

Real Estate Regulatory Authority, Bihar, Patna

**Before the Bench of Mr. R B Sinha & Mr. S K Sinha, Members of the
Authority**

Case Nos. CC/117/211 of 2018

Jai Prakash Kumar and Surendra PrasadComplainants

Vs

DPM Infrastructure & Housing Pvt Ltd/

DPM Realtors & Marketing Pvt LtdRespondent

Present: For the Complainants: In Person

Mr Rakesh Sinha, Advocate

For the Respondent: Mr Mani S Kumar, Advocate

31.12.2020

ORDER

1. The complainants – Jai Prakash Kumar S/o Late Sri Mauzi Lal Thakur, resident of Katautia Gali, Patna City, Patna-800008 and Surendra Prasad S/o Mr Babu Lal Prasad, resident of village- Barailla, PO- Laksman Bigha, Gaya – in their respective complaint petitions filed between November 2018 and January 2019 against DPM Infrastructure and Housing Pvt Ltd and DPM Realtors and Marketing Pvt Ltd, Bank Colony, Abhimanyu Nagar, South Canal Road, Jalalpur, Rupaspur, Patna – 801506 sought refund of their principal amount along with due interest as the promoter failed to honour the terms of the Agreement. The complainants have submitted copies of the agreement for sale along with documentary evidence of payments made to the Respondent, along with the application.

2. According to the details of agreement of sale, the Respondent company failed to deliver the flats, bookings for which were made and advance payments were received by the promoter. JP Kumar made a payment of Rs 11 lakh for DPM Basudeo Kunj project and Surendra Prasad made a payment of Rs. 3,40,501 for DPM Shivdhari Enclave project to the respondent company.

3. In their respective petitions the complainants claimed that the respondent company kept on taking payments but it did not execute the project properly and virtually no construction work was done at the project site after payments were made. The complainants requested that their respective principal amount be paid back and also wrote letters to the company in this regard. While JP Kumar wrote a letter in this regard May 2017 and sent a reminder in October in the same year, Surendra Prasad wrote a letter in this regard in March 2017 itself to the respondent company.

4. After getting no response from the respondent company, the complainants approached the Authority with their respective petitions. While JP Kumar filed his petition in November 2018, Surendra Prasad filed his complaint petition in January 2019.

Response of the Respondent

5. The Respondent company never denied that it had received payments from the complainants and accepted that it would return the money of the complainants as the project execution had not taken place on expected line.

Hearing

6. In the first hearing of the case in April 2019, no one from the respondent company appeared.

7. In subsequent hearings of the cases which concluded in September 2020, the respondent appeared before the bench and explained their stand.

8. The directors of the company, who too had been directed by the Authority to appear in person before the Authority, never appeared in the case.

9. The respondent company accepted to have taken money from the complainants and also accepted that that the execution of the project had got delayed. It also accepted to pay back the principal amount of advance in installments.

10. During course of the hearing, the Respondent Company's counsel Mani Shankar Kumar also handed over a cheque of Rs 5 lakh to JP Kumar on August 5, 2019 and maintained that the remaining amount would be paid back within a month. This promise, however, was not honoured. In case of Surendra Prasad, the respondent company's counsel promised to pay back the principal amount during hearing on July 9, 2019. During subsequent hearing in August, 2019, the counsel took a stand that the respondent company was willing to pay back the principal amount to Surendra Prasad after deducting 2 per cent of the advance amount paid as cancellation charge.

Issues for Consideration

11. There is no doubt that the promoter i.e. DPM Infrastructure and Housing Pvt Ltd and DPM Realtors and Marketing Pvt Ltd failed to implement the project properly and the construction work in this project was not started even after taking advances from the complainants. The promoter summarily failed to meet the deadline as mentioned in

agreement of sale made executed in case of Surendra Prasad on May 29, 2014 and in case of JP Kumar on August 24, 2015.

Order

12. It is, therefore, ordered that the promoter i.e. DPM Infrastructure and Housing Pvt Ltd and DPM Realtors and Marketing Pvt Ltd should payback the full amount of deposit along with the interest at the rate of Marginal cost of lending Rate (MCLR) of the State Bank of India plus two percent from the date of deposit to the date of refund to each complainant, within sixty days of issue of this order.

Sd/-

(R B Sinha)
Member

Sd/-

(S K Sinha)
Member