

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Double Bench of Hon'ble Chairman, Mr. Vivek Kumar Singh
& Hon'ble Member Mr. S.D. Jha, RERA Bihar,**

RERA/CC/187/2023

Mr. Sachin Dev..... Complainant

Vs.

M/s AnuAnand Construction Pvt. Ltd. Respondent

For the complainant: Mr. Nikhil Dev, brother,

For the Respondent: None

Project:–SAI ENCLAVE “ BLOCK- G”

ORDER

28.08.2024 Hearing taken up. Mr. Nikhil Dev, brother of the complainant, appears for the complainant. The respondent is absent.

2. Today the complainant has filed a petition seeking amendment to the payer made in his complaint that he wants refund of money instead of taking over possession of flat and a copy of which is stated to have already been sent to the respondent by mail on 15.07.2024. He further submits that the respondent has neither responded to the mail nor appeared in spite of publication of notice in the newspaper on 14.06.2024.

3 (i). Mr. Nikhil Dev also submits that the complainant booked a 2 BHK flat in Block –B of the project “Sai Enclave” vide Agreement dated 18.04.2013 and thereafter again on account of deviation in the plan, a fresh Agreement was executed on 15.05.2015 mentioning therein Flat no.303 in Block – G, which was to be completed and handed over within three years. Out of the total consideration money of Rs.21,20,000/- the complainant had paid Rs.15,50,000/- between 12.04.2013 to 20.01.2020 but even after expiry of longer time, possession of flat has not been handed over to him. Hence, the complainant filed the present complaint with prayer for handing over possession of flat and interest for delay in handing over possession, which has been changed to refund of money along

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with interest and compensation vide petition dated 28.08.2024 as mentioned above.

(ii) He further submits that vide interim order dated 11.01.2024 the Authority directed the respondent to pay interest at the rate of marginal cost of fund based lending rates of State Bank of India as applicable from 16.05.2018 till the date of handing over possession on the amount of Rs.15,50,000/- but till date the same has not been complied with.

4. Perused the record. The Authority observes that the respondent – promoter neither honoured the commitment made to the complainant of handing over the flat within the time granted nor is appearing in this case in spite of several opportunities granted to him including publication of notice in the newspaper dated 14.06.2024 to appear on 10.07.2024 and subsequently on 28.08.2024 to defend his case. However, the respondent promoter neither appeared nor filed any submission. The Authority also observes that the respondent has not complied with the interim order dated 11.01.2024 of the Authority directing the respondent to pay interest at the rate of marginal cost of fund based lending rates of State Bank of India as applicable from 16.05.2018 till the date of handing over possession on the amount of Rs.15,50,000/-. Considering the hardship being faced by the complainant and also the indifferent and non-cooperative attitude of the respondent – promoter the Authority is left with no option but to dispose of this case on the basis of material available on the record and, accordingly, this case is being disposed of today.

5. Taking into consideration the aforesaid facts and the observations made above, the Authority directs the respondent - company and its Managing Director Mr. Bimal Kumar to refund Rs.15,50,000/- to the complainant along with interest within sixty days of issue of this order. The rate of interest payable by the promoter shall be at two percent above the prevalent prime lending rates of the State Bank of India on the date on which the amount becomes due till the date of payment.

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6. In view of the continued non-compliance of the interim order dated 11.01.2024 as well as subsequent proceedings of the Authority, an additional penalty of Rs.50,000/- is imposed on the respondent under Section 63 of the RERA Act, 2016, which shall also be paid to the complainant within the period of two months from the date of issue of this order.

7. The respondent is also directed to pay the amount of penalty of Rs.10,000/- within ten days, which was imposed vide proceeding dated 11.01.2024 for non-compliance of the earlier proceedings, failing which an additional penalty of Rs.1000/- per day will be imposed w.e.f. 09.09.2024 which shall continue till payment of the said penalty amount. Let a copy of this order be sent to the Compliance Wing, RERA, to take necessary steps for realization of the aforesaid penalty amount

8. The complainant is at liberty to move the Adjudicating Officer, RERA, for compensation, if any, as provided under the provision of the RERA Act, 2016.

With the aforesaid observations and direction, this case is disposed of.

Sd/-
S.D. Jha
Member

Sd/-
Vivek Kumar Singh
Chairman