start with a plaint and end in ‘decree’, (iii) adjudication must be formal and final by the Court.”*

*“The proceedings before RERA are not in nature of suit instituted by filing a Plaint, rather on a complaint. Accordingly, “proceedings before RERA cannot be termed as suit. The decision or order of RERA or by Appellate Tribunal on an Appeal arising out of such proceedings would not be a ‘decree’ within Section-2(2) of CPC.”*

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From the aforesaid provisions/rulings, it is clear that RERA Act, 2016 is a special Act and summary procedure is adopted to make enquiry on complaint petition of an aggrieved person and it cannot be a suit. In Section-35 (1) (2) of Act, 2016, except application of some procedures of CPC, there is no other provision of Civil Procedure Code, which may be applicable for the jurisdiction/procedure of the Adjudicating Officer / RERA / Appellate Tribunal.

11. As per Section-79 the Act, 2016, the jurisdiction of Civil Court has also been barred to entertain any suit or proceeding in respect of any matter, which the Authority or the Adjudicating Officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be

granted by any Court or other Authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. In light of the provisions of Section-79, it appears that the Civil Court at Patna is also not empowered to entertain Civil Suit with respect to the project situated at Noida (U.P.).

12. The learned lawyer for the complainant much emphasised and submitted in light of the above cited rulings that Court where the Payee maintains Account and where Cheque dishonour, has jurisdiction to entertain complaint petition. But, with due respect to the learned lawyer for the complainant I disagree with his submissions, as the cited rulings of the Hon'ble Appex Court are with respect to the criminal offence of Negotiable Instrument Act (N.I.A) and these are not related to the matters/violation of the Act, 2016. So, the provisions of N.I.A. will not apply in the matters of the Act, 2016. Accordingly, the cited rulings are not helpful to the complainant to make the case entertainable in this Court.

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From the above discussions, it is apparently clear that this Court has no jurisdiction to entertain the complaint petition of any aggrieved person for the project, which is situated outside the State of Bihar. The present project "Imperia Mirage – Phase-II" is situated at Tahsil and District- Gautam Budh Nagar (U.P.) and RERA, Bihar has no

control/supervisory power for the said project. So, RERA, Bihar/Adjudicating Officer, RERA, Bihar has no territorial jurisdiction to entertain the complaint petition of the complainant against the Promoter/Builder/Respondents of the said project “Imperia Mirage – Phase-II”. It is also clear that the complaint petition of the complainant Smt. Neha Rani, due to lack of jurisdiction of this Court, is not maintainable in the present Court. Hence, if she is advised, may knock the door of U.P. RERA for redressal of her grievances.

Accordingly, the complaint petition of the complainant, Smt. Neha Rani is hereby dismissed, but in circumstances, without cost.

Sd/-  
(Ved Prakash)  
Adjudicating Officer  
RERA, Bihar, Patna  
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