

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mr R.B. Sinha, Member

Case No.CC/380/2019

Samod Pandit.....Complainant

Vs

M/s Sai Sampann Infra LLP.....Respondent

Present: For Complainant: In person
Mr Ashok Kumar, Adv
Mr Om Prakash, Adv
For Respondent: Mr R.R. Singh, Adv

29/04/2021

O R D E R

1. Mr Samod Pandit, S/o Late Dukhu Pandit, a resident of Mohalla Pethia Par, Near Kali Asthan, Danapur has filed a complaint petition on 16th May 2019 under Section 31 of the Real Estate (Regulation and Development) Act 2016 against M/s Sai Sampann Infra LLP through its director Mr Ajay Kumar, requesting therein to stop the work of construction of the Project Sai Sampann Usha Palace on disputed plot of land to avoid future litigation and to safeguard the interest of customers/allottees.

Case of the Complainant:

2. The petitioner has submitted that the land of plot no.192 and 193 situated at Babkarpur PS Danapur over which the map has been sanctioned for construction of the Project Sai Sampann Usha Palace of the Promoter M/s Sai Sampann Infra LLP is under dispute and a Title Suit No.03/19 between the land owner Munna Pandit & Ravinder Pandit Vs Mos. Pano Devi & Ors for declaration of their right, title and interest over the same, is pending before the Sub-Judge V, Danapur and unless the title and possession of Munna

Pandit & Ravinder Singh is declared over the said land, no construction work should be permitted.

3. In pursuance to the receipt of the Petition, the Authority issued a notice on 04.07.2021 under provisions of the Real Estate (Regulation & Development) Act, 2016 and rules of the Real Estate (Regulation & Development) Rules, 2017 to the respondent company to submit reply by 19/07/2019.

4. The respondent company however submitted its reply on 22/08/2019 wherein they have claimed that this case is not maintainable in this forum because the complainant who filed the case is neither the land owner nor any allottee or any agent but an outsider whose only motive is to take undue advantage. The case was filed by the land owners themselves. The respondent and the land owners Munna Pandit & Ravindra Pandit have signed a development agreement on 07/04/2018 after going through all the available documents regarding entitlement and possession over the said plot for making a multi storied apartment namely Sai Sampann Usha Palace which is a registered project under RERA. It was also decided in the development agreement that 40% of the constructed area would come under land owners and the rest 60% would be share of the respondent company.

5. The respondent company further submitted that the land owners have complete right, title and possession over the land and all documents prove that after the death of land owner's father mutation is complete in land owners favour and even lagan receipts are also in their names. The respondent company requested to set aside the case which is based on wrong submissions and claims.

Hearings:

6. Hearings were held on 21/10/2019, 18/12/2019, 20/01/2020, 06/02/2020, 04/03/2020, 12/01/2021 and 01/02/2021. In course of hearing the complainant was represented by Mr Ashok Kumar, Advocate while the respondent company was represented by Mr Rakesh Roushan Singh, Advocate.

7. On 12/01/2021 learned counsel of the complainant submitted that the development agreement was executed by the developer notwithstanding the fact that a title suit was pending before the Civil Court. The basic issue involved is that the property was a joint property on the day when the development agreement was executed.

8. On the other hand, learned counsel of the respondent submitted that the title suit has been filed by the respondent only and there was no dispute on the plot of land on which the project was being developed to which the complainant also agreed. Learned counsel further submitted that the complaint petition is not maintainable before RERA court and hence the complaint petition is fit to be dismissed.

9. Learned counsel of the respondent submitted that the Sub Judge has already allowed the amendment petition in the title suit. The complainant further filed petition against the same before the District Judge where the respondent's petition was allowed and the complainant's petition was dismissed. He claimed that the subject matter being outside the ambit of the Authority and hence the case was liable to be dismissed.

Order :

10. The relief sought by the complainant is already covered under section 18 (2) of the Real estate (Regulation and Development) Act 2016 which states that the Promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed in the manner as provided under this Act and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

11. The case is therefore, disposed off, with a direction to the promoter to inform each allottee in writing in advance either at the time of booking the flat or in case of existing allottees, within thirty days of issue of this order, regarding the pendency of the title suit case with a commitment that they

would compensate each allottee in case of any loss caused to him/her due to defective title of the land on which the project is/has been developed in the eventuality of adverse decision of the competent civil court.

Dated 29.04.2021

**Sd/-
R.B. Sinha
Member**