

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mr. Naveen Verma, Chairman

RERA/CC/1196/2021

Maya DeviComplainant

Vs

M/s Micro Banking Solution Pvt. Ltd.Respondent

Project: Prem Kunj

16.09.2022

Interim Order

19.09.2022

This matter has been filed by the complainants, who are land owner allottees, to direct the respondent, who is a promoter who had entered into a development agreement with them to complete the building, hand over their shares after issuance of completion and occupancy certificates and also for payment of compensation. They have also stated that the respondent be directed to ensure that the project gets registered. They have filed copies of the development agreement and the legal notices sent by them.

The respondent has questioned the maintainability of the complaint petition on a number of grounds. He states that the complainant has not given any evidence that the respondent is constructing the flats for sale and hence he is not a promoter and this is not a real estate project as defined in the RERA Act, 2016. It has also been stated that neither is there a violation of Section 3 of the Act nor is the Authority competent to adjudicate on the issues raised by the complainant and that in any case the agreement was entered into before the Act came into force.

The complainants have filed a reply stating that is, indeed, a real estate project as the respondent has been constructing G plus 4 building having more than 8 flats. They have submitted that they had entered into a supplementary development agreement on 15.10.2018; the map was approved by PMC on 13.07.2021 and that the project is on-going. They have requested that the Authority may initiate proceeding against the respondent under Section 59 for violation of Section 3 of the Act and that a report be called from PMC under Section 35 of the Act. They have also filed photographs of the project.

The respondent has filed a rejoinder to the reply reiterating that neither the project comes within the definition of a real estate project nor are they a promoter under the RERA Act, 2016 and hence this dispute ought to have been raised before a Civil Court under the provisions of Specific Performance Act.

These issues were also raised by the both the learned counsel for the complainants and the respondent during the course of hearings.

The Authority notes that the respondent company have not stated on oath that they have entered into a development agreement with the complainants for constructing flats, which would not be offered for sale. They have also not filed any affidavit stating that the number of flats does not exceed eight and that the project is not ongoing as on date. In the absence of such affirmations on oath, the contentions of the complainants appear to be reasonable, more so because they have filed the matter for getting possession of their share of the flats.

The Authority, therefore, holds that the matter is maintainable and directs the respondent to get the project registered under Section 3 of the RERA Act, 2016 without any further delay. The question of taking action under Section 59 of the Act would arise after it is established that the respondents have advertised their share of the flats for sale.

The claim of the complainants relating to possession would be heard by the Authority. The complainants are at liberty to press other claims, which are in the nature of compensation, before the Adjudicating Officer.

List this matter on 13.10.2022.

Sd/-

Naveen Verma

Chairman