

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mrs. Nupur Banerjee

Complaint Case No. RERA/CC/843/2021

Baidyanath JhaComplainant

Vs

M/s Ashwini Enterprises Pvt. Ltd.Respondent

Project: Ashwani Residency

Present: For Complainant: Mr. Manoj Kumar Singh, Advocate

For Respondent : None

03/08/2022

ORDER

The case of the complainant is that he had booked a flat bearing no. 203, admeasuring 1494 sq. ft. in the Ashwani Residency project. The complainant has stated that he has paid Rs. 5,01,000/- to the respondent but more than 4 years have been passed but no construction work has been started at the project site. He further submitted that after seeing no development at the project site, he requested respondent for the refund of money paid upon which respondent asked to write a cancellation application and accordingly he had given cancellation letter. He further submitted that after submission of cancellation letter, respondent has provided the payment schedule but till date no refund has been made by the respondent, hence, this complaint case has been filed for refund of paid consideration amount with interest. He further submitted that project is not registered with the Authority.

The complainant has placed on record money receipts and KYC, duly acknowledged and issued by the respondent company. Further the complainant has placed on record Agreement dated 08-05-2015 and cancellation letter dated 03-03-2017.

Perused the case record. The respondent has not filed any specific reply. However, during the course of only one hearing on 23-11-2021, the respondent counsel was present and after that no one appears on the behalf of respondent, therefore, the ex-parte order is being pronounced.

During the last hearing on 04-07-2022, learned counsel for the complainant has submitted that the agreement was made on 5th October and complainant had paid Rs.5,01,000/-. He further submitted that the respondent is not ready to give the flat. So, complainant wants refund of the money with interest for which he has already filed a cancellation application. He submits that penalty may also be imposed.

No one appeared on behalf of respondent on the last date of hearing.

The Bench observes that from the perusal of documents placed, it appears that booking of complainant was made in 2015 prior to existence of RERA Act and no documents has been placed by complainant from which it appears that respondent is taking the booking now and has violated section 3 of the Act. The Bench also observes that from the submissions of complainant, it doesn't appear that what is the current status of project whether the construction or booking is going on or not, hence, Bench directs complainant that if he has any information in respect to construction or booking taking place or any booking has taken after the existence of the Act, then he can share such information or documents with the registration wing for taking appropriate action as per the provisions of the Act.

In the light of submissions made, perusal of case records and considering that complainant has prayed for refund, the Bench hereby directs the respondent company and their

Directors to refund the principal amount of Rs.5.01 lakh (Five Lakh One Thousand) to the complainant along with interest at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for two years plus three percent from the date of taking the booking within sixty days of issue of this order.

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

Sd/-

Nupur Banerjee
Member