

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mrs. Nupur Banerjee, Member

Case No. RERA/CC/757/2021

Madhu Shalini.....Complainant

Vs

M/s Samrat Vijay Construction Pvt. Ltd.Respondent

Project: Dwarika City Center

Present: For Complainant: In Person

For Respondent: Mr. Amit Singh, Advocate

06.07.2022

ORDER

The matter was last heard on 18.05.2022 and order was reserved.

The complainant Smt. Madhu Shalini has filed complaint petition on 01-07-2021 against the respondent company M/s Samrat Vijay Construction Pvt. Ltd. for refund of the principal amount with interest.

The case of the complainant is that she booked a shop being Food Court no:- 5 on third floor having area of 561 sqft in the respondent company project namely Dwarika City Center for total consideration amount of Rs. 56,92,613/- out of which she had paid an amount of Rs. 26,00,000/- in the year 2017.

It has been further alleged that after taking the aforesaid amount, the respondent company did not hand over the shop to the complainant after lapse of four years and having seen no work being carried out by the respondent company, she made several requests to the respondent company to refund the amount but, the respondent company did not refund her booking amount.

Hearing of case were held on 01.10.2021, 01.11.2021, 29.11.2021, 04.05.2022 & 18.05.2022.

After issuance of notice to the respondent company, the aforesaid case was firstly taken up for hearing on 01.10.2021, the learned counsel for the respondent company on the said date prayed for time for filing reply on behalf of respondent.

On 01.11.2021, the learned counsel for the respondent filed their reply wherein they have stated that they are ready to make refund to the complainant.

On 29.11.2021, the Bench was informed that no amount as per direction in the last hearing has been refunded to her. The learned counsel for the respondent again prayed for one month time for refund of the amount of the complainant. The Bench also gave last opportunity to the respondent to ensure refund of principal amount to the complainant.

Again on 04.05.2022, the respondent company was directed to submit an explanation regarding non compliance of the earlier order wherein they have admitted that they will refund the principal amount of the complainant within one month.

On 18.05.2022, the learned counsel for the respondent has stated that they have got cancellation request also from the complainant but, inspite of that they have not refunded the principal amount of the complainant with direction to both the parties to file their written notes of argument.

The complainant has filed her written notes of argument after service of company to the respondent wherein she has stated that inspite of specific direction of the Bench, the respondent company has failed to refund any amount to the complainant.

Perused the records of the case. Both the parties have admitted the said amount. The Bench observes that after taking consideration amount of Rs. 26,00,000/-, no agreement for sale was executed by respondent company.

Not only the respondent company has failed to execute agreement for sale with the complainant but, they have also failed to discharge their obligation as per Section- 11 (3) of the RERA Act and have also failed to comply the orders dated 01.11.2021 & 29.11.2021.

Thus, keeping in view the aforesaid facts and circumstances and submissions made by both the parties and after perusal of the documents filed, the Bench hereby directs the Respondent Company and their Directors to refund entire principal amount of Rs.26 lakh to the complainant along with interest at the rate of marginal cost of fund-based lending rates (MCLR) of State Bank of India plus three percent as applicable for three years from the date of deposit to the date of refund within sixty days of issue of this order.

Further, so far as non-compliance of obligation under Section- 11(3) of the Act, penalty of Rs. 1,00,000/- is being imposed upon the respondent company and also a cost of Rs. 25,000/- is also being imposed upon the respondent company for violation of orders dated 01.11.2021 & 29.11.2021 to be deposited with the Authority within fortnight.

So far as the issue of compensation is concerned, the complainant is at liberty to press the same before the court of Adjudicating Officer.

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

Sd/-
Nupur Banerjee
Member