

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mrs. Nupur Banerjee

Complaint Case No. RERA/CC/886/2021

Purnima Singh.....Complainant

M/s DDL Infratech Pvt. Ltd.....Respondent

Project: Agrani First City

For Complainant: Mr. R. Singh, Advocate

**For Respondent: Mr. Rabindra Kumar, Advocate
Mr. Shiv Kumar, M.D.**

22/12/2022

ORDER

The matter was last heard on 01-09-2022 and was fixed for orders on 25.10.2022. However, due to pre-occupation of the Bench in other matter, order could not be pronounced on the date fixed.

1. This complainant petition has been filed seeking relief to direct the respondent to provide possession letter of plot with specific khata and plot number and execution of rectification deed.
2. In short, the case of the complainant is that the respondent has executed the sale deed no.20302, dated 11-07-2012, in favor of complainant for the plot measuring 4800 sq. ft. on the consideration amount of Rs. 6.40 lakh after the payment of full consideration amount. It has been further submitted that respondent has executed a Memorandum of Development Agreement dated 13-08-2012 and given assurance to provide well planned society with the facilities of good drainage system, electricity, 30 ft. internal road etc. but the same has not been provided after the lapse of more than several years and after several requests the plot has been not handed over to complainant with development. Hence, this complaint.

3. Perused the record of the case. The respondent has filed its affidavit dated 06-06-2022 along with photograph showing the possession handed over to complainant. It has been submitted by the respondent in affidavit that the appellate court in NH High-tech has already held that the authority gave jurisdiction to entertain any complaint only after registration of the concerned project. The respondent has applied for registration but it was not accepted. The project is not registered with the RERA. So, this Bench lacks jurisdiction to decide the question and without registration this Bench cannot look into the matter.
4. The learned counsel for complainant has filed its rejoinder and counters the submissions of respondent and to substantiate his arguments on the maintainability of this case, put reliance on M/s Newtech Promoters & Developers Pvt. Ltd. Vs State of U.P & Ors.
5. The respondent has filed an application on 15-12-2022 along with copy of rectification deed and prayed to dispose of the case in the light of submissions made.

The Bench observes that the Project was applied for registration but was not approved due to map not approved by the competent authority and liberty was given to apply a fresh with the map getting approved from the competent authority, hence, the project was registrable as per 1st Proviso of Section 3(1) of the Act. The Hon'ble Supreme Court recently in M/s Newtech Promoters & Developers Pvt. Ltd. Vs State of U.P & Ors. [2022] (1) RCR (Civil) 357 has observed that the Act is not retrospective in nature, rather it is retroactive because it affects the existing rights of the persons mentioned in the Act like promoter, allottee etc. The intent of legislature was to include all ongoing projects which commenced prior to the enforcement of the Act and this project was also an ongoing project as evident from the documents placed.

Further, In Lavasa Corporation Limited v/s Jitendra Jagdish Tulsiani & Others, Second Appeal (Stamp) Nos. 9717 of 2018 & 18465 of 2018, 18467 of 2018 with Civil Application Nos. 683 of 2018, 791 of 2018, 792 of 2018, the Hon'ble Bombay High court has observed that

RERA is brought on Statute Book to ensure greater accountability towards the consumers and significantly reduce frauds and delays, as also the current high transaction costs. It attempts to balance the interests of consumers and promoters, by imposing certain responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions and set minimum standards of accountability and a fast-track dispute resolution mechanism. The RERA, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector, thus, paving the way for accelerated growth and investments in the long run.

Hence, the Bench finds that the present Complaint Case is fall within the ambit of RERA Act, 2016 to entertain and therefore, maintainable against the Respondent.

The Bench takes the notes of committee report dated 18-02-202 placed on record for kind perusal as submitted by the committee went for inspection as per the direction of the Authority by giving their findings therein.

In the light of the submissions, advanced by learned counsel for the parties and documents placed, this Bench deals the issue raised in the present complainant in the following manner:-

As regards the possession of plot, the Bench takes the notes of submissions of learned counsel for respondent made during the course of last hearing as well as affidavit filed along with photographs stating and showing that possession of plot has been handed over and observes that this issue has been addressed and complied by the respondent.

As regard Development is concerned, the Bench takes the notes of affidavit filed by the respondent, photographs placed as well as many photographs and videos of the project indicating development shown during the course of hearings and observes that it cannot be said that no development work has been done by the respondent at the project site but yes, few more works are needed to be done at the project site to say

that project is complete and developed in all respect, hence, the Bench, directs respondent to complete the work of development at the project sites required to be completed as per agreement as soon as possible, so that, complainant/allottees can stay/ live there in better environment.

As regard the execution of rectification deed is concerned, the Bench takes the notes of rectification deed placed on record by respondent and observes that this issue has been addressed and complied by the respondent.

As regard the possession letter is concerned, the Bench takes the note that rectification deed is executed, hence, the claim of grievances of complainant in this regards got addressed.

As regards claim for compensation is concerned, the complainant is at liberty to press the same before the A.O. as per the provisions of the Act.

With these directions and observations, this complaint petition is disposed of.

Sd/-

Nupur Banerjee
Member