

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

Case No. RERA/CC/562/2021

Ganesh Kumar.....Complainant

Vs

M/s R.R. Builders Pvt Ltd.....Respondent

Project: -SANCHAR NAGAR

ORDER

21-1-2022

The matter was last heard on 11-01-2022.

The case of the complainant is that he has booked flat no. 609 in Block 9 of the project but the construction of the flat is not as per the agreement and is in violation of condition mentioned in Point no. 7 of Schedule-D, “Standard Specifications of “Sanchar Nagar”- Phase-1. The complainant has further alleged that such information was given to the respondent company through mail on 26th Jan-2021 and 6th Feb-2021 but no response was received from them. Thereafter, the complainant visited the office of the respondent company on 2nd April-2021 with his grievance but the respondent company refused to make a provision of window in the room. The complainant’s grievance is that the respondent company could have created a window in the room as the status of flat was still incomplete. Apart from levelling several other allegations, the complainant has alleged that the width of the door provided in the room is more than the usual and both the rooms are attached directly with the balcony affecting the privacy of the complainant. The complainant has therefore filed the complaint praying for issuing instructions to the respondent company to provide a window in both the rooms as per the agreement or alternatively 3 channel sliding door in lieu of 2 channel sliding.

The complainant has placed on record photographs of the flat especially room and the window and also a copy of Schedule D of the agreement.

Perused the records of the case. Reply has been filed by the respondent company along with registration certificate granted by the Authority on 27.02.2019, agreement for sale- flat dated 21.07.2017, copy of Information Booklet, map of the bedroom and page 4 of the Bihar Building Bye Laws.

In its reply, the respondent company denying the allegations of the complainant has stated that alterations have been done within the purview of clause 19 of the agreement for sale. The respondent company referred to section 14(2)(ii) of the Real Estate (Regulation & Development) Act, 2016 and stated that the builder, herein the respondent company, can make alterations after due recommendations and verifications of the authorised architect. The respondent company also made reference to section 8(1)(i) of the Bihar Building Bye Laws, 2014 which states that no permission or notice is required to be given for alteration in “opening and closing of a window or door or ventilator”. The respondent company further stated that the request of the complainant to replace 2 channel sliding door with 3 channel sliding door could be met only if the complainant is ready to pay the extra cost that would be incurred.

The Bench took note of the documents on record and the submission made by the parties. Section 14(1)(ii) as referred by the respondent company mandates that the consent of the allottee, herein the complainant, has to be obtained before making any additions or alterations. In the instant case, the Bench has noted that the consent of the complainant has not been obtained. The Bench also observes that there is no clarity as whether the plan of the flat submitted by the respondent company by an authorised architect was shared with the allottees including the complainant.

The Bench notes that the matter was reserved for orders on 05-10-2021 but inadvertently final orders could not be passed. While going through the records of the case, the Bench observed that there was a need for clarification on the status of modification as to whether the respondent company was ready to cater to the request of the complainant. Therefore, the Bench deemed fit to give an opportunity to both the parties to clarify the status and therefore an interim order was passed on 05-01-2022 wherein the parties were directed to appear on 11-01-2022 and clarify the status.

During the last date of hearing, the complainant informed the Bench that the issue has not been resolved till date. The complainant further submitted that he is not ready to bear the additional cost as stated by the respondent and that the promoter must follow the terms and conditions of the agreement. The complainant further alleged that the flat is not in a liveable condition.

The Bench has taken note of the submissions of the parties. It is understood that the terms and conditions laid down in the agreement executed between the parties has to be followed by parties to the agreement to the extent the agreement is in conformity with the provisions of the Real Estate (Regulation & Development) Act, 2016 and Bihar RERA Rules, 2017. In this case, although the terms of agreement stated that minor modifications could be made by the respondent company, the respondent company ought to have taken consent of the complainant while making modifications, which the respondent company has failed to do so. The Bench however notes that the respondent company is ready to provide 3 channel sliding door in lieu of 2 channel sliding but they would do so at the cost of the complainant.

Since the complainant is not willing to accept the modification in the approved plan for windows and doors, and the respondent has not taken his consent, taking into consideration the purpose of the Real Estate (Regulation & Development) Act, 2016, the Bench

hereby directs the respondent company to provide 3 channel sliding door in lieu of 2 channel sliding as per the agreement at their own expense. The above directions are to be complied immediately and not later than a period of 60 days.

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

Sd/-
Naveen Verma
Chairman