

REAL ESTATE REGULATORY AUTHORITY, BIHAR**Before the Single Bench of Mrs. Nupur Banerjee, Member****Case No. RERA /CC/62/2023****Mr. Deepak Kumar**Complainant**Vs****M/s Global Infratech Pvt. Ltd.**Respondent**Project: Global Kiran Cascade Apartment, Block-A****27/05/2024****O R D E R**

The matter was last heard on 29.01.2024 when the complainant advocate Mr. Deepak Kumar and respondent advocate Shri Sharad Shekhar were present. The matter was fixed for orders, however, due to preoccupation of the Bench in other matters, order could not be pronounced on the date fixed.

2. The complainant submits that he is the flat holder. The respondent has failed to complete the project as per terms and conditions of the agreement. The respondent is engaged in commercial activities in the premises of the apartment, which is purely a residential apartment in which the respective occupants are residing with their family. All the allottees had sent a letter to the respondent on 22.11.2019 to solve all the problems but the respondent has sent a legal notice on 28.01.2020 to all the allottees that the letter sent by them is unwarranted and uncalled for, because building had already been handed over in the month of February-March, 2018 and, therefore, it is the duty of the allottees to look after its management and proper maintenance.

3. The complainant submits that he is in possession of the flat but there are some defects in the said apartment. The parking area has not been completed as yet. There are mainly two defects i.e., in the ground floor common area and the parking area. The respondent has to address and complete the same so that the allottee can live peacefully. The complainant submits that all the allottees have sent a letter to the promoter on 22.11.2019 stating all the problems in the said apartment but it has not been completed till date. All the allottees are in possession of flat from 2018-19. Nagar Parishad has written a letter to the complainant that the respondent has not submitted OC and CC. The complainant wants amenities to be completed. The complainant states that the respondent has failed to complete the project as per his assurance and promises. The complainant prays to the Authority to restrain the respondent to use the apartment for commercial purposes.

4. The respondent states that the respondent has already completed the project. All the amenities have been set up. He has got the OC. The Director of the respondent company submits that the case is not maintainable. The respondent also stated that the complainant cannot show his responsibility on him because he, after getting the building completed legally, got it transferred in favour of the allottees and now the allottees have to look at the maintenance of the building and do the needful.

5. The complainant stated that:

- (i) The rain water is being restored in panel room due to which there is already apprehension of the transformer, panel machine and the wire etc. to be burnt, causing damage to the apartment.
The respondent assures that he shall get it repaired properly, safeguarding the transformer, panel machine and wire etc.
- (ii) The complainant states about the meter panel room which is 2 feet down from the surface and have water logging in it, which is harmful for the apartment. The complainant wanted to get its height raised up, at least 1 foot, from parking level.
The respondent stated that there was heavy rain in the year 2019 so there was a problem of water logging almost everywhere in Patna town because the drainage system has failed but now there is no such problem at present.
- (iii) The complainant wanted the respondent to provide residence of the guard within the apartment.
The respondent stated that this is not possible and the guard room has already been provided to the guard, for performing his duty.
- (iv) The complainant stated that the parking floor of the building has not been constructed smoothly and there are ups and downs in the level of the ground floor, causing inconvenience to the occupants of the different flats of the building.
The respondent states that it was smooth when the tiles had been fixed and it was in level. If it has become ups and downs at some places, it is the duty of the occupants to make it proper and do the needful. The occupants of the flats should pay the maintenance charges for such type of repairing and for meeting other essential requirement for proper maintenance of the building.
- (v) The complainant stated that the fire safety pipe is being damaged due to sewerage water.
The respondent stated that this problem is also related to the maintenance of the building and should be checked and controlled by the residents, out of the maintenance amount, being paid by the occupants of the different flats.
- (vi) The complainant stated that the colour of the building of the apartment was not of the best quality or it was duplicate, therefore, the respondent should have fresh painting of the building/ apartment once again.
The respondent stated that this demand is also not justified and further colouring of the apartment and building is part of maintenance work by the occupants of the different flats of the said building. He has advised to contact the Berger paints office who are duty bound to make fresh paints.
- (vii) The complainant stated that the chamber of the septic tank should be repaired and to replace the cover of the said sewerage tank, which is not proper.
The respondent stated that such day-to-day requirements is part of the maintenance of the building. In every multi-storeyed building, there is provisions of members of association who looks after the management of the building and its repairing, maintenance etc. by appointing Secretary and Treasurer out of themselves for certain period, who do all the needful regarding the building, out of the amount being received as maintenance charges from the occupants of the different flats.
- (viii) The complainant states that they asked the respondent to avoid commercial use of the building within its campus.

But the respondent states that there is no commercial use within the residential building as wrongly claimed by the complainant. However, in accordance with the rules of the Bihar Building By-laws, page No. 62, table no. 19, serial no.3, 2014, it has been recited that in residential building, clinics or small offices up to 50 Sq. meter can be constructed on the parking space and therefore, it cannot be said to have commercial use of the said parking place and the complaint of the complainant is not at all tenable in the eyes of law and the respondent has not been violating any rules or regulations of the building bye laws.

- (ix) The respondent stated that the allegations levelled by the complainant is maliciously wrong and false. Initially the map for the building has been sanctioned by plan no. 171 of 2011. By that time there was provision for parking in the basement. Later on, vide plan no. 47 of 2017-18 the said plan was revised and in revised plan the respondent was authorised to have parking and 3 bedrooms on the ground floor. Sanctioned plan can be verified by anyone. In sale deeds of all the allottees, both number of sanctioned plans i.e., 171 of 2011 and 47 of 2017-18 have been recited, therefore, the respondent has concealed nothing.
- (x) The complainants have demanded all the papers of the land and map of the building with a further request to provide one Yoga Kaksha and an office for the society and also to get fixed CCTV camera in the building.
- The respondent stated that only the authorized person out of the allottees can be given such paper, therefore, he requested to get the members of association of the different registered owners of flats and the respondent shall have no hesitation in handing over the required papers to the said authorized persons being appointed amongst the allottees. The demand of Yoga Kaksha and office of the society is not a concern of the respondent as he had never assured the allottees to make the arrangement of these things. The CCTV camera has initially been installed by the respondent at the time of opening of the building. If the same has not been functioning for the present or there is any fault in it, it is purely part of the maintenance of the building, by the residence for which the respondent is not responsible.
- (xi) The complainant stated that two small rooms, constructed in duct area, for the purpose of guard room and on roof the two small rooms constructed behind the lift of the room for the purpose of store has not been handed over to the society. The complainant requests the respondents to hand over the same immediately since the room of the roof aforesaid, is required for changing dress of Chhath vrats ladies during festivals. Apart from above, all flat owners be provided with service tax payment, GST payment receipt for their flats. Further the respondent has established his office in the ground floor, stilt floor. Stilt parking of the apartment being used as commercial establishment, which is not permissible in the residential premises, moreover, said establishment has created several problems for the residents of apartment, so the residence seeks immediate closure of office being done by the respondent.

The Bench takes note of submissions of both the parties and peruses the record. The Authority observes that the complainant is the flat holder. The building had already been handed over in the month of February-March, 2018. There are some

defects in the said apartment. There are mainly two defects i.e., in the ground floor common area and the parking area. All the allottees are in possession of flat from 2018-19. Nagar Parishad has written a letter to the complainant that the respondent has not submitted OC and CC. The complainant wants amenities to be completed. The Director of the respondent company submits that the case is not maintainable. The respondent, after getting the building completed legally, got it transferred in favour of the allottees and now the allottees have to look at the maintenance of the building and do the needful.

In the light of the above observation and also taking into consideration the submission made on behalf of the parties and, on going through the materials available on records, as well as discussion made above, the Bench hereby directs the respondent to get the panel room of the project building repaired properly, safeguarding the transformer, panel machine and wire etc., as accepted by the respondent in his reply petition. The respondent is also directed to handover the papers of the land and map of the building to the authorized persons being appointed amongst the allottees after formation of the association of allottees. The respondent is further directed to hand over two small rooms, constructed in duct area, for the purpose of guard room and on roof the two small rooms constructed behind the lift of the room for the purpose of store to the society. The respondent is also directed to provide the service tax payment, GST payment receipt for their flats to the residents.

The Bench directs the complainant to form an association and a society, along with other residents in the building, and a maintenance committee, by appointing Secretary and Treasurer, out of themselves for certain period, who will do all the needful regarding the building, out of the amount being received as maintenance charges from the occupants of the different flats, for meeting other essential requirement for proper maintenance of the building, for checking and controlling the problems related to the maintenance of the building and repair meter panel room, the parking floor of the building, the fire safety pipe, the chamber of the septic tank, replace the cover of the said sewerage tank, re-activate the CCTV camera, to contact the Berger paints office who are duty bound to make fresh paints and get the building re-painted, and also look over day-to-day requirements and management of the building, as because all the allottees are in possession of flat from 2018-19, which is more than five years, as per section 14 (3) of the RERA Act.

The complainant is at liberty to press other claims which are in the nature of compensation before the Adjudicating Officer as per the provisions of RERA Act, 2016.

With the aforesaid observations and directions, this case is disposed of.

Sd/-
(Nupur Banerjee)
Member