

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Single Bench of Mr. Naveen Verma, Chairman

Case No. CC/494/2021

Shailesh Narayan Lal

..... Complainant

Vs.

M/s Shinecity Infra Project Pvt. Ltd.

..... Respondent

Project: Tashi Sector-2

ORDER

18.05.2022

This matter was last heard on 21.04.2022.

The complainant, Mr. Shailesh Narayan Lal booked plot no. E-411, E-412 & E-700 in the project Tashi Sector-1/Kashiyana on 15.07.2018. Since respondent has not done any work till date, the complainant sought refund of amount paid along with interest. He stated that the respondent had also given cheque of the aforesaid amount to the complainant which was not honoured by the bank.

He has submitted details of payment made -Rs. 40,000/- vide cheque no:- 007361, Rs. 1,00,000/- vide cheque no:- 000387, Rs. 60,000/- vide cheque no:- 004673, Rs. 2,50,000/- vide cheque no:- 001801, Rs. 2,50,000/- through RTGS and Rs. 1,01,000/- vide cheque no:- 004671. He has also filed the money receipts no:- R1135657, R1140768, R1143508, R1148453, R1143068 & R1092216 amounting to Rs. 8,01,000.

The Authority notes that the respondent has violated Section 3 of RERA Act, 2016 as the respondent was

continuously advertising, marketing, booking, selling apartments/plots without registering the real estate project with RERA. This matter may be included in the Suo Moto proceeding against the respondent company. It is observed that the respondent company has not applied for RERA registration as yet, and hence, the offence is of continuing nature.

Perused the records, No reply has been filed by the respondent.

During the course of hearing it was further observed that the respondent never appeared before the Bench. An interim order was passed on 24.02.2021, directing to freeze all the bank accounts of the respondents and further directed the IG registration not to register any apartment/plots of the aforesaid project and the matter was further referred to Economic Offence Wing of Bihar Police.

On the request made by the Authority, the EOU vide letter no:- 5941 dated 23.08.2021 requested the SSP, Patna to look into the matter and take necessary action against the respondent company and connected persons.

On last date of hearing the learned counsel of the complainant reiterated his prayer and referred to the interim order dated 07.06.2021 and stated that 46 applications for lodging FIR against the respondent has been sent to the EOU but no action has been taken. He submitted that on the complaint case, the Chief Judicial Magistrate, Patna has converted into an F.I.R on 15.11.2021 and has ordered for investigation of the case. He further submitted that except one all directors of the respondent have been arrested by the U.P. Police and requested that the Bihar Police may coordinate with them.

The Authority directs the office to send a copy of the proceedings/order to SSP, Patna for necessary action.

The Bench observed that the respondent has been absent on all the dates of hearing. The Bench observes that the allottee has not sent any communication to the promoter regarding cancellation of booking. The Authority can be approached only after the promoter fails to respond to such communication. However, since the matter has already been heard, and the promoter is not appearing, orders are being pronounced.

Having heard the submissions, the Bench hereby directs the respondent company and their directors to refund the principal amount of Rs.8,01,000/- to the complainant along with interest at the rate of marginal cost of fund based lending rate (MCLR) of State Bank of India as applicable for three years from the date of taking the booking till the date of refund within sixty days of issue of this order.

The complainant is at liberty to approach the Adjudicating officer under relevant sections of the Act for their claims, which are in the nature of compensation from the respondent company.

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

Sd/-

Naveen Verma
(Chairman)