

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mrs. Nupur Banerjee, Member
Case No. RERA/CC/647/2021

Avinash Kumar

.....Complainant

Vs.

M/s Ghar Laxmi Buildcon Pvt. Ltd.

.....Respondent

Project: Income Tax Residency

For Complainant: Mr. Rai Saurav Nath, Advocate

For Respondent: None

INTERIM ORDER

6.9.2022

This matter was last heard on 26.7.2022.

This matter has been filed for the possession of flat. The case of the complainant is that he had booked 3 BHK flat, bearing flat no. 207, in Block -B of Income Tax Residency Project in 2015 and has paid Rs.2.96 Lakh as total booking amount as demanded by respondent on different dates. He further submitted that when he used to ask about the progress of work then respondent used to say that since, the government has lift ban on sand and map is not getting approved due to government policy, therefore, construction

has not started and the same excuse has been repeated by respondent on ever communications. After passing of 5 years of booking when no development started at the project site, with no option left as per the respondent guidance, had written cancellation letter asking for the refund of the amount then respondent given a cheque of Rs.1 lakh but the same cheque got bounced on 02.04.2021 and after repeated request, the transferred Rs.1 lakh on 15-04-2021 but after that no amount has been paid. Hence, this complaint.

On 20-09-2021, complainant has filed detailed supplementary affidavit stating therein that complainant had booked a 3 BHK flat bearing flat no.207 and accordingly M.O.U., dated 08-04-2015, has been executed between the parties but no construction started at the project site even after waiting for years, thereafter, the respondent compelled to cancel the flat and go for refund and further prayed for the possession of the flat.

Perused the record. The respondent has filed reply stating therein that total consideration was Rs.18.50 lakh but complainant had paid Rs.2.96 lakh only and further submitted that complainant had to pay total 25 percent of the consideration amount but same has not been paid despite the

demand made. It has been further submitted that this project has two blocks A & B, construction work in Block- A is under way and Block- B is being dropped out due to litigation amongst gotia arose after 3-4 years of development agreement. It has been further submitted that complainant approached the respondents for the cancellation of the booking and accordingly, Rs. 1 lakh was paid to complainant on 15-04-2021, but rest couldn't returned due to pandemic and submitted that respondent is ready to refund the amount within the stipulated time.

On 08-04-2022, complainant had filed 2nd Supplementary affidavit praying to direct the respondent to execute a registered agreement with the complainant as well as to handover all the relevant documents for obtaining loan. Further complainant prayed to direct the respondent to handover the flat within a time frame or preferably within 1 year.

On the last date of hearing, learned counsel for the complainant has submitted that the complainant want that amount paid in lieu of booked flat should be refunded by the promoter. On 11.02.2022, the Bench has observed that the

respondent has not complied with the earlier order of the Bench, hence penalty of Rs.25,000/- was imposed upon them. Now, the complainants want refund of the money with interest.

The Bench observes that though the respondent has filed reply and their learned counsel used to appear during the previous hearing but from the last few hearings, no one appeared on the behalf of respondent despite issued of summon, hence, order is being pronounced on the basis of submissions and documents placed on record.

The Bench levied a penalty of Rs.25,000/- upon the respondent for non appearance despite issue of summon and directs to deposit the levied penalty amount immediately, failing which, it can be recovered as per section 40(2) of the Real Estate (Regulation & Development) Act, 2016, read with Order 21, Rule 30 of the Code of Civil Procedure, 1908.

The Bench takes the notes of submissions of respondent made in their reply filed dated 07-04-2022 that this project Income Tax Residency has two blocks A & B, construction work in Block- A is under way and Block- B is being dropped out due to litigation amongst gotia arose after

3-4 years of development agreement and directs the parties to address on this issue.

In the light of submissions made and documents placed and considering that complainant has prayed for possession but during last hearing, the learned counsel for complainant has submitted that now the complainant wants refund of the money paid but the Bench finds that no affidavit has been placed on record by complainant amending his prayer, hence, Bench directs complainant to file the same within two weeks. The Bench also directs complainant as well as respondent giving once more opportunity to respondent to appear to submit the status of the project and also states whether the project for this block is registered with Authority or not.

List the matter again for hearing on 14-10-2022.

Inform both the parties accordingly.

Sd/-
Nupur Banerjee
(Member)