

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mr. R.B. Sinha, Hon'ble Member

Complaint Case No.: CC/228/2019

Ranjeet Kumar Pandit.....Complainants

Vs.

M/s Geetanjali Vatika Pvt. Ltd.....Respondent

Present: For Complainant: Mr. Sunil Kumar Singh, Adv

For Respondent: Mr. Ankit Kumar, Adv

19.04.2021

O R D E R

1. Ranjeet Kumar Pandit, S/o Sri Jai Kishan Pandit, resident of village Lodipur, P.O. Kewta, P.S. Dalsingsarai, District-Samastipur- has filed a complaint petition on 23rd January 2019 against M/s Geetanjali Vatika Pvt. Ltd. through its Director Mr. Rohit Verma, 207, Faizal Imam Complex, Dak Bunglow Chauraha, Patna- 800001 under Section 31 of the Real Estate (Regulation and Development) Act, 2016 for Breach of Agreement by unilateral and abrupt cancellation of his booking for the flat in Block- A of the Project Geetanjali Vatika Green City.
2. The complainant has submitted photocopies of Agreement for sale, his letter dated 15/11/2018 and respondent's letter dated 17/11/2018, account details and legal notice along with his application.

FACTS OF THE CASE

3. In his petition, Ranjeet Kumar Pandit has stated that he had entered into an agreement with the respondent company on

16/02/2018 for purchasing Flat no. 502 in Block- A of the Geetanjali Vatika Green City situated at Mauza Elahibagh, P.S. Gopalpur, Patna admeasuring super built up area of 1550 Sq.ft (approx) along with one car parking space in semi basement with other facilities. The total consideration amount for the said flat was Rs. 46,40,000/- only. At the time of agreement, the complainant paid Rs. 4,50,000/- and additional sum of Rs. 28,00,000/- was paid on different dates up to November 2018. In all, Rs. 32,50,000/- (Rupees thirty two lakh and fifty thousand only) was paid in total by the complainant to the respondent. Besides the terms and conditions mentioned in the agreement, the respondent company assured that the work would start within one or two months and four other facilities like 40 ft. Road from National Highways, Boundary walls all around the township and construction of community hall containing hospital and malls and facilities of garden will be provided in the ongoing project. However, the respondent had not charged any extra cost for such facilities but no any such work has started. On 24/10/2018, the complainant had visited the site and had brought this fact to the notice of the respondent and engineer, that building material including bricks and concretes that were being used in the construction was of low quality, but none of them bothered to take any remedial action. A letter dated 15/11/2018 was issued to the Director regarding the same. On 17/11/2018, the director had informed the complainant that on the complainants' dissatisfaction regarding the use of low quality material for construction, the Director of the company have decided in the meeting to cancel his booking and refund the money to the complainant. In the light of decision of Director's meeting, complainant vide letter dated 21/11/2018 requested the

Director to refund the money with interest from the date of payment. The complainant also assured that if the amount is refunded in his account, he will come to the respondent's office for completing the cancellation process. The complainant has taken loan from the bank which is being paid by him in the form of instalment every month. The respondent had not yet registered Block- A of M/s Geetanjali Vatika Pvt. Ltd with RERA and was still selling flats and advertising about the real estate project which is against the provision mentioned in the Real Estate (Regulation and Development) Act, 2016. After observing the respondent's intention, the complainant then sent legal notice to the respondent through his lawyer Sri Amar Nath Singh on 30/11/2018, stating about the deficiencies in service of the respondent and negligence on the part of the respondent company.

4. Mr. Ranjeet Kumar Pandit, prays for refund of money i.e. Rs. 32,50,000/- with interest @18% per annum compound interest to be calculated from every month since the date of payment. He further prays for compensation of Rs. 2,00,000/- for mental agony.
5. In pursuance to the receipt of Complaint petition, a notice was issued to the respondent company to furnish their reply.

RESPONSE OF THE RESPONDENT

6. The respondent submitted their reply on 28/02/2019, to the notice dated 15/02/2019 issued by the Authority on the basis of the complaint petitions filed by the complainants. The respondent in his reply stated that the complainants were satisfied with the registered agreement for sale at the time of the agreement and if

they were unsatisfied, then they shouldn't have entered into an agreement. However, the respondent is ready to refund the amount to the complainants.

HEARING

7. Hearings were held on 08/07/2019; 08/08/2019; 27/08/2019; 29/08/2019; 03/09/2019; 25/10/2019; 15/11/2019; 20/11/2019; 20/12/2019; 06/02/2020; 06/03/2020 and 12/01/2021. In the course of hearing, Mr. Sunil Kumar Singh, represented the complainant and Mr. Mohit Raj and Mr. Ankit Kumar represented the respondent company. On 08/08/2019, respondent company was directed to refund the principal amount in 3 instalments and 1st instalment of atleast Rs. 10,00,000/- must be paid by the next date. In the course of hearing, respondent company kept on assuring that the deposited amount would be refunded but kept on delaying the refund of amount on one pretext or the other, till November 2019. On 20/12/2019, the respondent company paid Rs. 6,00,000/- via Cheque no. 679374, dated 20/12/2019. Finally on 06/03/2020, respondent submitted four post-dated cheques as follows.

- Rs. 4,50,000/- cheque no. 679449, dated 20/05/2020;
- Rs. 4,00,000/- cheque no. 679450, dated 20/04/2020;
- Rs. 4,00,000/- cheque no. 679448, dated 20/03/2020;
- Rs. 4,00,000/- cheque no. 679447, dated 06/03/2020.

On 12/01/2021, the complainant admitted that the entire amount has been refunded and prayed for interest as he had paid substantial amount to the Bank for the home loan taken by him.

Issues for Consideration

8. There is no dispute on the facts of the case. Both parties have entered into an agreement for sale on 16th February 2018 for apartment Flat no. 502 in Block- A of the Geetanjali Vatika Green City along with one car parking space. The total consideration amount for the said flat was Rs. 46,40,000/- only. At the time of agreement, the complainant paid Rs. 4,50,000/- and additional sum of Rs. 28,00,000/- was paid on different dates till November 2018. The Respondent has refunded the deposited amount during the course of hearing on different dates up to March 2020.
9. It is therefore evident that the complainant had paid 70 percent of the consideration amount of the apartment within nine months of execution of the agreement for sale. Further though the respondent unilaterally cancelled the booking of the apartment without giving any opportunity to the allottee, they didn't also refund the deposited amount on their own and availed the economic benefits of the significant deposit made by the complainant for nearly two years. It was only after repeated directions of the Bench, the respondent refunded the deposited amount in several installments.
10. The Complainant has also asked for compensation of Rs. 2,00,000/- (Rupees two lakhs only) for mental agony he has undergone due to arbitrary and illegal cancellation of booking of his apartment in violation of section 11 (5) of the Real Estate (Regulation and Development) Act 2016. Since the Respondent didn't give any opportunity to the complainant for explaining his stand and keeping in view the fact that the Complainant had paid 70 percent of the total consideration amount of the apartment, it is

held without any reasonable doubt that the respondent has violated the section 11 (5) of the Act 2016. Hence the complainant is entitled for reasonable amount of damages/compensation from the Respondent Company.

ORDER

11. The Bench therefore orders the respondent company to pay an interest at the marginal cost of lending rate (MCLR) of the State Bank of India (SBI) plus two percent on the deposited amount from the date of deposit to the date of refund, to be paid within sixty days of issue of this order, failing which the Respondent company will have to pay 8 percent interest per annum on the payable amount from 21 May 2020, i.e. the date next to the date of last installment of refund, until the date of actual payment.
12. The Respondent company will also pay Rs one lakh and fifty thousand as damages for unilateral and arbitrary cancellation of the booking of the flat of the complainant without affording him any opportunity to explain his conduct, particularly when he had paid seventy percent of the cost of the apartment within nine months of the agreement.

Date: 19.04.2021

Sd/-
R.B.SINHA
Member