

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Naveen Verma, Chairman
Case No. RERA/CC/661/2021

Sanjay Kumar

.....Complainant

Vs

M/s Ghar Laxmi Buildcon Pvt Ltd

.....Respondent

Project: Income Tax Residency

ORDER

04/07/2022

This matter was last heard on 11.02.2022 and posted for orders on 21.03.2022. However due to pre-occupation of the Bench in other matters the order could not be pronounced on that date.

The case of the complainant is that he had booked two flats at the rate of rupees 16.75 lacs each totaling Rs 33.50 lacs. The complainant submits that he had paid the advance amount of Rs 13 lacs and agreement of sale was registered on 13.08.2019. Thereafter bank sanctioned loan of rupees 15 lacs to the respondent. The complainant alleges that after having paid rupees 28 lacs in total he could not get the status report of the project and likely the date of handing over the flats. Despite having sent a legal notice he got no response, neither any demand letter of payment of balance amount of 5.50 lacs has been raised.

This matter has been filed for possession of flats no. 306 and 506 along with parking space after receiving the balance payment of Rs. 5.50 lacs and for interim direction to the

respondent not to cancel the allotment of Flat Nos, 306A and 506A and not to sell the flats to any other person.

A reply (supplementary affidavit) has been filed by the respondent stating that only Rs. 25,79,900/- has been paid. The respondent has submitted that that he has clearly mentioned the payment plan in the agreement for sale on 13.08.2019 which gives the schedule of payment and which goes to suggest that the complainant had to made 100% payment at the time of casting of the 1st floor. The respondent raised that despite two legal notices having been served no payment was released nor was any reply given. The respondent submits that Rs.7,70,100/- is still due. The respondent submits that they are ready to abide by the terms and conditions provided the complainant pay the outstanding amount of Rs. 7,70,100/- with interest as prescribed under section 19(6) and 7 of the Act. They have attached the copy of the notice and demand sent to the complainant.

Perused the records. The total price of each flats is 16.75 lacs. The complainant has filed written statement that he is willing to pay the remaining amount of Rs. 5.50 lacs to execute the registered deed of convenience.

During hearing learned counsel for the complainant has submitted that possession was to

be handed over by 30.10.2019. Further promoter is required to collect 10% of the cost at the time of taking possession.

Learned counsel for the respondent has submitted that the complainant ought to have made the entire payment as was mentioned in the schedule of payment. The project was registered with the Authority and Quarterly Progress Report have been uploaded. Learned counsel for the respondent has submitted that the complainant ought to have paid interest also on the balance amount.

Perused the records. The complainant has filed written statement seeking that 15 lacs has been disbursed by them as on 15.05.2021. The fact that the allottee has paid Rs. 13 lacs is also mentioned in the agreement between the promoter, the allottee and the bank. It is obvious that against the consideration amount of rupees 33.50 lacs, 28 lacs has been paid. The only question arises whether the principal amount was paid after the due date and whether any interest is admissible. The promoter has stated that special rate was offered on the condition that the entire amount is paid after casting of the first floor. It is stated that work up to 8th floor was completed as on 05.08.2019. If the allottee has not paid the installment in time the promoter is at liberty to charge interest for the late payment under the

RERA Act, 2016 and Bihar Rules, 2017. However, the promoter had to hand over the flats on 30.10.2019 when they signed agreement on 05.08.2019. The condition of force majeure arising from COVID-19 cannot be held as applicable to them for that period. As per Section 18 of the Act, the allottee is also entitled to receive interest for delayed possession.

In view of the above, the Bench observes that both the parties have erred in fulfilling their obligations as mentioned in the agreement to sale. The Authority, therefore, directs the respondent to accept payment of total amount of Rs. 5.50 lacs to complete the flats and hand over the possession of the same within a period for which the registration directs. The Authority is not inclined to give any direction on the interest because both the parties are liable to pay interest to each other. The Authority notes that the promoter has not given a firm date for completion of flats despite specific direction given on 11.02.2022 for which penalty of Rs. 10,000/- has already been imposed.

With these observations the matter is disposed of.

Sd/-
Naveen Verma
Chairman