REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Mrs. Nupur Banerjee

Complaint Case No. RERA/CC/976/2020

Sarita Kumari……..…….....Complainant

M/s DDL Infratech Pvt. Ltd……..….Respondent

Project: Agrani First City

For Complainant: Mr. Sharad Shekhar, Advocate

For Respondent: Mr. Rabindra Kumar, Advocate
Mr. Shiv Kumar, M.D.

28/09/2022 **O R D E R**

The matter was last heard on 22-08-2022.

1. This complainant petition has been filed seeking relief to direct the respondent to provide physical possession of land with all the amenities as committed under the terms of sale deed no.17951, dated 28-05-2013. Further the complainant also seeks to direct the respondent to compensate by paying interest @10% on the total value of land for delay in delivery of the possession of the plot and to pay compensation of Rs.25,000/- for inconvenience, harassment and mental torture. Complainant has also prayed to direct the respondent to pay Rs.25,000/- as the litigation cost.

2. In short, the case of the complainant is that the respondent has executed the Sale Deed No. 17951, dated 28-05-2013, in favor of complainant for the plot measuring 1200 sq. ft. on the consideration amount of Rs. 2.62 lakh after the payment of full consideration amount. It has been further submitted that respondent has given assurance to provide well planned society with the facilities of good drainage system, electricity etc. but when complainant approached the plot, no development found as per deed and asked for physical possession. It has been further submitted

that after the lapse of more than several years and after several requests the plot has been not handed over to complainant with development. Hence, this complaint.

3. Perused the record of the case. Perused the record of the case. The respondent has filed its affidavit dated 06-06-2022 along with photograph showing the possession handed over to complainant. It has been submitted by the respondent in affidavit that in compliance of the court order, the respondent has handed over physical possession as per company plot number and rectification deed has also been executed having irregularity. It has been further submitted that respondent has completed the provision of 30ft. Wide Road, Layout of Drainage, Water Supply and Electricity as per the agreement. It has been further stated that respondent has developed the land as per the agreement and provide all the amenities in proof, the photograph is attached here with, for perusal and needful.
4. The respondent has filed an application on 08-08-2022 along with copy of rectification deed and receipt of map submitted before Patna metropolitan, Patna and prayed to dispose of the case in the light of submissions made.
5. During the last hearing, learned counsel for the complainant has submitted that final order may be passed on the basis of reply filed by the respondent.

   Learned counsel for the respondent has submitted that the rectification has been done.

The Bench observes that the Project was applied for registration but was not approved due to map not approved by the competent authority and liberty was given to apply a fresh with the map getting approved from the competent authority, hence, the project was registrable as per 1st Proviso of Section 3(1) of the Act. The Hon'ble Supreme Court recently in M/s Newtech Promoters & Developers Pvt. Ltd. Vs State of U.P & Ors. [2022] (1) RCR (Civil) 357 has observed that the Act is not retrospective in nature, rather it is retroactive because it affects the existing rights of the persons mentioned in the Act like promoter, allottee etc. The intent of legislature was to include all ongoing projects

which commenced prior to the enforcement of the Act and this project was also an ongoing project as evident from the documents placed.

Further, In Lavasa Corporation Limited v/s Jitendra Jagdish Tulsiani & Others, Second Appeal (Stamp) Nos. 9717 of 2018 & 18465 of 2018, 18467 of 2018 with Civil Application Nos. 683 of 2018, 791 of 2018, 792 of 2018, the Hon'ble Bombay High court has observed that RERA is brought on Statute Book to ensure greater accountability towards the consumers and significantly reduce frauds and delays, as also the current high transaction costs. It attempts to balance the interests of consumers and promoters, by imposing certain responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions and set minimum standards of accountability and a fast-track dispute resolution mechanism. The RERA, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector, thus, paving the way for accelerated growth and investments in the long run.

Hence, the Bench finds that the present Complaint Case is fall within the ambit of RERA Act, 2016 to entertain and therefore, maintainable against the Respondent.

The Bench takes the notes of committee report dated 18-02-202 placed on record for kind perusal as submitted by the committee went for inspection as per the direction of the Authority by giving their findings therein.

In the light of the submissions, advanced by learned counsel for the parties and documents placed, this Bench deals the issue raised in the present complainant in the following manner:-

As regards the possession of plot, the Bench takes the notes of submissions of learned counsel for respondent made during the course of hearing on 05-07-2022 as well as affidavit filed along with photographs stating and showing that possession of plot has been

handed over and observes that this issue has been addressed and complied by the respondent.

As regards the receipts of map placed by respondent submitted before the competent authority is concerned, the Bench takes the notes of the same and directs the respondent to provide the copy of map to allottees as well as complainant as soon as it gets approved by the competent Authority.

As regard Development is concerned, the Bench takes the notes of affidavit filed by the respondent, photographs placed as well as many photographs and videos of the project indicating development shown during the course of hearings and observes that it cannot be said that no development work has been done by the respondent at the project site but yes, few more works are needed to be done at the project site to say that project is complete and developed in all respect, hence, the Bench, directs respondent to complete the work of development at the project sites required to be completed as per agreement as soon as possible, so that, complainant/allottees can stay/ live there in better environment.

As regard, the execution of rectification deed is concerned, the Bench takes the notes of rectification deed placed on record by respondent as well as the submissions made in respect to execution of rectification deed during the course of last hearing and observes that this issue has been addressed and complied by the respondent.

As regards claim for compensation is concerned, the complainant is at liberty to press the same before the A.O. as per the provisions of the Act.

With these directions and observations, this complaint petition is disposed of.

Sd/-

Nupur Banerjee
Member