

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mr. Naveen Verma, Chairman

Case No. RERA/CC/41/2018

Manju Singh.....Complainant

Vs

M/s Jascon Enter Build Pvt Ltd.....Respondent

Project : - DR. PARMANAND SINGH JASCO RESIDENCY

ORDER

28-1-2022

The matter was last heard on 17-01-2022.

The case of the complainant is that as the owner of land situated at Mauza Rasidachak, P.S. Alamganj, District Patna measuring an area of 16 Katha 8 dhur 18 dhurki she entered into a development agreement with the respondent on 29.04.2009 and 10.12.2009. According to the agreement, the share of the complainant was 37% and was allotted 9 flats in Block A, 7 as flats in Block B and 9 flats in Block C. The complainant has alleged that no construction has taken place in Block A and 9 flats in Block A and C has not been handed over and that the promoter has committed breach of the terms and conditions of the agreement. Hence, the complaint has been filed praying for completion of the building and handing over of share to the complainant, compensation for damage caused due to delay in the project and restraining the promoter from selling or transferring the flat of his share till possession of the completed flats falling in share of land owner is handed over to the complainant.

The complainant has placed on record photo copy of sale deed dated 12.01.1983 in name of Manju Singh, copy of sale deed dated 24.6.1983, copy of sale deed dated 20.8.1982, copy of sale deed dated 08.4.1983, copy of sale deed dated 24.02.1983, copy of sale deed dated 07.01.1983, copy of certified copy of development agreement dated

29.4.2009, copy of development agreement dated 10.12.2009, copy of deed of share distribution between land owner and builder dated 15.01.2012.

Reply has been filed by the respondent company along with copy of receipt of application of the project for registration, copy of development agreement and sale deed and copy of legal notice dated 15.06.2017. While admitting few facts, the respondent has stated that work in Block A is 70% complete and remaining construction could not take place as a complaint was received with respect to approval of map due to which the construction was stopped till 2016; and complete ban on construction of building which was finally lifted on 23.06.2015 in the PIL bearing CWJC No-8152/2013 by the Hon'ble Patna High Court. Further, construction was stopped as a consequence of orders in CWJC No-17809/2015 by Hon'ble Patna High Court with regard to illegal mining of sand. National Green Tribunal stopped the operation of sand Mines in the State of Bihar which resulted into acute shortage of sand and it was only after November 2017, the sand was made available.

So far as Block B is concerned, the respondent company has stated that Smt. Ramakali Devi and Smt Ira Singh, had purchased 1 Katha each in Plot 377 upon which Block B was to be constructed also entered into development agreement with them. The respondent has further stated that a legal notice was sent by Smt. Ram Kali Devi to the complainant who then assured to provide her share of flats. The respondent has also stated that the company is willing to handover possession to the complainant in the proportionate share of the land of Block-B such as 7 Flats in place of 9 Flats in pursuance of the claims of Smt. Ram Kali Devi due to the suppression of material facts.

In the reply, the respondent company has further stated that work in Block C is 90% complete.

The Bench notes that no rejoinder to the reply of the respondent company has been filed by the complainant. During the course of hearing, the complainant orally rebutted the submissions of the

respondent company that construction of Block A is completed; Block B is 70% and Block C is 90% completed.

On the last date of hearing, respondent company informed the Bench upon query that the possession in all 3 blocks would be handed over by March 2022.

The promoter has stated that immediately upon receipt of show cause notice u/s 3 of the Real Estate (Regulation & Development) Act, 2016, the respondent company applied for registration before the Authority. Registration wing is directed to verify whether quarterly reports are being regularly uploaded as provided under Section 11 of the Act.

The Bench takes note that the complainant has not contradicted the assertion of sale of part of the plot number 377 to Smt. Ram Kali Devi who has also entered into a development agreement with the respondent. The Bench observes that the complainant may take possession of flats in proportion to the share in land held by her after the sale to Smt. Ram Kali Devi, and if there is any dispute in this respect she may approach the competent civil court.

The Bench also takes note that the respondent company is ready to handover the flats falling in the share of the complainant.

Having heard the submission of both the parties the respondent company is directed to hand over possession of the proportionate share of flats to the complainant by 31.03.2022 failing which penalty of Rs. 10,000/- would be imposed upon the respondent company for each day of delay.

With these directions the matter is disposed of.

Sd/-
Naveen Verma
Chairman