

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Naveen Verma, Chairman

RERA/CC/1251/2021

Umesh Kumar Sharma

.....Complainant

Vs

M/s Aastik Homes Pvt. Ltd.

.....Respondent

Project: Macha Swami Sai Palace.

21.02.2023:

ORDER

This matter was last heard on 13.02.2023. This matter was earlier taken up by the Conciliation Forum in which the respondent had appeared and assured on 22.08.2022 that the work would be completed within six months. Since both the parties could not settle the matter amicably, this was referred to the Authority for adjudication.

The respondent has not appeared before the Authority despite summons have been issued and hence ex-parte orders are being passed.

The case of the complainant, who is the land owner allottee, is that the promoter had delayed in handing over possession and hence, he may be directed to complete the project with all amenities at the earliest.

The complainant has filed copy of the development agreement in which it is mentioned that the promoter would hand over the flats within four years , from the date of approval of map, including a grace period of six months failing which promoter would have to pay Rs.10,000/- per month per flat as house rent.

Perused the records of the Conciliation Forum where the promoter had appeared and agreed to handover the project with all amenities within six months.

The Authority notes that the order passed by the Hon'ble Supreme Court of India in the matter of M/s Newtech Promoters

and Developers Pvt. Ltd. vs. State of U. P. & Ors. demarcates the matter which would be taken up by the Authority and those to be taken up by the Adjudicating Officer. The Authority is competent to pass orders for payment of interest in case of delayed possession.

The Authority observes that the statute provides that interest at the prescribed rates would have to be paid by the promoter where they have taken payment from the allottee and if they have failed to deliver the completed apartment within the time specified in the agreement to sale.

The Authority notes that as per Bihar RERA Regulations, 2022, a land owner is treated as an allottee if he is not taking share in the profit and has simply given his land for conversion into apartments. The question whether the Authority can pass directions for payment of interest for delayed possession to such land owner allottees has to be decided.

The Authority is of the opinion that since the land owner allottee has not made any payment to the promoter, direction for making payment of interest at the prescribed rates cannot be passed by the Authority as there is no principal amount on which the interest would be calculated.

In the present matter the development agreement mentions the amount to be paid as house rent in case of delay in handing over. The Authority observes that such claims would fall in the nature of compensation and therefore, ought be decided by the Adjudicating Officer.

This matter is therefore, transferred to the Adjudicating Officer for appropriate action.

Sd/-
(Naveen Verma)
Chairman