

REAL ESTATE REGULATORY AUTHORITY, BIHAR
2nd Floor, BSNL Telephone Exchange, North Patel Nagar, Road No. 10,
Patna -800023

**Before the Double Bench of Mr. Naveen Verma, Chairman
& Mrs. Nupur Banerjee, Members**

Complaint Case No.: CC/247/2021

Anand Prakash Singh and Anr.Complainant

Vs.

M/s Kanishka Buildcon Pvt. Ltd.....Respondent

Project: Vidyanand Maheshwari

ORDER

06-01-2022

The matter was last heard before the Double Bench on 2.12.2021 after the detailed Interim Order of 23.11.2021.

The case of the complainant is that he had entered into a registered agreement for sale on 15.06.2013 with the respondent company for purchasing Flat No.301, measuring 1495sq.ft. along with parking space and other amenities in Vidyanand Maheshwari Project for a total consideration amount of Rs.37,18,500/- lakh (Thirty-Seven Lakh Eighteen Thousand Five Hundred). It was also agreed that for availing extra facilities, the complainant would have to pay additional Rs.2,80,000/- .

The respondent company had filed its reply stating that the total consideration amount of flat was Rs.39,98,500/- as per sale agreement which includes Rs.37,18,500/-as cost of flat and

Rs.2,80,000/- under the heading “other Expenditure”. The case of the respondent is that the complainant has made payment of Rs.37,45,454/- only and liable to pay Rs.2,53,046/-.

On 23-11-2021, the Bench has passed an interim order while taking notes that the complainant had not brought any letter or document issued by the respondent company in respect to the waiver of other expenditure as per the agreement. The respondent company has also not been able to clarify under what circumstances such a receipt was issued stating that full and final payment has been received and had given an opportunity to both the parties to file their submission clarifying the above.

On 26-11-2021, respondent has filed supplementary affidavit stating therein that complainant had mentioned in his rejoinder filed on 22-10-2021, that respondent has exempted Rs.2.80 lakh. The respondent has denied this and submit that no written and verbal communication has been made to support this. In the supplementary affidavit the respondent has submitted that full and final payment was never made by the complainant, thus, question of issuing of full and final receipt doesn't arise and complainant has submitted the payment receipts, written as full and final is fabricated one.

On 30-11-2021, the complainant had filed written argument stating therein that respondent has reduced the super built up area of his flat from 1495 sq.ft. to 1200sq.ft.against the recitals of the agreement and when this issue was brought before the respondent then respondent has committed to adjust the same against the payment of the rest amount and after making calculation, the respondent had asked to pay Rs.82,943 and get the receipt of full and final payment.

Further in Para18, the complainant had made submissions that at the time of issuing receipt dt.24-12-2015 as full and final payment, the respondent has adjusted the loss sustained by complainant in respect of super built up area (instead of 1495 sq.ft. less than 1200 sq.ft has been given)

The only issue for consideration now is whether the dues of Rs Rs.2,53,046/- is outstanding against the complainant or not. The respondent has stated on oath that the receipt dated24.12.2015 showing full and final payment is false and fabricated. The complainant is stating that the super built up area has been reduced and hence this amount is not due against him but he has not sworn any affidavit to this effect.

On the basis of the submissions and taking into consideration the documents filed by the Parties, the Bench directs the respondent to execute theregistered sale deed with the complainant on receipt of the entire consideration amount and provide all the amenities as per the agreement to sale dated 15-06-2013 within 60 days from this order.

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman