

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mrs. Nupur Banerjee

Case No. CC/754/2021

Adarsh Kumar AmbastComplainant

Vs

M/s Shinecity Infra Project Pvt. Ltd.....Respondent

Project: Swargaya Bhoomi Phase-2, Nisarg Omna

Present: For Complainant: Mr. Amitesh Kumar Mishra, Advocate

For Respondent : None

15/06/2022

Order

Hearing taken up. Mr. Amitesh Kumar Mishra, Advocate appears on behalf of the complainant. The respondent is absent.

Learned counsel for the complainant submits that the complainant wants refund of the money with interest.

Perused the record of the case. The case of the complainant is that complainant had booked four plots bearing plot nos. A-26 & E-56 in Swargaya Bhoomi Phase-2 Project and plots no. E-14 & D-276, in Nisarg Project and had paid amount of Rs.6,60,000/- for plot no.A-26, for plot no.E-56 Rs.2,18,750/-, for plot no.E-14 Rs.3,00,000/- and for plot no.D-276 Rs.50,000/-, totalling to Rs. 12,28,750/-. Since, the plots were not allotted after waiting for years, the complainant has filed the present case praying for refund of amount paid along with interest and compensation.

The complainant has placed on record copy of e-receipts against the payment of Rs.12,28,750/- duly issued by the respondent company.

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.

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

During the course of hearing in analogous cases also respondent has 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 cancellation of 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.

In the light of submissions made and documents placed, the Bench hereby directs the respondent company and its directors to refund the principal amount of Rs. 12,28,750/- to the complainant along with interest at the rate of marginal cost of fund based lending rate (MCLR) of State Bank of India as applicable for three years plus 2 percent from the date of taking the booking till the date of refund within sixty days of issue of this order.

So far as claim for compensation is concerned the complainant is at liberty to press his claim before the court of Adjudicating Officer.

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

Sd/-

Nupur Banerjee
Member