

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mr. Naveen Verma, Chairman

Case No. RERA/CC/1152/2021

Rohit Ranjan

.....Complainant

Vs

M/s R. R. Builder and Developers Pvt. Ltd.

.....Respondent

Project: RR Builder Sanchar Nagar

ORDER

4.7.2022: This matter was last heard on 18.5.2022 and was posted for orders on 13.6.2022. However, due to pre-occupation of the Bench in other matter order could not be pronounced.

The complainant has booked flat no. 409 on 25th November, 2020 after paying the booking amount of Rs. 3 lakh. The complainant alleged that in the absence of necessary documents he could not obtain the loan from the Union Bank of India where he is an employee. The complainant submitted that he could not get loan sanctioned due to non-submission of necessary documents by the promoter. Subsequently, he applied for loan from UCO Bank, which sanctioned loan in September, 2021 but he allegedly got a message that the loan has been cancelled without giving any reason.

The matter has been filed for execution of Sale Deed in the name of the complainant.

Reply has been filed by the respondent stating that the matter has been filed after expiry of 90 days of cancellation. He submitted that the sale of flat was agreed at Rs. 57.38 lakh but the complainant paid only 21 thousand as a token amount on 26.9.2020 and when they were requested to take money back as they could not pay the remaining amount on 19.11.2020, the complainant transferred Rs. 2,80,245/-.

The respondent submitted that the complainant had to pay 20% of the consideration amount and get the Agreement to Sale executed but since they later undertook to pay the remaining amount within a period of 30 days, an agreement to Sale was executed on 25.11.2020. The respondent has submitted further that the demand letters were sent to the complainant and as they did not get any response then the allotment was cancelled on 24.3.2021. However, on the request of the complainant that he was suffering from COVID-19, the same flat was re-allotted on 3.6.2021 on the condition that the dues amount should be paid within one month. Thereafter the complainant did not make payment, the allotment was finally cancelled on 18.8.2021 keeping in view the provision of Section 19 of

the Act. Copies of demand letter dated 16.2.2021, 10.3.2021 and Agreement to Sale have been filed.

Perused the records. The Authority observes that the Act provides that before the Agreement to Sale, the promoter cannot take more than 10% of the total consideration amount. The submission of the respondent that the complainant was required to pay 20% of the consideration amount at the time of booking is in contravention of the provision of the Act. The Authority notes that the Agreement to Sale was executed wherein the schedule of payment is mentioned. The RERA Act, 2016 mentions the obligation of the promoters as well as of the allottees. The allottees are required to make payment of instalments. In this case the respondent has submitted that the installments have not been paid. The respondent was required to send notice to the allottee under Section 11 (5) of the Act before cancelling the booking which they had re-allotted to the complainant on 3.6.2021. While the promoter has given evidence of demand letters/ notice being issued before the first cancellation, it is not clear that notice was sent to the complainant before cancellation on 18.8.2021. The Authority holds , to that extent, the letter of cancellation dated 18.8.2021 is bad in law.

The Authority takes note of the submission of the complainant he was willing to pay the full amount and wants possession of the flat. The respondent company in its reply has not mentioned that the flat has been allotted to someone else.

Under these circumstances the Authority directs the respondent to allot the same flat again, if it is still available to the complainant who would pay the consideration amount as per schedule. The matter of interest on delayed payment of instalments may be mutually settled between the complainant and the respondent. If, however, the flat has allotted to someone else, the respondent would refund the entire amount received by them along with interest calculated at the MCLR of SBI for one year from the date of taking the booking to the date of refund within 60 days from the date of order.

With this direction/observation the matter is disposed of.

Sd/-

Naveen Verma
Chairman