

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Double Bench of Mr Naveen Verma, Chairman & Mrs Nupur
Banerjee, Member**

Case No. RERA/CC/52/2021

Bikramaditya Singh.....Complainant

Vs

M/s DPM Infrastructure & Housing Pvt Ltd.....Respondent

Project: DPM SHIVDHARI ENCLAVE

Present: For Complainant: In person

For Respondent : None

ORDER

26.05.2022 The matter was last heard on 17.05.2022.

The case of the complainant is that he booked a flat bearing number 316 in the project having super built up area of 1320 sq ft. An agreement for sale was executed between the complainant and the respondent company on 20.05.2017 bearing Deed no. 5573 according to which the total consideration was Rs 33 lakhs and the project was to be completed by December 2020. That out of the total consideration the complainant has paid Rs. 7,88,200/- to the respondent company on various dates and through different modes. The complainant has alleged that no construction work has taken place in the project and only piling work has been done. The complainant has further stated in his complaint that false assurance was given by the respondent company about the completion of flat by 2018. Therefore the complaint has been filed the case praying for refund of the principal amount with interest @18%.

The complainant has placed on record copy of agreement for sale dated 20.05.2017, copy of e-challan regarding registration of the

agreement for sale, statement of account showing payments made to the respondent company, money receipt dated 27.03.2017 issued to complainant against payment of Rs. 6,60,000/-.

The Bench notes that neither any appearance has been made by the respondent company nor any reply has been filed by the respondent company even after issuance of specific directions and notices to them on various occasions.

The complainant has appeared regularly and has reiterated his prayer for refund of principal with interest.

The Bench has perused the entire records of the case. During the course of hearing, the complainant has orally submitted that Mr. Pankaj Kumar, Director of the respondent company has collected around Rs 2 crores from various allottees but has invested only Rs 50-60 lakhs in the project. The Bench has further been informed that there are two more projects of the promoter which were started after the project in question and are 60% complete. The complainant has further submitted that the intention of the respondent company is malafide as the respondent company has refused to either handover the possession or refund the deposited money.

The Bench notes that section 11 of the Real Estate (Regulation & Development) Act, 2016 casts certain duties and obligations upon the promoter and any violation of the same attracts penal action u/s 61 of the Act. Further, section 63 of the Act provides for penal action in case of contravention of the orders and directions of the Authority by the promoter. In the instant case, the respondent company and its directors were given ample opportunity to appear before the Bench and put forth their stand but they have failed to obey the directions of the Authority. Therefore, a penalty of Rs 15000/- is imposed upon the respondent company and its directors to be paid within 15 days from the date of the order failing which coercive steps to recover the same shall be taken as per the Act.

The obligation of the promoter to refund the amount to the complainant and arrange for resources to make to make such payment is undisputable. Therefore, under the aforesaid circumstances, the Bench hereby directs the respondent company and their Director to refund the remaining Rs. 7,88,200/- to the complainant along with interest at the rate of the marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years plus one percent from the date of taking the booking till the date of refund within sixty days of issue of this order.

The Bench further directs that in case the respondent fails to refund within sixty days, the complainant may file execution case before the Authority, after which appropriate action under section 40 of the Act would be taken.

With these direction and observation, the matter is disposed of.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)