

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case No. RERA/CC/756/2019

Bandana Kumari.....Complainant

Vs

M/s RD Eco Developers Pvt. Ltd.....Respondent

Project: RD ECO DEVELOPERS PRIVATE LIMITED

Present: For Complainant: Mr. M.K. Ambashtha, Advocate
For Respondent: Mr. P.K.Dubey, Advocate

30/06/2022

ORDER

The matter was last heard on 25.02.2022 and after hearing the order was kept reserved.

The complainant Bandana Kumari W/O Rajnish Kumar, Resident of Abhishek Enclave , Lekha Nagar, Khagaul Road, Danapur Patna, has filed complaint petition on 09-12-2019 against the respondent company M/s RD Eco Developers Pvt Ltd for refund of the deposited money with interest.

The complainant in his complaint petition dated 09-12-2019 have stated that she had booked a flat bearing Flat no. 304 B, in the project RD Eco Developers Private Limited and paid Rs. 15 lakh- through cheques. She further submitted that she cancelled the flat because respondent was not ready for executing agreement for sale in favor of booked flat as respondent was demanding extra amount but without agreement, loan from bank can't be availed so, she cancelled the flat. She further submitted that at the time of cancellation, respondent has promised to return the amount paid by end of

October, 2019 year but after several reminders, respondent has not returned the amount. Hence, this complaint.

The complainant has placed on record copy of application form in which the amount of Rs.15 lakh was mentioned in the form. Further the complainant has also placed on record two cheques of Rs.9 lakh & 6 lakh issued to respondent company and statement of Account for the period between 14-07-2019 to 30-07-2019.

Perused the record. The respondent has filed its reply on 24-02-2020 stating there in that complaint is not maintainable in view of the fact that there is no payment or transaction with answering respondent with complainant rather same transaction was with husband of complainant namely Rajnish Kumar and that was not respect to any flat rather same transaction was with respect to friendly loan taken by Rajnish Kumar from present answering respondent. It has been further submitted that in January, 2018, the husband of complainant approached to answering respondent and requested a demand of Rs.15 lakh for his personal need and accordingly respondent paid the amount after arranging and one Ekrarnama dated 25-01-2018 was executed. It has been further submitted that on same day complainant husband has given tow post dated cheques to respondent of Rs.9 lakh and Rs. 6 lakh respectively. It has also been submitted that in application form brought on record by the complainant in respect to booking of the alleged flat contains only the signatures of complainant husband not complainant and not bear the signature of any representative of respondent.

On 24-02-2020, complainant has filed rejoinder stating therein that respondent has made a cooked story of giving loan to the husband of complainant and receiving back the loan amount through cheques dated 12-07-2019. It has been further submitted that no loan was ever taken and the agreement brought on record by the respondent does not contain complainant's husband's signatures.

On 28-06-2021, respondent had filed reply to rejoinder stating therein while giving reference to Annexure-R/2 that respondent has given loan and taken it back, hence, said amount has been shown as loan not as advance against any flat and that is the reason respondent has neither paid GST nor, relevant documents of that period shows that answering respondent has taken advance from complainant or her husband. Even balance sheet forwarded to the company registrar also shows that this amount has not been shown as advance taken against any flat.

On 11-02-2022, complainant has filed written arguments stating therein that the complainant along with her husband has Visited the office of the respondent in June-July 2019 and after being satisfied by their version regarding their upcoming project, she booked one flat, which was to cost Rs. 45,85,000/- including parking space and accordingly was asked to fill the form and paid Rs.15 lakh via chques. It has been further submitted that respondent has kept the original form and has not issued the money receipt and promised to execute the Agreement for Sale but when complainant approached them, they started demanding more money for which complainant said them without Agreement for sale, no bank will advance any loan and decided to cancel the booking and asked for the refund of the money. It has been further submitted that respondent has assured to return the money by October, 2019 but respondent did not return the money. Then complainant filed this case before the Authority. It has also been submitted that in 2018 complainant husband was staying in Ambala as he was posted at Ambala Airforce Station and he was not present at Patna on 25-01-2018 and never met the respondent before July,2019 then there was no question of friendly relation between them as pointed out by the respondent. It has also been submitted that respondent deliberately has not submitted the books of account submitted before the registrar of company and prays to direct the respondent to refund the deposited amount.

After perusal of the documents placed on record and submissions made, the Bench Observes that no materials found on record which establishes the averments of the respondent that amount was returned to respondent in respect to the loan given to the husband of complainant in friendly relation, rather the Bench finds that amount was paid towards the booking of the alleged flat by complainant which transpires from the record placed by the complainant i.e. Application Form, cheques and Account statement of transaction dated 14-07-2019. The Bench also observes that communication regarding refund was made by the complainant via letter dated 19-11-2019 through speed post.

The Bench also observes that this court has no jurisdiction to entertain the counter claim of the respondent regarding loan given to the husband of complainant Mr. Rajnish Kumar. However, the respondent may approach the appropriate forum for the recovery of loan of Rs.15 lakh given to the Husband of complainant Mr. Mr. Rajnish Kumar in friendly relation.

In the light of above observations, the Bench directs respondent and their directors to refund the principal amount of Rs.15 lakh 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 two percent from the date of taking the booking till the date of refund within sixty days of issue of this order.

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

Sd/-

Nupur Banerjee

Member