

REAL ESTATE REGULATORY AUTHORITY, BIHAR

CC/1238/2021

Punam Sinha

.....Complainant

Vs

M/s Tiruwantpuram City Vidyut (AD)

.....Respondent

Project: Tiruwantpuram City Vidyut Block-AD.

21.03.2023:

ORDER

The matter was last heard on 14.02.2023. The complainant has filed their written argument.

The case of the complainant as per online petition dated 16.12.2021 is violation of development agreement dated 24.03.2012 executed by the complainant and other members of Vidyut Nagar Housing SahkariGrihNirman Samiti Ltd. with the respondent. The reliefs sought for are for possession of flat as per choice on 1st to 4th floor and payment of rent as per the agreement.

The complainant has filed copy of the development agreement dated 12.03.2012 and copies of the communication sent by her for correction of supplementary agreement dated 23.10.2022.

A reply has been submitted by the respondent company stating therein that the complainant had concealed the fact of supplementary agreement executed between them on 23.11.2020 according to which the complainant had agreed to accept Flat No.1001 Block- AD on the 10th Floor which would be handed over by December,2023 with the grace period of one year.

The respondent has also stated that delay in construction, after the agreement was signed in 2012, was caused due to ban on construction of apartments; scarcity of stone chips, sand and due to the pandemic. They have further submitted that since the complainant has herself agreed to take flat by December, 2023 by a grace period of one year, there is no cause of action for this complaint.

During hearing, the learned counsel for the complainant submitted that multi storied apartments are not permitted to be

constructed on the land held by a Cooperative Society as per order of the Hon'ble Patna High Court. Learned counsel argued on behalf of the complainant that the agreement for construction was only up to 7th floor and that the supplementary agreement was signed without going through the contents for which they have sent mail to the respondent for correction.

The learned counsel for the respondent reiterated that after executing the supplementary agreement the complainant cannot take the land back. The revised map has been submitted to Patna Municipal Area Authority (PMAA) and QPRs are being uploaded regularly.

On a query by the Authority, the learned counsel for the complainant submitted that the matter is for revocation of registration.

The Authority observes that in so far as the matter of complaint case is concerned, the complainant has sought possession of flat and as well as rent for delay in handing over possession . The question of paying rent and other amount falls within the nature of compensation and hence, should be pressed before the Adjudicating Officer.

The Authority notes that the Hon'ble Supreme Court of India has settled that matters of possession, refund and interest for delayed possession would be dealt by the Authority. In this matter the respondent has agreed to give possession of a flat by December, 2023 with a grace period of one year. The question whether that particular flat is acceptable to the complainant or not and any other issue arising from the development agreement ought to be settled between the parties amicably ,and in the event of failure in doing so, they may approach the court of competent civil jurisdiction.

The issues raised by the complainant regarding construction of apartments on the land held by the Cooperative Society and on the

number of flats to be constructed may be raised before the competent Authority who has sanctioned the map.

The Authority has checked the records on the status of sanction of map by PMAA , who, vide their letter no.601 dated 31.08.2022, had informed the Managing Director of the respondent company that the map of the project has not been sanctioned and had stopped the work without sanctioning of map as per the provision of Clause 16 (b) of the Building By-laws as amended in 2022. In a query by this office, the PMAA has reiterated that the map of the project has not been sanctioned in respect of the plot numbers mentioned by the complainants/members.

In so far as, the validity of registration is concerned, the Authority notes that the registration certificate issued on 12.12.2018 mentions that the registration will be valid till 31.12.2021 which effectively means 30.09.2022 taking into account the force majeure conditions due to COVID-19 pandemic. The promoter had filed a petition for extension of registration within this period i.e. 24.08.2022 but the decision for this remained pending till the issue of status of the map was clarified.

The Authority , taking into account the unambiguous report of the PMAA that the map is not sanctioned. Finds it difficult to extend the registration of the project. Quarterly Progress Reports (QPRs) uploaded by the promoter for the last quarter is blank. The photographs show that the brick work up to 5th floor has been done and 6th and 7th floors are ready for casting.

The Registration Wing is directed to accordingly process the application for extension of registration

The Authority recalls its orders on the numerous complaints filed against the promoter , some of which have been attached with the written argument submitted by the complainant in the present matter , that is, CC/1238/2021.

The submission of the respondent that they would hand over the flat by December, 2023 cannot be accepted as the competent

Authority has already stopped carrying out any further construction till the map is approved. The respondent has to first get the map approved and then give a fresh date for completion and handing over of the flat.

At this stage no direction can be given on the relief of possession as sought by the complainant as the promoter cannot carry out the work without the map is approved. The question whether the Association of allottees would like to get the project completed through the association in terms of Section 8 of Real Estate (Regulations and Development) Act, 2016 will be decided after they approach the competent Authority with a fresh map and obtain their approval of the map.

With these observations the matter is disposed of.

Sd/-
(Naveen Verma)
Chairman