

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Double Bench of Mr Naveen Verma, Chairman,
& Mrs Nupur Banerjee, Members**

Case No. RERA/CC/1119/2020

Ganga Kumar.....Complainant

Vs

M/s Loyala Tech Marketing Services Pvt Ltd.....Respondent

Project: Loyala Valley, Sasaram

**Present : For Complainants : In person
For Respondent: MrRanjitRanjan, Advocate
Mr Sanjay Kumar, MD**

ORDER

26-10-2021

1.11.2021

The matter was last heard on 05.10.2021.

The case of the complainant is that he booked two plots c-593 & 594 in Loyala Valley Sasaram Project in January, 2015 with the intention to purchase it in installment scheme. The complainant submits that he has already paid Rs. 5,00,000 (Five lacs) as booking amount as one Sunil Kumar Gupta, agent of the respondent company had told him that the work in the project has started in 2014 and that 80% plots and area would be developed by December 2016. However, he found that till now the work has not started. It is further alleged that when he visited the Dehri office in the year 2017, he learnt that the plots location has been changed. There after the complainant applied for cancellation on 02.10.2017 and when no response was received and after a period of 1 year, he again applied for cancellation on 28.11.2018. Thereafter, on 09.07.2019, when an email was sent to CREDAI- Bihar regarding this request, the complainant was informed that the cancellation will not be done and money will not be refunded to him.

The complainant has placed on record, copies of application form, email sent to CREDAI and his ledger.

Perused the records. The learned counsel of the respondent company has filed its reply wherein they have stated that after making payment of Rs. 5 Lacs for both the plots, the complainant has stopped making further payment and he is himself liable to pay penalty with interest. The learned counsel of the respondent company further submitted that since registration has not been granted by the Real Estate Regulatory Authority, Bihar, the respondent company is unable to get the plots registered in the name of the complainant and other prospective buyers. The concern of the respondent company is not

only limited to non-execution of conveyance deeds in absence of registration but also if the respondent company gives refund to the complainant, there would be stream of similar requests. The respondent company has also cited a judgment of the Real Estate Appellate Tribunal passed in REAT Appeal no. 12 of 2021 wherein the Hon'ble Tribunal has held that the issue of sanction map does not come within the jurisdiction of the Authority.

The learned counsel of the respondent company had brought to the notice of the Bench regarding some error in the proceedings of 24.08.2021. The Bench takes note of it and directs that the relevant portion may be amended as follows: "The Bench observes that the promoter has not responded to the request for cancellation under section 19(4) of the Act which clearly lays down that the allottee would be entitled to claim the refund of money along with interest."

The Bench, after perusing the records and submissions made by the learned counsel for the respondent company, reiterates that the issue of registration cannot be a subject matter of the complaint as the same is considered on the administrative side and the complaint case is a quasi judicial proceedings. The Bench observes that since the issue of registration is not a subject matter of the complaint, it has to be dealt with by the Registration Wing of the Authority. In any case, the issue of registration would have been relevant only if the complainant had requested for execution of absolute deed of conveyance and handing over possession. The Bench observes that the application for cancellation of his allotment was submitted by the complainant in 2017 on the ground that the plot was not developed in time .

The Bench, therefore, directs the respondent company and its Directors to refund a sum of Rs. 5,00,000/- to the complainant along with interest on said amounts at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years plus two percent from the date of taking the booking within sixty days of issue of this order.

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman