

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

**Case Nos. RERA/CC/1017/2021**

**Mrinal Kaushik.....Complainant**

**v.**

**M/s GrihVatika Pvt Ltd .....Respondent**

**Project: -AMBIKA VATIKA**

**ORDER**

**31-1-2022**

The matter was last heard on 24-1-2022.

The complainant booked a flat No. 202 on the 2nd floor admeasuring 1381 sq. ft in the year 2016, the total consideration of which was Rs. 16 lacs. The complainant has stated that he paid a sum of Rs. 4 lacs in 4 instalments vide cheques dated 26-10-2016, 27-11-2016, 27-11-2016 and 13-12-2016. The complainant has alleged that the possession of the flat was to be handed over by June 2018 but the respondent company has not executed the agreement for sale citing reason of non -approval of map from the competent authority. Since the respondent is not providing any assurance regarding the completion of the flat, the complainant has filed this matter praying for refund of the amount paid with interest.

The complainant has placed on record KYC form, cheque no. 228139 amounting to Rs.1,00,000/-, money receipt no 306 for Rs. 2 lakhs, cheque no. 817132 amounting to Rs. 1,00,000/-, money receipt no. 295 for Rs. 1,00,000/-, cheque no. 817131 amounting to Rs. 1,00,000/-, money receipt no. 1232 for Rs. 1,00,000/- and cheque no. 244283 for Rs.1,00,000/-.

A reply has been filed by the respondent where it has admitted that the complainant has paid Rs. 4,00,000/-; and that the project could not be undertaken as the map was not approved. The respondent has also referred to section 18 of the Act and has stated that no payment was made by the complainant after 2016. It has also been submitted by them that the

Authority has no jurisdiction to entertain the instant case as the payment was made by the complainant in the year 2016.

The Bench observes that since the respondent had taken money from the complainant against the booking of an apartment, the respondent comes under the definition of 'promoter' in Real Estate (Regulation & Development) Act, 2016. The Bench therefore finds that this matter is maintainable before the Authority. It notes that this issue has recently been settled by the Hon'ble Supreme Court, which has held that the Real Estate (Regulation & Development) Act, 2016, aimed basically to protect the interest of homebuyers has retroactive effect.

The Bench notes that when the map was not approved by the competent authority, the promoter ought to have returned the money immediately. The question of making the remaining payment as mandated in Real Estate (Regulation & Development) Act, 2016, would have arisen only after the map was passed and construction work undertaken by the promoter. In this light, the plea of the respondent that they would refund the remaining amount after deduction of service and other charges is not tenable and hence rejected.

The Bench takes note of the submission of the respondent company that they are ready to transfer the amount to the account of the complainant in 3-4 instalments.

The Bench hereby directs the respondent company to refund the amount of Rs. 4 lakhs to the complainant along with interest thereon at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years plus 2 percent (2%) from the date of taking the booking till the date of refund. The above payment may be made in 3-4 instalments within sixty days of issue of this order.

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

Sd/-

**Naveen Verma**  
**Chairman**