

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Division Bench of Mr. Naveen Verma, Chairman & Mr. S.D. Jha,
Member, (RERA) Bihar.**

Complaint Case No.RERA/CC/1205 of 2021

Ram Niwas Tiwari.....Complainant

Vs.

M/s Ezzion Construction Pvt. Ltd.Respondent

PROJECT: Ramaggya Residency

20/01/2023

ORDER

The matter was last heard on 19-12-2022 and listed for orders on 20.01.2023.

The case of the complainant is that he booked a flat bearing flat no. 102, admeasuring 1850 sq.ft., in the respondent's project 'Ramagaya Residency' and accordingly entered into Agreement for sale on 19-12-2014 for the said flat. He further submitted that total consideration amount of flat was Rs. 49 lakh, out of which complainant had till date paid Rs.43,98,800/- to the respondent which includes loan disbursement amount also. The complainant has further stated that the respondent has assured that the project would be completed by 31-03-2016 but till date the same has not been completed and the complainant is living on rent. The complainant further stated that due to non-completion of the project by

respondent within the time frame as assured, the burden of paying rent amount along with E.M.I. payment of Rs.55,000/- is lying on him. He further stated that rent to the tune of Rs. 8,05,700/- has been already paid by the complainant till date.

Hence, with no response in respect to completion of project from respondent and delaying attitude of respondent/promoter, the present complaint has been filed seeking relief to direct the respondent to hand over the possession of the booked flat after completing the project and execute the sale deed of the same in his favor. The complainant further seeks to direct the respondent to pay the interest accrued upon loan amount from the agreed date of possession till the actual hand over of the possession along with rent amount.

The complainant has placed on record the money receipts duly issued and acknowledged by the respondent along with deed of Agreement for Sale.

Perused the record of the case. The Bench observes that despite issue of summons and notices, the respondent has neither filed any reply nor appeared before the Bench. Hence, the order is being pronounced on the basis of submissions made by learned counsel for complainant as well as the documents available on record.

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During the last hearing learned counsel for complainant has submitted that 80% of the work has been completed and he is ready to pay the remaining consideration amount before execution of the sale deed.

The Bench finds that the project under consideration i.e. 'Ramagya Residency' is not registered with the Authority and observes that a *suo-motu* proceeding bearing case no. SM/307/ 2018, is already initiated under section 59 of the RERA Act, 2016 against the respondent for violating 1st Proviso of Section 3 of the said Act. The office is directed to list the said *suo motu* case separately.

In the light of submissions made and after the perusal of documents available on record, the Bench observes that so far as the prayer of complainant regarding direction for execution of sale deed is concerned, the same can be executed in respect of the flat only after the completion and occupancy certificate is obtained by the promoter from the competent authority in compliance to the provisions of the Bihar Apartment Ownership Act, 2006. As the project is still not completed as submitted by the learned counsel for complainant, the Authority hereby directs the respondent-promoter to complete the project and obtain completion and occupancy certificate in the light of the provisions of the Bihar Apartment Ownership Act,

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2006. Thereafter, the promoter is directed to issue possession letter to complainant after receiving the due consideration amount and execute the sale deed in favor of the complainant accordingly.

The Bench further directs the respondent to ensure that the project is completed and the possession is handed over to complainant within two months, failing which cost of Rs.1,000/- would be imposed upon them for each day of delay till the date of handing over of possession.

The complainant is at liberty to press the claim for interest on loan amount and rent as compensation before the Bench of A.O. as per the provisions of the Act.

With these observations and directions, this complaint is disposed of.

Sd/-

**S.D. Jha
Member**

Sd/-

**Naveen Verma
Chairman**