

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Mrs. Nupur Banerjee

Complaint Case No. RERA/CC/975/2020

Kiran Devi.....Complainant

M/s DDL Infratech Pvt. Ltd.....Respondent

Project: Agrani First City

For Complainant: Mr. Sharad Shekhar, Advocate

For Respondent: Mr. Rabindra Kumar, Advocate
Mr. Shiv Kumar, M.D.

28/09/2022

INTERIM ORDER

The matter was last heard on 22-08-2022.

1. This complainant petition has been filed seeking relief to direct the respondent to provide physical possession of land with all the amenities as committed under the terms of sale deed no.9848, dated 24-03-2013. Further the complainant also seeks to direct the respondent to compensate by paying interest @10% on the total value of land for delay in delivery of the possession of the plot and to pay compensation of Rs.25,000/- for inconvenience, harassment and mental torture. Complainant has also prayed to direct the respondent to pay Rs.25,000/- as the litigation cost.
2. In short, the case of the complainant is that the respondent has executed the Sale Deed No. 9848, dated 24-03-2013, in favor of complainant for the plot measuring 2400 sq. ft. on the consideration amount of Rs. 3.80 lakh after the payment of full consideration amount. It has been further submitted that respondent has given assurance to provide well planned society with the facilities of good drainage system, electricity etc. but when complainant approached the plot, no development found as per deed and asked for physical possession. It has been further submitted

that after the lapse of more than several years and after several requests, the plot has been not handed over to complainant with development. Hence, this complaint.

3. Perused the record of the case. The respondent has not filed any specific reply. However, learned counsel for the respondent remained present during the course of hearings along with M.D. of the respondent company and made their submissions.
4. During the last hearing, learned counsel for the complainant has submitted that the reply has not been communicated to him. He further submitted that the final order may be passed on the basis of reply filed by the respondent.

Learned counsel for respondent has submitted that possession has not been given.

The Bench observes that the Project was applied for registration but was not approved due to map not approved by the competent authority and liberty was given to apply a fresh with the map getting approved from the competent authority, hence, the project was registrable as per 1st Proviso of Section 3(1) of the Act. The Hon'ble Supreme Court recently in M/s Newtech Promoters & Developers Pvt. Ltd. Vs State of U.P & Ors. [2022] (1) RCR (Civil) 357 has observed that the Act is not retrospective in nature, rather it is retroactive because it affects the existing rights of the persons mentioned in the Act like promoter, allottee etc. The intent of legislature was to include all ongoing projects which commenced prior to the enforcement of the Act and this project was also an ongoing project as evident from the documents placed.

Further, In Lavasa Corporation Limited v/s Jitendra Jagdish Tulsiani & Others, Second Appeal (Stamp) Nos. 9717 of 2018 & 18465 of 2018, 18467 of 2018 with Civil Application Nos. 683 of 2018, 791 of 2018, 792 of 2018, the Hon'ble Bombay High court has observed that RERA is brought on Statute Book to ensure greater accountability towards the consumers and significantly reduce frauds and delays, as also the current high transaction costs. It attempts to balance the interests of consumers and promoters, by imposing certain

responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions and set minimum standards of accountability and a fast-track dispute resolution mechanism. The RERA, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector, thus, paving the way for accelerated growth and investments in the long run.

Hence, the Bench finds that the present Complaint Case falls within the ambit of RERA Act, 2016 to entertain and therefore, maintainable against the Respondent.

The Bench takes the notes of committee report dated 18-02-2022 placed on record for kind perusal as submitted by the committee went for inspection as per the direction of the Authority by giving their findings therein.

After the perusal of record. The Bench observes that no reply has been filed by the respondent as per the last hearing direction as well as also no documents placed from which it appears that possession has been handed over to complainant, hence, the Bench directs respondent to file the reply and also address the Bench on the status of possession of the plot handed over to complainant or not. The Bench also further directs respondent to address the Bench that whether the execution of rectification deed is required or not in this matter. Let list the matter again for hearing on **14-10-2022**. Respondent is directed to file their submissions/ documents/reply as pointed before 14-11-2022 with a copy to complainant. Other issues claimed in complaint will be decided at the time of final order.

Inform both the parties accordingly.

Sd/-

Nupur Banerjee
Member