

REAL ESTATE REGULATORY AUTHORITY, BIHAR

BSNL Telephone Exchange Building, Patel Nagar, Patna-800014.

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

CC No.CC/524/2019

Sanjula Verma.....Complainant

Vs

M/s Maha Shakti Construction Pvt Ltd.....Respondent

Project: Upendra Villa Apartment, Yarpur, Gardanibagh, Patna

Present: For Complainants: In person

For Respondent : Mr Sharad Shekhar, Advocate

19/11/2021

ORDER

1. Mrs Sanjula Verma, a resident of Qr No.120/AB, Railway Colony, Near CDA Building, Rajendra Path, Patna has filed a complaint petition on 09/08/2019 against the respondent company M/s Mahashakti Construction Pvt Ltd through their director Mr V K Sinha for providing the specified car parking space along with the flat in the project Upendra Villa Apartment, Yarpur, Gardanibagh, Patna and interim relief of Rs 5000/- per month since she has been forced to take a car parking space on rent.

Case of the Complainant:

2. The complainant in her complaint petition has stated that she had purchased a flat No.303 along with a car parking space no-08 in the project Upendra Villa Apartment, Yarpur, Gardanibagh, Patna but the builder has not yet provided the possession of her car parking space, though the same had been sold to her and registered conveyance deed has been executed of the flat no -303 along with parking space no-08 in the aforesaid project.

3. The Authority issued a notice on 19/09/2019 under various sections of the Real Estate (Regulation & Development) Act 2016 and Rule 36 of the Bihar Real Estate (Regulation & Development) Rules 2017 to the respondent company to file its reply within a fortnight i.e. by 4.10.2019.

4. However, the respondent company did not file its reply. The matter was, therefore, fixed for hearing on 27/02/2020.

5. Mr VK Sinha, Managing Partner of the respondent company, in his reply dated 10/11/2020 has submitted that the project "Upendra Villa" is consisting of 12 flats with the respective car parking on the ground floor as per sanctioned map plan. He further submitted that the complainant is residing in her flat since last 7 years and her allegation is baseless since all the allottees including the complainant have

been allotted and given peaceful possession with car parking space who has been allotted Parking No.8 as per chart in 2013. The complainant never objected for inconvenience during the last 7 ½ years. She has filed this complaint case just to malign the reputation of the respondent who is a senior citizen. She claimed that this was done just to harass him in this false and fabricated case.

Hearing:

6. Hearings were held in the case on 27/02/2020, 29/09/2020, 01/10/2020, 05/11/2020, 13/11/2020, 23/02/2021, 12/03/2021, 07/09/2021 and 21/09/2021.
7. In course of hearing, the complainant submitted that she was residing in Flat No.303 but the builder has not provided her parking space till date. The photographs shown by her showed that specific parking space number was allotted to each flat owner but no parking space was earmarked for flat no.303. However, learned counsel of the respondent company submitted that parking space no.8 was allotted to flat no.303 which was refuted by the complainant who submitted that actually parking space no.8 was allotted to flat no.202. It implied from the photographs that though the parking space no.8 has been allotted to flat no.303 but its actual possession has been given to flat no.202. The Bench directed the respondent to file list of all the allottees of the parking spaces and to give possession of parking space to the complainant. The Bench directed the learned counsel of the Authority to visit the site along with learned counsel of the respondent company and submit status report with regard to allotment of parking space. The Bench further directed to add the owner of flat no.202 and the land owner as parties and notices be sent to them.
8. On 13/11/2020 learned counsel of the Authority submitted that the parking is overlapped and the earlier demarcation of the parking has been changed by the landlord. On 23/02/2021 learned counsel of the Authority submitted that there was over writing and overlapping in the distributed parking. Learned counsel of the land owner submitted that the builder has allotted land owner's share of parking space to the complainant. He further submits that there are 12 flats with only 11 parking space whereas the land owner's share is 45%. The Bench directed the land owner to serve copies of the written statement to both the parties, copy of share allocation of parking space and any other evidence so as to take a view whether the respondent had the right to sell the parking space no.8 to the complainant.
9. On 12/03/2021 learned counsel of the land owner submitted that as per development agreement, the car parking space was to be distributed between the builder and the land owner as 55% and 45% respectively. The Bench observed that the landowner is equally responsible in depriving the claim of the complainant and manipulation has been done by the developer and the land owner. Learned counsel of the respondent submitted that the landowner has snatched away the car parking space of the complainant. The Bench further imposed Rs 50,000/- cost on the land owner as well as the builder for flouting RERA Rules as well as breach of agreement for sale.

10. On 07/09/2021 the complainant submitted that with the help of the landowner, parking space no.11 has been given to flat no.303 but the respondent did not cooperate and never turned up for meeting despite direction of the Authority. Learned counsel of the respondent submitted that it is already mentioned in the map plan that parking no.8 belongs to the complainant.
11. On 21/09/2021 the complainant and learned counsel of the land owner submitted that the respondent is not cooperating and never turned up for meeting to settle the issue of car parking space and is trying to linger the issue. Learned counsel of the landowner submitted that though the respondent claims that car parking no.8 is allotted to flat no. 303 of the complainant as per sale deed but actually flat no.303 has been written on car parking no.11 to which the complainant submitted that the landowner has marked her flat no.303 on parking space no.11. The respondent claims that parking space nos.9, 10 and 11 belonged to the land owner. The respondent further submitted that out of 12 flats, 5 flats and 5 parking space i.e. 6,7, 9, 10 and 11 are share of the land owner but the land owner overlapped the numbering on the pillar. The Bench directed the respondent to file their submission on affidavit and further directed both the parties to settle the matter amicably and allot parking space no.8 to the complainant.
12. Later on 30/09/2021, learned counsel of the respondent company filed a joint compromise petition on behalf of the complainant, the respondent and the land owner that they have come into an amicable settlement on the allotment of parking space to the allottee. They have requested to accept the compromise petition without any prejudice to either party and since the relief sought is now redressed, the complainant wishes to withdraw the present complaint application.

Order

13. In view of submission of the joint compromise petition by all three parties, the Bench disposes off the complaint petition as settled mutually between the complainant and respondent.
14. The Bench however directs the respondent company and landowner to pay the cost levied on them in course of hearing by the Bench within thirty days of issue of the order.

R.B. Sinha
Member