

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case No. RERA/CC/377/2019

M/s Ravi Ranjan Developers Pvt. Ltd. & Anr..... Complainant

Vs

Aditya Kumar Chatterjee.....Respondent

Project: Chatterjee Complex

Present: For Complainant: Mr. R.K. Srivastava, Advocate

For Respondent: Mr. P. Majumdar, Advocate

13-04-2022

ORDER

The complainant Ravi Ranjan Prasad Singh, MD, M/s Ravi Ranjan Developers Pvt. Ltd. has filed complaint petition on 15-05-2019, against the respondent land owner Mr. Aditya Kumar Chatterjee for vacation/removal of the obstructions and hindrances by the respondent.

Case of the Complainant:

The complainants in his complaint petition dated 15/05/2019 has stated that M/s Ravi Ranjan Developers Pvt. Ltd. has executed the development agreement through its managing director, Mr. Ravi Ranjan Prasad Singh i.e. complainant with respondent Mr. Aditya Kumar Chatterjee on 15/06/2015 for construction of the building and paid Rs. 11 lakh. He further stated that as per clause 24.1 of the development agreement complainant has to pay a sum of Rs.5,000/- to the respondent i.e. landowner as rent for the new or alternative accommodation and the complainant has paid Rs.5 lakh by cheque on 25-09-2017 in respect to that as advance which was in cashed by the respondent on 06-10-2017. It has been further submitted that as per clause 21.2 of the development agreement, the complainant was entitled to do all acts, deeds and things

required for development and construction of the building. It has been further stated that it was agreed that the respondent will vacate the existing shops which is situated in the front side of the building of the project but respondent has not perform his obligation and vacated the same as result, complainant is unable to progress in construction work. He further stated that as per clause 22 of the said agreement, the respondent has agreed to execute a general power of attorney in favor of complainant or its nominee or nominees for discharging of development work but respondent has not perform his obligation and executed the same. He further stated that complainants have given copy of the sanctioned plan along with share distribution plan of the project to the respondent to put his signature on it and notices regarding the construction of project. He further stated that the respondent sent letter dated 26/04/2019 in context of revocation/cancellation of the development agreement. He further stated that building has been constructed as per the building byelaws and sanctioned plan and complainant is ready to give proportional area in project to respondent. He further submitted that complainant has supply the copy of sanctioned plan as well as details of architectural and construction plan of the project and as per clause 3 of the development agreement , complainant immediately has proceeded for preparation of drawing and took signature of the respondent at the foot of the plan of project. He further submitted that correction map was required in 2016 as per building bye laws and the final map of the projected was sanctioned in the year 2017. He further submitted that a letter dated 26-04-2019 was sent by respondent in context of revocation and cancellation development agreement dated 15-06-2015 without any valid reason. He further submitted that complainant has not violated any terms and conditions of agreement and respondent, itself has put his signature at the foot of sanctioned plan after verifying it. Hence, present case is filed, praying to direct the respondent to vacate obstruction/hindrances and extension of two years' time for completion of the project.

The complainant has placed on record development agreement dated 15/06/2015, certificate of incorporation, letter dated 26/2/2018, written to Aditya Kumar Chatterjee(respondent), letter dated 12/02/19, letter dated 26/04/2019, written by Aditya Kumar Chatterjee(respondent) to Mr. Ravi Ranjan Prasad, Singh, MD (Complainant) & Photographs of the Project building.

A notice dated 24/07/2019 was sent to the respondent landlord under Section 03, 12, 18 & 19 of the RERA Act and Rule 36 of the RERA Rules 2017 to file their reply by 19/07/2019.

On 16-01-2020, complainant has filed supplementary petition informing the bench about the sale of shops in project and executing of Agreement for sale in respect to sale made to allottees of shop and placed on record Agreements for Sale, executed in favor of allottees.

Learned counsel of the respondent filed a petition by way of rejoinder/reply to the supplementary petition in which he stated that the petition dated 16/01/2020 filed by the complainant is not maintainable and fit to be rejected. He further submitted that the notice sent by the Authority under various sections of the RERA Act and RERA Rules are not applicable in the present case as the opposite party is not a promoter or developer. He further stated that the complainant has miserably failed to adhere to the terms and conditions mutually agreed upon between both the parties and that the complainant has deliberately and intentionally designed only to save his skin from his misdeeds and utter violation of the development agreement entered into between the complainant and the respondent. As per the development agreement, the developer cannot sell or alienate any part of his share unless and until the developer would complete the entire project and hand over the owners share to the respondent. He further stated that on the one hand the complainant is alleging that the non-cooperation of the owner of land resulting on the construction and on the other hand, the complainant started selling the shops of the said complex. The respondent is only agitating the matter before the statutory

forum. Moreover, the construction work was initially stopped by the order of the Municipal Commissioner.

Hearing:

Hearings were held on 08/09/2019, 21/11/2019, 16/01/2020, 04/02/2020, 03/03/2020, 06/10/2020, 14/10/2020, 16/03/2021, 04/01/2022 & on 21/02/2022.

On 08/09/2019 learned counsel of the complainant submitted that construction in the project has been completed up to G/5 out of G/6 and that many bookings have been made with the allottees. He filed his written statement stating therein that they have sold the shops and that the sale agreement of the shop in question has already been executed by the concerned authority on 02/08/2019 but the non-cooperation of the land owner has resulted in delay in construction of the shops in question and the share distribution is still pending with the landlord. He further alleges that the respondent landlord is not vacating the shops which are situated in the front side of the building.

On 21/11/2019 the Bench levied cost of Rs 10,000/- on the respondent for continued non-appearance and the directed the legal team of the Authority to visit the project site and submit report.

On 16/01/2020 both the parties filed their respective petitions.

Mr. Aditya Kumar Chatterjee, the respondent landlord in his petition dated 16/01/2020 submitted that soon after taking possession of his land, the builder started adopting various means to oust him from his land and began to dishonor the terms and conditions of the agreement so much so that he was compelled to send cancellation notice on 26/04/2019 to the complainant builder.

He further stated that he is an old aged person of 76 years and his wife developed severe retina problem due to which he remained away at Kolkata for treatment but engaged a

lawyer and on 29/11/2019 came to know that the lawyer did not attend the hearings and the Bench has imposed a fine of Rs 10,000/-for continued non-appearance. He prayed to waive the fine imposed upon him.

On 04/02/2020 the complainant filed letter no.139 dated 01/02/2020 of the Municipal Corporation, Muzaffarpur issued by the Municipal Commissioner and revised map of the project from which it appears that construction of the project in question has been waived off by the Corporation and now the complainant/promoter is free to proceed with the construction work in light of revised map/plan bearing Plan Case No.24-01/2020.

On perusal of the record, the report dated 17/01/2020 by the Inspection team and the aforesaid letter of the Municipal Corporation, the Bench came to the conclusion that the complainant/promoter may start the pending construction work of the project and must follow the RERA timeline for its completion. Further, the complainant is free to book or enter into agreement for sale with new consumers with respect to the project in question.

On 06/10/2020 the Bench directed the learned counsel of the complainant to file application afresh for time extension under RERA beyond 31/12/2020 within a reasonable period of time after obtaining consent from 2/3rd of the allottees.

On 16/03/2021 learned counsel of the complainant submitted that the respondent landlord is not letting the work done by the developer and prayed for time for completing the finishing work. He further submitted that the respondent has filed case against the complainant in various forums.

During the last hearing on 21/02/2022, complainant (Promoter) present in person has submitted that the building is complete but the respondent land owner is not signing the share agreement and taking possession of his shares of flat. He further submitted that application for extension of registration has been filed and in the

meantime completion certificate will be obtained. He further submitted that the respondent land owner has filed several cases in Muzaffarpur, Patna and Kolkata.

Learned counsel of the respondent land owner has submitted during the course of last hearing that this case is not maintainable. He further stated that what has been mentioned in the notice and what the complainant claims is different and that the Sections mentioned is not relevant in the case of land owner. He further stated that the complainant seeks relief for extension of time by 2 years to complete the project under Section 7 of the RERA Act. He further stated that they have revoked the agreement and arbitration is going on in Kolkata. He further stated that the complainant has constructed the building in violation of the development agreement.

In the light of submissions made by both the parties and perusal of documents filed, the bench observed that project is at its completion stage and also, the Agreement for Sale has been executed between the Complainant (Promoter) and allottees, hence, considering the interest of allottees, the bench here by directs the respondent to cooperate the complainant (Promoter) in completion of work of building and sign the share agreement and take the possession of his shares as per the development agreement dated 15/06/2015.

So far as the issue of sanctioned plan and extension of registration is concerned; the bench directs the complainant (Promoter) as observed earlier during the course of hearing also, apply for extension and if already applied, proceed as per direction of Registration Wing.

With these observations and directions, matter is disposed off.

Sd/-

Nupur Banerjee
Member