

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mrs. Nupur Banerjee, Member

Case No: RERA/CC/543/2022

Radhey Shyam Agarwal

...Complainant

Vs.

M/s DDL Infratech Pvt. Ltd.

...Respondent

Project: Agrani Woods

30/04/2024

ORDER

The matter was last heard on 09.02.2024 and was fixed for orders on 26.04.2024. However, due to pre-occupation of the Bench in other matter, order could not be pronounced on the date fixed. On that date, Mr. Mahendra Kumar, learned counsel for the complainant was present, Mr. Nitin Kumar, learned counsel for the respondent was also present.

This complaint petition has been filed seeking relief to direct the respondent to handover physical possession of the land (Plot No.D-31) to the complainant as mentioned in registered sale agreement and in sketch map and also to direct the respondent to rectify and make good all the defects mentioned in para-4 in the complaint petition.

In short, the case of the complainant is that the complainant applied for residential plot in farm house city project Agrani Woods and was allotted plot bearing No. D-31 of the said project measuring total covered area of 27,220 sq.ft. (62.5 decimal) for a total sales consideration of Rs.9.11 lakh. Thereafter a registered sale deed No.8748, Book No.1, Volume No.153 was executed between the complainant and the respondent on 23.03.2012. He, after purchasing the said residential plot and registered sale agreement get the area of 62.5 decimal mutated in his name Before registration of the sale deed the respondent has given an assurance that the said residential plot of housing colony will consist of resort, food-plaza, water park, restaurants, conference hall and children park with a commercial wing be established in the said housing colony. They also assured that the said housing project colony will be self sufficient community and will provide the customers with the highest standard of living. They also assured that the said residential plot will be curved from several acre of land purchased by them from various landowners. It is provided in the registered sale deed that the respondent has developed the said land along with adjoining block of said housing colony. The respondent also assured that the

entire project will be completed within six months of sale agreement i.e. before 30.09.2012 and delivery of possession will be given by September, 2012. It is also assured that in case of delay in handing over the possession of the said land, the respondent shall pay a compensation to the complainant of a sum of Rs.10,000/- per month for the delayed period. It is stated that the complainant purchased the said plot on 60 feet wide road. He visited the site of the said project on several occasions and he came to know that all the basic amenities and facilities are not provided by the respondent and there are several defects in the said residential plot. It is also stated that due to non-availability of occupancy of the said plot, the complainant is not able to use the said farm house for the production of agriculture products since last more than nine years from the date of the sale deed resulting in huge monetary loss. He is liable to be compensated by the respondent for not handing over the possession of the said residential plot. Hence, this complaint.

The complainant has placed on record the copy of the registered sale deed, Brochure and the map.

After notice, the respondent has appeared through his learned counsel Mr. Rabindra Kumar and has filed written objection stating therein that the complaint petition is not maintainable either in law or on facts and hence, the complaint petition is fit to be dismissed. It is stated that the complainant has not come with the Authority with clean hands and has suppressed the material facts. In fact he was C.A. of the respondent and has not obtained the sale deed in a proper manner. The project is beyond the planning area. It is also stated that the complainant being the C.A. of the respondent company has taken undue advantage and has obtained a one sided deed The complainant has filed this case on baseless, concocted and wrong ground after the lapse of several years, so the claim is hopelessly time barred. It is further stated that at the time of execution of the sale deed there was no plotting, no development of road in spite of that he obtained a sale deed in a very planned manner. It is further stated that due to defiant attitude of the complainant, the respondent was forced to take back all the files and project and in the year 2018 removed him. It is also stated that seeing the development of the project he is trying to obtain delivery of possession. As per the map the landowner has also not provided land to the company and therefore, the plot is not available. As per the terms of the sale deed the complainant cannot force the company to deliver possession of the land which is not available with the company. In view of the facts stated above, the complaint petition is not maintainable in the eye of law and is fit to be dismissed.

A rejoinder has been filed on behalf of the complainant to the written objection filed by the respondent reiterating the same facts as stated in the

complaint petition. In addition, it is stated that the complainant paid a sum of Rs.10.00 lakh in four installments to the respondent in addition to consideration amount for development of the plot. The complainant after observing that the respondent is not stopping their illegal activities in financial transaction even after his advice he refused to do their audit and tax related issues and resigned from the post on 16.08.2017. The complainant at the time of execution of sale deed came to know that the respondent during visit of their professional work in the office of the complainant, the Director of the respondent took the advantage of office premises of the complainant and missed the office of the complainant by inducing his other clients who used to come in his office to purchase the plot in their project. The respondent also made some fraud with them by not giving physical possession of the plot and they are compelled to approach the Authority for the reliefs aforesaid.

On 19.10.2023 learned counsel for the complainant submitted that in 2012 the complainant purchased a plot but physical possession has not been given. Learned counsel for the respondent submitted that the complainant is a C.A. of the company and the sale deed was executed in his name. The respondent has already filed a title suit against the C.A. which is pending adjudication. Therefore, this case is not maintainable before the Authority. In reply, learned counsel for the complainant submitted that the complainant has resigned from the post of C.A. in 2018. Registry has been done in his favour. He has paid the money through cheques. The respondent has not disclosed the number of title suit. On 05.01.2024 learned counsel for the complainant submitted that the respondent is selling the land. The respondent has not given possession of the plot of land. He submitted that absolute sale deed has been done. He has paid full consideration of Rs.9.11 lakh through cheques. He has also paid Rs.10.00 lakh in four installments in addition to consideration of Rs.9.11 lakh for development of the plot. Learned counsel for the respondent reiterated the submissions made on 19.10.2023. He also submitted that we do not have any plot, so the respondent is ready to refund the amount with interest. On 09.02.2024 learned counsel for the complainant submitted that absolute sale deed has been done. The complainant has paid Rs.9.11 lakh. The respondent has gone to Civil Court for cancellation of sale deed. Learned counsel for the respondent submitted that the complainant has not got possession till date.

In para-12 of the objection petition it is stated that as per the terms of the sale deed the complainant cannot force the company to deliver possession of the land which is not available with the company for want of proper title because the landowner, who was expected to execute the sale deed in favour of the company failed to do so. As per initial plan of the company, the plotting was done on

paper and the plots were carved out as company plot numbers. As per clause 1 of the sale deed dated 24.03.2022 in case the carved out plot would not be made available to the buyer for any reason whatsoever, the buyer has got the only option to get compensation as permissible in accordance with law.

In para31(iii) of the rejoinder filed by the complainant it is stated that alternatively the complainant may accept the plot of 62.5 decimal in same Mauza on 30 feet wide road with adequate compensation as the purchased plot was on prime location on 60 feet road and in para (iv) it is stated that the respondent will execute and register a fresh sale deed in the event of acceptance of alternative offer of land on 30 feet wide road on the cost to be borne by the respondent.

In the light of the submissions advanced by learned counsel for the parties and the documents available on record, this Bench directs the respondent to arrange for land and provide the possession of the plot to the complainant on 60 feet wide road, or provide alternative plot on 30 feet wide road with extra land, measuring about (30 feet multiplied by the total frontage of plot) or provide alternative plot on 30 feet wide road with monetary exchange of the extra land as per present market value, within sixty days of issue of the order.

As regards claim for compensation is concerned, the complainant is at liberty to press the same before the A.O. as per the provisions of the Act.

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

Sd/-
Nupur Banerjee
(Member)