

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Telephone Bhavan, Patel Nagar, Patna-800013.
Before the Single Bench of Mr Naveen Verma, Hon'ble Chairman

Case No. CC/32/2018

Anil Kumar Sinha.....Complainant

Vs

M/s Shalimar Milestone Estate Pvt Ltd.....Respondent

Project: YAMUNA VIHAR

ORDER

18-2-2022

The matter was last heard on 28-1-2022.

The case of the complainant is that a development agreement dated 4-10-2010 was executed with the respondent and t as per the agreement the share division between the parties was 50-50% of the super built up area and the possession of 24 flats falling in the share of the complainant was to be handed over in 36 months with 6 months grace period. The complainant has alleged that the respondent company has failed to complete the project within the agreed timeframe. It has further been alleged that a number of works are yet to be completed in the project while work in the flats falling in the share of the respondent company is complete. The respondent has allegedly committed breach of contract and has caused delay in construction of the project. The complainant has prayed for completing the work in the flats belonging to the complainant and handover the possession and also pay compensation of Rs. 2.5 lakhs per month for the delay from the date of contract.

Reply has been filed by the respondent wherein they have stated that the project was delayed as the complainant had failed to complete the formalities of handing over of the land for construction. The respondent company has further alleged that in the absence of approach road, the approval of map got delayed. In its reply, the respondent company further stated that delay was also caused due to scarcity of sand in the State of Bihar. It has been stated that the project is 80% complete and since there are no latches on the part of the respondent company, the complainant is not entitled to receive any compensation.

Rejoinder has been filed by the complainant denying entire allegations of the respondent and praying for setting aside the reply filed. The complainant in his rejoinder has stated that the respondent company had admitted the delay caused. The complainant has further stated that the allegation of no approach passage is false as the map was approved by competent authority only when sufficient approach road was available. The complainant has further stated that only 25% work is complete in the project.

The Bench notes that a petition has been filed by the respondent in 2019 wherein the promoter has reiterated that work in the project is 80% complete and is likely to be handed over by 2020. It has been noted that letters dated 01-02-2019 and 16-09-2019 along with photographs of the project site have been filed by the respondent addressing the Authority stating therein that work is in progress.

During the course of hearing before the Bench of Sri RB Sinha, the respondent company had submitted and assured that 12 flats would be handed over to the complainant by October 2021 and 12 flats by December 2021, but the possession has not been handed over till date. An interim relief was sought by the complainant to restrain the respondent company from selling flats falling in the share of the promoter which was duly allowed. The respondent company has orally submitted that the company is ready to handover 12 flats which are complete in all aspects to the complainant. The respondent company has

admitted that remaining flats could not be completed due to inevitable circumstances such as Corona. On the last date of hearing, the respondent company has assured that the project would be completed in all aspects in 3 months i.e. by 28/04/2022 and would be handed over to the complainant.

Therefore, based on the written and oral submissions of both the parties, the Bench hereby directs the respondent company to hand over possession of 12 flats immediately and complete the project and deliver possession of the remaining flats with full amenities by 30th April, 2022. If they fail to do so, a fine of Rs. 10,000/- for each day of delay would be imposed.

So far as the application for extension of registration u/s 6 of the Real Estate (Regulation & Development) Act, 2016 is concerned, the Registration Wing is directed to take up the matter immediately so that the work in the project can be completed and possession be handed over by 28.04.2022.

The complainant is at liberty to press his claim for compensation before the Adjudicating Officer.

With these directions and observations, the matter stands disposed of.

Sd/-
Naveen Verma
Chairman