

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/884/2020

Dr. Alok Kumar SinghComplainant

Vs

M/s Ashiana Land Developers & Projects Pvt. Ltd.....Respondent

Project: Singam Apartment

Present: For Complainants: Mr. Sharad Shekhar, Advocate

For Respondent: None

30/06/2022

ORDER

The complainant Dr. Alok Kumar Singh, a resident of Flat No. 312, Block III, Sangam Apartments, Ashiana Nagar, Phase II, Patna has filed a complaint petition against the respondent firm M/s Ashiana Land Developers & Projects Pvt. Ltd. for a direction to the respondent to execute the absolute sale deed in his favour against Flat No. 312, Block III, Phase II of the 'Sangam Apartment', provide all amenities and complete the construction as given in the terms of agreement for sale with a direction to pay compensation and the cost of litigation.

In short, the case of the complainant is that an agreement for sale was executed in favour of the complainant on 04.10.1991 against Flat No. 312, Block III, Phase II measuring 840 sq.ft., a copy of which is annexed as Annexure 1. It is stated that the complainant has been living in peaceful possession of the said flat and paying property tax, electricity bill and other taxes. The complainant has requested the respondent for registry of the flat but they have not responded and after making several reminders the flat has not been registered till date. It is further stated that the complainant has filed detailed representation before the Registrar for registration of the above flat, a copy of which is enclosed as Annexure 3 series. It is further submitted that the complainant has given several reminders to the office of the respondent to settle all the documents but no step has been taken by them. Hence, this complaint.

A notice dated 06.03.2020 was issued to the respondent company under Section 31 of the RERA Act, 2016 and Rule 36 of the RERA Rules 2017 to file their reply, but the respondent company has not filed any reply. Thereafter, on 22.10.2020 again notice was sent to the respondent company to appear on 25.11.2020 and file reply with a copy to the complainant to appear on that date, but no reply was filed. A last notice dated 17-12-2021 was issued to appear on 18-01-2022 with proceeding dated 09-12-2021, failing which matter will be heard ex-parte, but no one appears on the behalf of respondent.

On 09.03.2021 hearing was taken up and Mr. Sharad Shekhar, Advocate appeared on behalf of the complainant but none appeared on behalf of the

respondent company. On 09.12.2021 the respondent was absent while learned counsel for the complainant was present. On 02.05.2022 also learned counsel for the complainant was present but again none appeared on behalf of the respondent company.

Learned counsel for the complainant during the last hearing has submitted that the complainant has been in peaceful possession of the flat in question and paying the property tax, electricity bill etc. All the amounts have already been paid in the account of the promoter but they had not executed absolute sale deed in his favor, therefore, direction may be issued to the Sub Registrar for registration of the concerned flat unilaterally.

The Bench observes that Agreement for Sale dated 04-10-1991 is unregistered. The complainant states that he is leaving peacefully in the concerned flat since 04-10-1991 along with other allottees of the project. The complainant couldn't produce any document which may show that concerned project was on going on 1-05-2017. After due notice, respondent could not appear so that exact states of affairs could not come on the record. The complainant did not raise this matter before any forum prior to establishment of Authority rather it shows that he was waiting for establishment of Authority after such a long gap. In such facts and circumstances, it appears that the complainant petition of complainant is not maintainable and fit case to be dismissed. Accordingly, complainant petition is dismissed.

Sd/-

Nupur Banerjee
Member