

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/1036/2020

Prof. Satyendra Kumar SinhaComplainant

Vs

M/s DPM Infrastructure & Housing Pvt. Ltd.Respondent

Project: Keshav Enclave

Present: For Complainant: Mr. Radha Mohan Pandey, Advocate
For Respondent: Mr. Pankaj Singh, M.D.
For Land Owner: Mr. Umesh Singh, Advocate

08/12/2022

ORDER

The matter was last heard on 05.09.2022 and was fixed for orders on 07.11.2022. However, due to pre-occupation of the Bench in other matter, order could not be pronounced on the date fixed.

The complainant, Prof. Satyendra Kumar Sinha has filed a complaint petition against the respondent firm M/s DPM Infrastructure & Housing Pvt. Ltd., a promoter and developer company, for a direction to the respondent company to restore his flat or give him the identical flat from the unsold flats. An interim prayer has also been made that the builder be restrained from selling unsold part until the identical flat is given to him or money with interest is refunded to him.

In short, the case of the complainant is that he booked a 3 BHK flat bearing Flat No.402 Block A in DPM Keshav Enclave in December, 2012 after making total payment and the flat was to be handed in the year 2015 but the construction was not done and the Director sold this flat to the other party without informing the owner and the money paid for this flat was not returned to the owner. Hence, this complaint.

A notice was issued to the respondent company under Section 31 of the RERA Act, 2016 and Rule 36 of the RERA Rules 2017 to appear and file their reply but till date they have not filed any reply.

An affidavit has been filed on behalf of the allottees of association stating therein that the super structure of the building is ready and most of the brick work and internal plaster is completed but few remaining works as mentioned in para-1 need to be completed. It is further stated that no one is ready to cancel the flat before it is completed. If there is any cancellation, then the respondent be directed to refund the amount to the allottee.

Learned counsel for the complainant submitted that the complainant paid 90% of the consideration amount but they did not hand over the flat. He further submitted that the association of allottees has been formed and registered as per the direction of the Authority. Therefore, association may be allowed to complete the pending work from their own resources. He further submitted that the structure of the building is almost ready and only finishing work is left out. The association along with land owner want to complete the pending work in the building. He further submitted that Flat No. 406 is unsold and the association wants permission to sell the unsold flat and the money received from the said flat can be utilized in the building work. The association has written in their affidavit that if any cancellation made out, they will take the liability to refund the amount.

The M.D. of the respondent company submitted that all the works have been completed save and except the finishing work. He is ready to complete the remaining work if the allottees cooperate in the construction work. He is also ready to issue no objection in favor of the allottees or the association with certain terms to complete the work.

Learned counsel for the land owner submitted that the association is formed and only interior work is left. They have not sold the flats of their share. He further submitted that they have no objection if the building is constructed through the association.

In the light of submissions made by the parties and documents placed, the Bench takes the notes that Project Keshav Enclave application for registration has been rejected by the Authority on 25-09-2021. Hence, considering that the project is not registered with the Authority, the Authority could not entertain the prayer of association of allottees as well as of landowner and respondent to pass appropriate order under section 8 of the RERA Act, 2016.

However, the parties are at liberty to apply for registration of project afresh with revalidated map and they may mutually decide the future course of development of the project.

With the above observation, this complaint petition is disposed of.

Sd/-

**Nupur Banerjee
Member**