

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

**Case Nos. RERA/CC/844/2021**

Manha Iftekhar .....Complainant

v.

Hawk Buildtech Pvt. Ltd.....Respondent

**Project: - H.B. Tower**

**Present: For Complainant: Mr. Rakesh Roshan, Advocate**  
**For Respondent: Mr. Sharad Shekhar, Advocate**

**ORDER**

**29-12-2021** The matter was last heard on 30-11-2021.

The case of the complainant is that she had booked a flat no. 804 in Block-A of the Project H.B. Tower residency measuring 1260 sq. ft. and total consideration amount was Rs. 23,70,000/-.The complainant submitted that an agreement was executed in 17.12.2016 and she had paid full amount in 2016 itself. The complainant has stated that an additional sum of Rs. 2 lacs was again paid by her in the year 2020 totalling to Rs. 25,70,000/- and as per this agreement the respondent company had to complete the Project by mid of 2018 but till date neither flat has been completed nor possession handed over to her. It has further been alleged that the respondent company carried out structural modification in the booked flat without her consent and after she raised objection, a new agreement was signed on 27.08.2020. The new consideration amount of the flat increased to Rs. 30 lakhs. The complainant has stated that she is ready to pay the enhanced amount of Rs. 4.30 lacs. The relief sought in the complaint is for handing over of the possession of the flat and also for injunction on the sale of the booked flat.

The complainant has placed on record the agreement for sale dated 17.12.2016.

The respondent has filed a reply and has objected to the status of the complainant being an allottee. The respondent company, while admitting few facts, has denied the existence of the agreements as alleged by the complainant and stated that the agreement is a fabricated and manufactured document. It has further been alleged that the payment schedule in the agreement is written by hand by the complainant herself and that no money receipts, cheques or any other documents has been brought on record to justify her claim.

The learned counsel for the respondent company submitted orally that the complainant has not given any evidence of having paid Rs. 2 lacs through cheque. The respondent company also objected to the contention of the complainant with respect to structural modifications stating that more than 60% of allottees are residing in the project.

The complainant has filed a rejoinder along with copy of agreement for sale dated 17.12.2016 and also fresh agreement dated 27.08.2020. Another rejoinder has been filed by the complainant on 25.12.2021 wherein the learned counsel for the complainant, reiterating his earlier submissions, has stated that the respondent company cannot deny the existence of the agreement in the light of sections 92 and 115 of the Indian Evidence Act.

The Bench has taken note of the submissions of both parties and the documents filed by them.

The respondent has raised a question of maintainability challenging the status of the complainant. After going through the entire records of the case and the copies of agreement of sale filed by the complainant, the Bench finds it difficult to accept the contention of the respondent that the agreement is forged in the absence of any pronouncement on the veracity

of the document by the competent court of civil jurisdiction. The Authority cannot go into this question and therefore observes that, on the basis of the agreement to sale, the complainant is indeed an allottee under the Real Estate (Regulation and Development) Act, 2016 and hence this matter is maintainable.

The Bench directs the respondent not to sell the said flat number 804 to any other person. The Bench, however, observes that the complainant has not produced receipts issued by respondent company against the payments purported to have been made by her. The obligations of the allottee and the promoter have been clearly spelt out in the Real Estate (Regulation and Development) Act, 2016 and it is expected that both parties would abide by it and with the terms of the agreement to sale. The allottee would make the balance payment of the consideration amount to the promoter who would then complete the flat and hand over possession to her.

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

**Sd/-**  
**Naveen Verma**  
**Chairman**