

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mr. Naveen Verma, Chairman

Case No. RERA/CC/1454/2020

Mr. Niranjan Kumar.....Complainant
Vs.
M/s Shine City Infra Project Pvt. Ltd.....Respondent

Project: - Tashi Sector - 3

ORDER

04.08.2022

The matter was last heard on 02.06.2022.

The case of the complainant is that he had booked plot bearing no: E-179 admeasuring 1000 sq. ft. in the project. The complainant has stated that he has paid Rs. 2,93,750/- to the respondent but since they have failed to hand over the plot, the complainant has filed this case seeking relief of executing the sale deed and handing over possession or at least refund of the principal amount with interest.

The complainant has placed on record copies of various money receipts for the amount paid duly acknowledged by the respondent company, KYC and Plot Buyer's Agreement.

Perused the records. No reply has been filed by the respondent.

On the last date of hearing the Bench had observed ,inter alia, that the complainant had requested for refund along with interest whereas in his complaint petition the primary relief sought is for possession of the plot. The Bench had then directed the complainant to amend the complaint petition indicating whether he wants a refund or possession.

The Bench notes that in compliance with the direction of the Bench the complainant filed his amended complaint petition on 2 June 2022 through email to the office of the Authority, seeking relief of the refund of the principal amount with interest.

The Bench notes that the complainant ought to have sent

the letter for cancellation of her booking to the promoter and approached the Authority only after the promoter had failed to respond to such request. However, since the matter has been taken up for hearing, orders are being passed.

The Authority notes that the respondent has violated Section 3 of RERA Act, 2016 as the respondent was continuously advertising, marketing, booking, selling apartments/plots without registering the real estate project with RERA. This matter may be included in the Suo Moto proceeding against the respondent company.

During the course of hearing the respondent never appeared before the Authority. An interim order was passed on 24.02.2021, directing to freeze all the bank accounts of the respondents and further directed the IG Registration not to register any apartment/plots of the aforesaid project and the matter was further referred to Economic Offence Wing of Bihar Police.

On the request made by the Authority, the EOU vide letter no:- 5941 dated 23.08.2021 requested the SSP, Patna to look into the matter and take necessary action against the respondent company and connected persons.

The Bench directs that a copy of the proceedings/order may be sent to SSP, Patna for appropriate action.

The Bench observes that the allottee has not sent any communication to the promoter regarding the cancellation of the booking. The Authority ought to be approached only after the promoter fails to respond to such communication. However, since the matter has already been heard, and the promoter is not appearing, orders are being pronounced.

After considering the documents filed and submissions made by both the parties, the Bench hereby directs the respondent company and its Directors to refund the paid consideration of Rs. 2,93,750/- (Rupees Two Lakhs Ninety-Three Thousand Seven Hundred and Fifty only) to the complainant along with interest at the rate of marginal cost of fund based lending rates (M.C.L.R.)

of the State Bank of India as applicable for three years plus one percent from the date of taking the booking till the date of refund within sixty days of issue of this order.

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

Sd/-
Naveen Verma
(Chairman)