

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Telephone Bhavan, Patel Nagar, Patna-800023.**

**Before the Bench of Mrs. Nupur Banerjee, Member**

**Complaint Case Nos. CC/482/2019**

**Ram Bilash Mahto .....Complainant**

**Vs**

**M/s Kanan Dreem Homes Pvt. Ltd. ....Respondent**

**Project: Ram Chandra Residency**

**For Complainant: Mr. Nityanand Mishra, Advocate**

**For Respondents: Mr. B.K. Sinha, Advocate**

**Mr. S.K. Raj, Advocate**

**27 /07/2022**

**ORDER**

The matter was last heard on 20-06-2022.

The complainant, Ram Bilas Mahto, a resident of F.No. 3/C, Block-A, Blue Sapphire Apartment, DhelaToli, Harmu Housing Colony, Ranchi has filed a complaint petition against the respondent firm M/s Kanan Dream Homes Pvt. Ltd. a promoter and developer company, for a direction to the respondent company to hand over possession of Flat No. 101 in Ram Chandra Residency with compensation for financial harassment and mental agony and also for direction to execute the sale deed in his favor and pay interest due to failure in giving possession in time.

In short, the case of the complainant is that the agreement for sale of the flat was made on 19.07.2014 and he agreed to purchase a flat on 1st floor bearing Flat No. 101 in the said project. According to the agreement, the total consideration amount of the flat was 25,45,000/-, out of which he paid Rs.16,25,000/- till 23.02.2015. It is stated that one of the Director of the company, namely, Subodh Kumar died on 10.04.2015. The Director of the company, Smt. BibhaKumari has stopped the construction of the said building after the death of her husband. The Bank account of the project has been frozen. It is further stated that from the date of execution of the agreement of sale of flat dated 20.02.2013 more than five years have lapsed but the said flat has not been completed and the builder company is not taking any interest in execution of the sale deed and handing over possession of the flat till date

A notice dated 18.09.2019 was issued to the respondent company under Sections 03, 12, 18 and 19 of the RERA Act, 2016 and Rule 36 of the RERA Rules 2017 to appear and file their reply.

Perused the record of the case. No reply has been filed by the respondent. However, the learned counsel for respondent appears during the

course of hearings and has not challenged the submissions of the complainant and the facts are being admitted.

On 18.09.2020 hearing was taken up and learned counsel for the complainant was present and none appeared on behalf of the respondent. On the submission made by the complainant the Bench directed the respondent to submit work progress of the project.

On 29.09.2020, 13.11.2020, 25.11.2020, 10.12.2020, also learned counsel for the complainant was present and none appeared on behalf of the respondent. On 13.11.2020 learned counsel for the complainant submitted that the construction work is over but finishing work is still left. He submitted that out of total consideration amount of Rs.25,45,000/- the complainant paid Rs.16,25,000/-. There are total 6 flats out of which 4 flats are of landlord and 2 flats are of the developer.

On 23.12.2020 both the parties were present and the Bench directed the complainant to make the landowner as a party respondent in this case.

In view of the order dated 23.12.2020 a petition has been filed on behalf of the complainant on 08.01.2021 for adding the land owners, as detailed in para-2 of the petition, as a party respondent in this case, which was allowed on 05.04.2021 and notice was directed to be issued to the land owner.

Thereafter on 10.03.2021 again the complainant was present but none appeared on behalf of the respondent. Learned counsel for the complainant reiterated the submissions on which the Bench observed that this case appeared to be not maintainable under RERA because there are 6 flats only which were built up on less than 3 kathas.

On 05.04.2021 both the parties were present and learned counsel for the complainant reiterated the submissions by adding that one of the Directors died. The structure of the flat is completed but the finishing work still remained to be done. Learned counsel for the complainant submitted that the Director is no more and at present his wife is the Director but she is unaware of all these things on which the Bench observed that she being the present Director is liable to look after the grievances of the complainant.

On 23.02.2022 both the parties were present and learned counsel for the complainant submitted that only 9 lakh is due which they are ready to pay and want possession. Learned counsel for the respondent submitted that the main builder has died and his wife being an illiterate lady has no knowledge about the project details but they are ready to give possession of the flat. The Bench directed her to conduct a meeting with the allottees and asked them to form an association for completing the remaining work after adjusting the remaining amount to be paid.

On 04.04.2022 learned counsel for the complainant submitted that construction of the project has been done and only finishing work is to be completed and he is ready to complete the same at his own expense but the landowner is creating hindrance. On 11.05.2022 also learned counsel for the

complainant reiterated the submissions as stated earlier and said that the project is pending due to hindrance created by the land owner.

During the last hearing on 20-06-2022, learned counsel for the complainant has submitted that they booked a flat and out of total consideration money of Rs.25 lakhs, they paid Rs. 16 lakhs in 2016 but they did not get the flat. Unfortunately, out of two members of the company, the first Director of the company has died. The other director is unable to proceed for finishing rest part of the work. He further submitted that the respondent want to handover their flat. Land owner is creating hindrance. Rest finishing work he will do if the respondent will hand over the flat.

Learned counsel for respondent submits that they are ready to handover the possession but land owner is creating hindrance.

Learned counsel for the land owner has submitted that the amount has been paid to the respondent builder. He further submitted that land owner has no concern with the same. The matter is pending before the Civil Court regarding development agreement dispute. One title suit is also going on in which ex-parte hearing has been done. The land owner is not creating any hindrance. He submitted that they are not aware of anything.

On the last date of hearing direction was given to file a joint affidavit but the Bench observes that direction was not complied and no joint affidavit has been filed.

As complainant has submitted on the last date of hearing that complainant had paid Rs.16 lakh in respect to consideration amount of flat and from balance consideration amount, complainant will do the left out finishing work for which the learned counsel for respondent has submitted that respondent has no objection and respondent is ready to handover the possession of flat, therefore, considering the submissions of complainant and respondent on the last date of hearings, the Bench hereby directs respondent to hand over the possession of flat stated above to complainant within 15 days and execute the Sale Deed in favor of complainant accordingly and further directs complainant to do the remaining work in flat from the balance consideration amount due to be paid to respondent.

The Bench further directs respondent No. 2 i.e. land owner to not create any hindrance and cooperate with respondent in giving possession of flat to complainant.

With the above observations/ directions, this complaint petition is disposed of.

Sd/-

**Nupur Banerjee**  
**Member**