

REAL ESTATE REGULATORY AUTHORITY, BIHAR

2nd Floor, BSNL Exchange Building, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

RERA/CC/1336/2020 & RERA/CC/1337/2020

Shailesh Kumar Singh/Fakira Prasad Yadav.....Complainants

Vs

M/s Anandi Promoters & Developers Pvt Ltd.....Respondent

Project: Fakira Tower

**Present: For Complainants: Mr. Sharad Shekhar, Advocate
For Respondent: Mr. Rakesh Prabhat, Advocate
Mr. Rajan Kumar, MD**

24/09/2021

ORDER

Shri Shailesh Kumar Singh and Shri Fakira Prasad Yadav, both residents of Bibiganj, Muzaffarpur have filed separate complaint petitions against the respondent company M/s Anandi Promoters & Developers Pvt Ltd to complete the project and for providing certain facilities.

Case of the Complainants:

The complainants, in their separate complaint petitions filed on 09/07/2021, have submitted that the project was started by the respondent company in 2012 but even after 8 years the project is not complete and there are certain problems like car parking, drainage systems, common area, internal road in the society, electricity back up, lift and fire systems besides so many works which are still pending.

Separate notices dated 21/08/2020 under Section 31 of the Real Estate (Regulation & Development) Act 2016 and Rules 36 of the Bihar Real Estate (Regulation & Development) Act 2017 were issued to the respondent company M/s Anandi Promoters & Developers Pvt Ltd to submit its reply by 21/08/2020.

Response of the Respondent Company:

The respondent company in its reply dated 09/10/2020 submitted that the present case is not maintainable since the project was completed on 25/08/2016 and certificate of completion issued by the architect much before the enforcement of RERA Act. It is further

stated that they entered into development agreement with the land owner on 27/01/2012 and the plan was sanctioned on 23/05/2012. As regards the complainant Shailesh Kumar Singh, it submitted that after receiving the full consideration amount, registration of the absolute sale deed was executed on 05/08/2017 and possession of the flat was given to him and he is residing there thereafter. The project was completed within time and all facilities as per plan was provided and possession of the flat to the complainants including the land owner were given by July, 2015 itself.

The respondent company further stated that out of total 67 numbered parking space 30 has been allotted to the land owner, 35 to the allottees and 3 have been made available for common/guest which is being used by rightful residents, lift in each block has been installed in 2015 itself and is in working condition, the maintenance of which is now the responsibility of the residents' society. The green space was found suitable and developed as drive-way but if ordered, they are ready to develop it as green space. As regards pipeline and drainage system, outer boundary, outer wall, staircase and passage, that have made as per sanctioned plan. It further states that connecting road, ceiling and flooring work have been done, intercom facility provided.

Hearings:

Hearings were held on 02/08/2021, 03/09/2021 and 10/09/2021.

On 02/08/2021 learned counsel of the complainant submitted that there are several shortcomings in the project like drainage, internal work and parking etc. The registration of the sale deed has also not been executed nor OC and CC have been provided by the respondent company.

Learned counsel of the respondent submitted that the project was completed in August, 2016 itself and all the facilities have been provided and possession given to the complainants and the land owners but after five years they are raising this issue.

On 10/09/2021 learned counsel of the complainant submitted that the project is still incomplete and the parking area and drainage have not been properly constructed and that the respondents have encroached upon the parking area by making additional structure. There are 30 flats but the parking area is only for 25 flats.

Learned counsel of the respondent company reiterated his earlier stand that the project was completed in 2016 itself and completion certificate obtained. He further states that possession to all the allottees have been given to the allottees and as of now they have no concern with the project. As regards parking area, he states that all

the allottees have been allotted parking space. So far as completion certificate is concerned, he submitted that they have applied for the same before Muzaffarpur Nagar Nigam and copy of the receipt is filed before RERA.

Order:

Since the building has been completed in 2016 and possession of all flats being given to the allottees five years ago then any problem arising in respect to drainage and other facilities have to be solved by the allottees association only. Any illegal construction done in the parking area by whoever responsible, may be informed to the concerned municipality for inspection and taking necessary action. The case seems not maintainable in RERA. Hence, the present case is disposed of with the aforesaid observation and direction.

(Nupur Banerjee)
Member