

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case No. CC/129/2018

Shashank Shekhar Pandey.....Complainant

Vs

M/s Sahani Builders & Developers.....Respondent

Project: Sai Enclave

For Complainants: Mr. Arvind Vishwambhar, Advocate

For Respondent: Mr. Upendra Sahani, Director

23/05/2022

ORDER

The complainant Shashank Shekhar Pandey, a resident of F/No. 304, Dev Ganga Apartment, Near Jhanda WalaMandir, Mahuabagh, P.O. Dhanaut, P.S. Rupaspur, Near Mahavir Mandir Dhawajapar, Patna -801506 has filed a complaint petition against the respondent firm M/s Sahani Builders & Developers, Patna, a promoter and Developer company for completion of all left over work without further delay.

In short, the case of the complainant is that certain essential works in the project, such as installation of lift, soundless generator, painting, installation of electric connection along with Transformer, furnishing of floor and roof, installation of hand pump, stairs, railing, guardroom etc. have not been done till date.

A notice dated 18.12.2018 was issued to the respondent company under Sections 3, 18 and 19 of the RERA Act and Rule 36 of the RERA Rules 2017 to file their reply, but the respondent company has not filed any reply. Thereafter, on 04.02.2019, an information was also sent to both the parties to appear on 15.03.2019 for hearing.

On 15.03.2019 hearing was taken up but none appeared on behalf of the respondent. The Bench directed for issuance of notice to the respondent and fixed for hearing on 22.04.2019. On 16.05.2019 and 24.07.2019 the complainant was present but again none appeared on behalf of the respondent. A cost of Rs.10,000/- was levied on the respondent company for non-appearance. Thereafter, on 09.08.2019 both the parties were present

and the respondent builder admitted that the project is ongoing. The Bench directed the builder to register their project within the Authority within a month and also complete the remaining services fixing 13.09.2019 as the date of hearing. On 19.10.2019 again the complainant was present and none appeared on behalf of the respondent. A cost of Rs.20,000/- was levied on the respondent for continued non-appearance and ordered for issuance of notice fixing the date 03.01.2020. On two consecutive dates i.e. 23.01.2020 and 17.02.2020 no one turned up on behalf of either sides. Thereafter as per direction a notice was sent to the complainant to appear in person on 17.03.2020. In compliance of the notice, on 09.09.2020 the complainant appeared but none appeared on behalf of the respondent. On 24.09.2020 both the parties were present and the respondent informed that he has got the railing of the stairs fixed and assured to complete all pending works within three months. Thereafter, on 06.11.2020 both the parties were present and the complainant submitted that he is living there since 2-3 years but the order has not been complied with. The respondent prayed for time to complete the rest work. A direction was given by the Bench to submit the bill and the payment receipt otherwise proceedings u/s 63 of the RERA Act would be initiated and heavy penalty would be imposed for disobeying the direction of the court.

On 29.01.2021 the complainant was absent but the proprietor of the respondent company is present and submitted that due to Covid-19 he could not complete the work. He assured to complete all remaining work within three months. On 23.03.2021 both the parties were present. On the submission of the complainant the Bench directed him to file written arguments and also directed the respondent to complete the project and obtain completion certificate at the earliest and register the project under RERA. Keeping in view the recent approach of the respondent firm the Bench passed an interim order to freeze the Bank account of the builder and its partner with immediate effect. In compliance of the order dated 23.03.2021 a notice was sent to the respondent company and the partner to comply with the direction of this court.

On 23.12.2021 learned counsel for the complainant was present but none appeared on behalf of the respondent company. He submitted that though the complainant got possession of the flat and living in it but

some works have not been done in the common area. The Bench directed for issuance of notice to the respondent fixing 10.02.2022 to appear, failing which ex-parte order would be passed. On 21.02.2022 both the parties were present. Learned counsel for the complainant submitted that the complainant is residing in the flat since 2016 but till date several works are still pending. The Bench directed the respondent to start construction of the remaining work and inform about the stage of progress. On 04.04.2021 learned counsel for the complainant was present but again none appeared on behalf of the respondent. He submitted that in spite of the direction given on the last date of hearing the respondent has not completed the work. Taking note of the submissions the Bench reserved the order.

A joint petition by the complainant along with four others was filed praying therein to take action against the builder for not completing the entire common work as stated in para 3 of the petition.

The bench observes that it is not in dispute that the complainant got his flat registered and is residing in his flat since 2016 but till date some works in the common area as stated in the complaint petition, except the railing of the stairs have not been done by the respondent.

In the light of submissions made by both the parties and after the perusal of documents filed, the Bench observed that the respondent is duty bound to complete all the work of the common areas and provide all the facilities and amenities of the common areas which can be used by all the allottees of the building as these facilities are the part and parcel of the project, hence, the Bench directs the respondent company and their directors to complete the remaining work in the common area, as stated in the complaint petition, within a period of three months, so that the complainant and the other allottee may not face any difficulty in living peacefully there, failing which a cost of Rs.5,000/- per day will be levied upon respondent till the remaining work get completed.

The Bench also recalls the earlier direction given to respondent regarding the registration of the Project which respondent has not complied yet, hence, the bench levied a penalty of Rs.5 lakh upon respondent as the and further directs respondent to register the project before Authority immediately, failing which action under section 59(2) of

the RERA Act, 2016 will be initiated against the respondent.

With the above observations/ directions, this complaint petition is disposed of.

Sd/-

**Nupur Banerjee
Member**