

REAL ESTATE REGULATORY AUTHORITY, BIHAR

2 nd Floor, BSNL Telephone Exchange, North Patel Nagar, Road No. 10, Patna -800023

**Hearing before the Double Bench of Hon'ble Chairman, Mr. Naveen Verma, &
Hon'ble Member, Mrs. Nupur Banerjee**

Case No.:-RERA/CC/1543/2020

Mrs. Seema Singh.....Complainant

Vs

M/s Amina Construction Pvt. Ltd.....Respondent

Project: Sudha Complex

13.01.2022

20.01.2022

ORDER

This matter was last heard before Double Bench along with the batch cases on 13.01.2022.

The case of the complainant is that an agreement of sale was executed between the complainant and the respondent through its Managing Director Md. Khalid Rashid on 04.10.2012 for sale of flat no. 302, 3rd floor in the project "Sudha Complex" measuring super built up area 1050 sq. ft. The complainant paid sum of Rs. 22,00,000/- in six instalments between 05.04.2012 to 29.09.2013 and Rs. 2,00,000/- was also paid by cash. Since respondent has not done any construction work and has not handed over the possession of the flat in time, therefore, the complainant has filed the case seeking relief for completion of flat with full amenities along with 18% interest from last payment and rental relief from 04.10.2012 at the rate of Rs. 10,000/- per month.

The complainant has placed on record copy of Agreement for Sale Deed vide Deed No. 26348 dated 04.10.2012, copy of pan card and Aadhaar card of complainant, copy of driving licence of

the respondent, copies of 6 receipts bearing no. 009 issued on 05.04.2012 for Rs.3,50,000/-; receipt bearing no. 008 issued on 05.04.2012 for Rs.6,50,000/-; receipt bearing no. 014 issued on 10.11.2012 for Rs.2,75,000/-; receipt bearing no. 022 issued on 29.04.2013 for Rs.7,16,000/-; receipt bearing no. 024 issued on 06.06.2013 for Rs.77,000/-; receipt bearing no. 031 issued on 24.09.2013 for Rs.1,32,000/- and Kachha receipt of Rs. 2,00,000/- signed by the respondent MD on 13.08.2012.

Perused the records, no rejoinder has been filed by the respondent.

During the course of hearing, the Bench observed that the learned counsel for the respondent kept on lingering the matter by seeking time. He has not submitted any response for the inordinate delay, and has not complied with any directions given by the Bench despite repeated directions. Consequently, an interim order was passed on 01.03.2021, directing to freeze all the bank accounts of the respondents and further directed the IG registration not to register any apartment/plots of the aforesaid project.

On 07.04.2021, the counsel for the Mrs. Seema Singh submitted that a criminal case had been filed against the M/s Amina Construction Pvt. Ltd. as the respondent sold one flat to two customers. In compliance of observation passed on 07.04.2021, a supplementary petition was filed by the complainant stating that even after paying the entire consideration amount and serving legal notice dated 04.10.2016, the respondent has neither completed the building nor handed over the possession of the flat. It is further mentioned that on 09.07.2018 the complainant filed a complaint case no.

2848(C)/2018 against the respondent before the Court of Chief Judicial Magistrate, Patna under Section 406, 420, 467, 468, 471, 120(B) of IPC for not handing over the possession. It is further stated that an ex parte bail application was obtained by the respondent on 25.02.2021 with a condition to refund 24 Lakhs to the complainant. The bail petition was allowed on the ground that the petitioner will pay 6 Lakhs to the complainant and rest due 18 Lakhs shall be paid in instalments but none of the terms were complied. It is further stated that flat no. 101 in Sudha Complex was sold through two different registered sale deed to two different persons i.e. Mrs. Anamika Singh and other is Mr. Ram Bhagwan Prasad & Purnima Singh and both of them have also filed case against the respondent company before RERA vide complaint case no. CC/45/2018 and CC/1733/2020 respectively. The complainant submitted an affidavit along with the copy of legal notice dated 04.10.2016; copy of order passed in 2848(C)/2018; copies of Order passed by Additional Session Judge XII with regards to Anticipatory Bail Application no. 4865/2020 which was rejected on 15.12.2020; Order of Additional Session Judge XII with regards to Anticipatory Bail Application no. 36/2021 and copies of agreement of sale (deed no. 19272 dated 22.06.2013) between Mrs. Anamika Singh and Md. Khalid Rashid for flat no. 101 and 102 in Sudha Complex and agreement of sale (deed no. 5771 dated 05.07.2018) between Mr. Ram Bhagwan Prasad and Md. Khalid Rashid for flat no. 101 in Sudha Complex.

On the last date of hearing dated 13.01.2022, the learned counsel for the complainant submitted that the respondent company is not in a position to give possession of the flat as the

flat has not been completed till now and further prayed for refund of entire amount.

Having heard the submissions of both the parties, the bench hereby directs the Respondent Company and its Directors to refund the outstanding principal amount to the complainant along with interest at the rate of Marginal cost of lending rate (MCLR) as applicable for three years or more plus four percent from the date of deposit to the date of refund within sixty days of issue of this order.

The complainant is at liberty to approach the Adjudicating Officer for her claim of compensation.

Sd/-

Nupur Banerjee
(Member)

Sd/-

Naveen Verma
(Chairman)