

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/985/2020

Dr. Anjani KumarComplainant

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, Dr. Anjani Kumar 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 refund his paid amount along with compound interest at the rate of 18% per annum.

In short, the case of the complainant is that an agreement was signed between both the parties for giving a flat along with car parking area. Thereafter Flat No. 103 in Block No. A measuring 1450 sq.ft. super built up area at a total consideration of Rs.31.90 lakh along with car parking has been allotted to him in the said project against which he paid Rs.28,84,248/- to the respondent company. The developer assured in the agreement that the said apartment shall be completed up to December, 2015 and if they are unable to hand over the flat in the stipulated time, they will refund the paid amount with 18% interest per annum. It is further alleged that the Director of the said company has not attended the calls nor they are ready to return the invested amount. He is 65 years old and he paid all his hard earned money. Hence, this complaint.

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**