

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Mrs. Nupur Banerjee, Member
Case No. RERA /CC/1361/2020
RERA/AO/197/2020

Prof. Kailash Prasad AgrawalComplainant

Vs

M/s Sarita Sharda Construction Pvt. Ltd.Respondent

Project: Garima Residency

14/06/2024

ORDER

This matter was last heard on 09.04.2024 when the complainant's advocate Mr. Sumit Kumar was present and the respondent was absent. The matter was fixed for order.

The complainant booked a flat and the plot on a consideration of Rs. 39,96,600/-, which he has paid till 2020. Now, without getting any flat or plot, the complainant has lodged an F.I.R. against the respondent promoter and, accordingly, the Hon'ble High Court has passed an order. The High Court has also given an arrest order that without making refund of money he will be arrested. The respondent has filed bail application before the Civil Court as well as the High Court. Accordingly, the respondent has made some refund of money. Now, the complainant states in the court that an order may be passed for refund of remaining amount of money with interest. The complainant has also filed a supplementary affidavit stating therein that the promoter has refunded Rs. 10 lakhs to the complainant in compliance of the order of Hon'ble High Court dated 24.01.2023 passed in Cr. Misc. No. 46088 of 2022 and the remaining amount is due to be refunded. He wants refund of the remaining amount along with interest.

The case was first heard by Adjudicating Officer, RERA on 16.10.2020.

On hearing dated 12.02.2021, the A.O. RERA, called for inquiry of other projects of this respondent promoter from the registration wing, like 'Girija Residency' and 'Achintya Archana Apartment'.

On hearing dated 08.12.2022, in the court of A.O. RERA, an intervener – landowner of this case, appeared through advocate.

On hearing dated 28.04.2023, in the court of A.O. RERA, the complainant submits that the Hon'ble Patna High Court, vide order dated 24.01.2023, passed in Cr. Misc. No. 46088/2022 has directed the respondent promoter to make entire payment of Rs. 39,96,600/- to the complainant within six months from the date of the order. He further submits that after passing of the said order, the respondent has started making payment and he has made certain payments.

On hearing dated 27.06.2023, in the court of A.O. RERA, counsel for the complainant files a supplementary affidavit stating therein that the promoter has refunded Rs. 10,00,000/-, in compliance of the order of the Hon'ble Patna High Court and the remaining amount may be returned by the Promoter as per the direction of the Patna High Court.

The complainant prays to transfer the case before the Authority, as it relates to refund of the principal amount with interest.

The Bench takes note of submission of both the parties and peruses the record.

The Authority observes that the complainant booked a flat and the plot on a consideration of Rs. 39, 96, 600/-, which he has paid till 2020. Without getting any flat or plot, the complainant has lodged an F.I.R. against the respondent promoter and, accordingly, the Hon'ble High Court has passed an order and also given an arrest order that without making refund of money he will be arrested. The respondent has filed bail application before the Civil Court as well as the High Court. Accordingly, the respondent has made refund of money of Rs. 10 lakhs to the complainant. The complainant prays for the refund of the remaining principal amount with interest.

The Bench notes that despite several opportunities and in spite of notices, the respondent failed to appear before the Bench nor has filed any reply. So, in the interest of justice, order is being passed, on the basis of documents available on record.

In the light of above observation and also taking notes of submission made on behalf of the party and going through the materials available on record, as well as the discussion made above, the Bench hereby directs the respondent company M/s Sarita Sharda Construction Pvt. Ltd. and its Director Mr. Sharada Nand Lal Das, to refund the remaining principal amount i.e. (Rs. 39, 96, 600 – Rs. 10,00,000) = Rs. 29,96,600/-, to the complainant, along with interest within sixty days of issue of this order. The rate of interest payable by the Promoter shall be applicable for 3 years plus 2% interest above the MCLR rates (Marginal Cost for Lending Rate) of the SBI (State Bank of India), on the date on which the amount becomes due till the date of payment.

The complainant is at liberty to press other claims, which are in the nature of compensation, before the Adjudicating Officer, as per the provisions of the RERA Act, 2016.

With the aforesaid observations and directions, this case is disposed of.

Sd/-

(Nupur Banerjee)
Member