

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Single Bench of Mr. Naveen Verma, Chairman

Case No. CC/1860/2020

**Soni Kumari..... Complainant
Vs.**

M/s Shine City Charioteer of Reliable Services Pvt. Ltd..... Respondent

Project: Omna IIT (Patna)

ORDER

19.05.2022

This matter was last heard on 22.04.2022.

The case of the complainant is that she purchased plot no.A-92, Sector-1 in the project Omna IIT (Patna) in 2019 with the respondent for the total consideration amount of Rs. 11,23,200/-against which paid Rs.3,18,800 /-. The complainant alleged that in spite of the payment made, the respondent did not sign the Buyer's Agreement and failed to handover the possession, hence, the complainant has filed the present case praying for refund of amount paid along with 18% interest and compensation for Rs. 5,00,000/- mental harassment and financial constraint of the complainant.

The complainant has placed on record a copy of Plot details of the payment made to the respondent.

The Authority notes that the respondent has violated Section 3 of RERA Act, 2016 as the respondent was continuously advertising, marketing, booking, selling apartments/plots without registering the real estate project with RERA. This matter may be included in the Suo Moto

proceeding against the respondent company. It is observed that the respondent company has not applied for RERA registration as yet, and hence, the offence is of continuing nature.

Perused the records. No reply has been filed by the respondent.

During the course of hearing the respondent never appeared before the Authority. An interim order was passed on 24.02.2021, directing to freeze all the bank accounts of the respondents and further directed the IG Registration not to register any apartment/plots of the aforesaid project and the matter was further referred to Economic Offence Wing of Bihar Police.

On the request made by the Authority, the EOU vide letter no- 5941 dated 23.08.2021 requested the SSP, Patna to look into the matter and take necessary action against the respondent company and connected persons.

On last date of hearing the learned counsel of the complainant reiterated his prayer and referred to the interim order dated 07.06.2021 and stated that 46 applications for lodging FIR against the respondent has been sent to the EOU but no action has been taken. He submitted that on the complaint case, the Chief Judicial Magistrate, Patna has converted into an F.I.R on 15.11.2021 and has ordered for investigation of the case. He further submitted that except one all directors of the respondent have been arrested by the U.P. Police and requests that the Bihar Police may coordinate with them.

The Bench directs that a copy of the proceedings/order may be sent to SSP, Patna for appropriate action.

The Bench observes that the allottee has not sent any communication to the promoter regarding cancellation of

booking. The Authority ought to be approached only after the promoter fails to respond to such communication. However, since the matter has already been heard, and the promoter is not appearing, orders are being pronounced.

Having heard the submissions, the Bench hereby directs the respondent company and their directors to refund the principal amount of Rs.3,18,800/- (Rupees Four lakh seventy thousand seven hundred sixty one only) to the complainant along with interest at the rate of marginal cost of fund based lending rate (MCLR) of State Bank of India as applicable for two years from the date of taking the booking till the date of refund within sixty days of issue of this order.

The complainant is at liberty to approach the Adjudicating officer under relevant sections of the Act for their claims, which are in the nature of compensation from the respondent company.

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

Sd/-

Naveen Verma
(Chairman)