

REAL ESTATE REGULATORY AUTHORITY, BIHAR**Before the Single Bench of Mrs. Nupur Banerjee, Member****Case No. RERA /CC/1120/2021****Rishu Singh and Rajnish RanjanComplainants****Vs****M/s Agrani Homes Real Marketing Pvt. Ltd.Respondent****Project: P.G. Town****10/05/2024****RECTIFICATION IN ORDER DATED 08.11.2022**

This matter was last heard on 08.02.2024 when the complainant was present and the respondent was absent. 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 they have prayed for refund of the money with interest. The respondent has given the offer for the land in village Permanandpur but the complainants are not interested for the said offer. The complainant booked a flat on 10.06.2019 in the first floor and out of total consideration money of Rs. 15 lakhs, she had already paid Rs. 14.65 lakh. The respondent assured that the flat will be delivered within 36 months. The registration of this project has already been cancelled. The order has been passed regarding this case on 08.11.2022.

3. A rectification petition has been filed on behalf of the complainant for rectification of the order dated 08.11.2022 in which the respondent company and its director were directed to refund the principal amount of Rs. 11 lakhs to the complainant along with interest @ at the rate of marginal cost of fund-based lending rate (MCLR) of State Bank of India as applicable for two years from the date of taking booking till the date of refund within sixty days of issue of the order. It is stated in the said petition that the complainant booked a flat and paid Rs. 14.65 lacs out of total consideration of Rs. 15 lacs but in the complaint petition it is stated that the complainant has paid Rs. 11 lacs and due to which, this mistake has occurred in the order dated 08.11.2022. It is submitted that the complainant has paid Rs. 1 lakh on 27.09.2019 and Rs. 2.65 lakh on 06.12.2019 through online Internet Banking but due to Covid-19, the respondent has not given the money receipt of Rs. 3.65 lacs. The complainant is attaching the summary details of amount paid to the respondent. It is also stated that after the order passed, the complainants have filed Execution Case No. 2021/2023 in which also, an order was passed on 29.08.2023 and it was sent to the Certificate Officer, Patna for recovery of the said amount. Therefore, he has prayed to rectify the order dated 08.11.2022 directing the respondent to refund the principal amount of Rs. 14.65 lacs instead of Rs. 11 lacs. The respondent has allotted money receipts of Rs. 11 lacs but the complainant has paid Rs. 1 lakh and Rs. 2.65 lakh through online Net Banking. The respondent has not refunded any amount after the order passed by the Authority. This mistake occurred is unintentional and due to lack of knowledge. The complainant states that this petition may be treated as part of the main complaint petition and the respondent may be directed to refund Rs. 14.65 lacs instead of Rs. 11 lacs and the order may kindly be rectified to that extent.

4. The Bench takes the notes of submissions of both the parties and peruses the records.

5. The Bench observes that the complainant booked a flat on 10.06.2019 in the first floor of the project building and the total consideration money for the flat was Rs. 15 lakhs. In the complaint petition it is stated that the complainants have paid Rs. 11 lakhs. They have submitted money receipts of Rs. 11 lakhs only. This matter was heard at length. Finally, the order was passed on 08.11.2022, in which the respondent company and its director were directed to refund the principal amount of Rs. 11 lakhs to the complainant along with interest @ at the rate of marginal cost of fund-based lending rate (MCLR) of State Bank of India as applicable for two years from the date of taking booking till the date of refund within sixty days of issue of the order. After the order passed, the complainants have filed Execution Case No. 2021/2023 in which also, an order was passed on 29.08.2023 and it was sent to the Certificate Officer, Patna for recovery of the said amount. Now, in the rectification petition, filed by the complainants, on 14.11.2023, the complainants state that by mistake in the original complaint petition they have mentioned Rs. 11 lakhs as principal amount paid, instead of Rs 14.65 lakhs. Their prayer is for rectification of the amount as mentioned in the order accordingly. They have provided supporting documents in support of their statements like the Bank summary details. During the hearings of this rectification matter. The respondent was absent.

6. In the light of above observation, and also taking into consideration the submission made on behalf of the party and going through the materials available on record as well as discussion made above, the Bench hereby notes that whatever mistake they have performed in mentioning the principal amount paid to the respondent as 11 lakhs in the complaint petition, could have been corrected by submitting an amendment petition during the pendency period of the complaint case heard by the Bench. Now, at this stage, when the execution case has been filed, disposed of and sent to the certificate officer for recovery, the matter prayed for rectification, has become a substantive part of the order.

7. Considering the same, the Authority observes that the present application for rectification of mistake, performed by the complainants, is not maintainable and is beyond the jurisdiction of the Authority to entertain the same.

8. With the aforesaid observations the application for rectification is disposed of as non-maintainable.

9. However, the complainants are at liberty to file a fresh complaint case again, regarding the refund of the balance amount of the money which have been paid by them to the respondent as part of the principal amount.

Sd/-
(Nupur Banerjee)
Member