

# **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/1384/2020**

**Mrs. Anamika Kumari.....Complainant**

**Vs**

**M/s Sheba Welcon Builder Pvt. Ltd.....Respondent**

**Project: Rajeshwar Apartment**

## **ORDER**

**25.01.2022**

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

The case of the complainant is that she booked flat no. 202, in Rajeshwar Apartment measuring 1100 sq. ft., bearing plot no. 1007, Khata no. 776, Thana no. 21, Mauja Shahjadpur, Danapur, Mohalla Danapur, Sainik Colony, Gola Road, P.S. Rupaspur, Patna. A development agreement with regards to the property was registered on 03.11.2011 and there was an agreement to sale entered between the complainant and the respondent in which it was mentioned to provide lift, electric generator, parking space, water tanks etc. The respondent requested for execution of absolute sale deed for which the complainant was required to pay the entire amount on the assurance that the work would be completed within a span of 6

months. Accordingly she paid entire amount of Rs. 25,00,000/- and on 14.08.2019 the final sale deed was executed which stated that the builder has to provide lobby passage, roof floor, common utilities like parking space, boundary wall, generator, water pump, tube well, community hall, water tanks and pipes, sewerage and other maintenance were to be done through common expense. After lapse of 4 months when no work was done, the complainant she sent a legal notice dated 31.01.2020 regarding delivery of flat no. 202 which was not delivered as per the norms like there were no doors and windows, no construction of the toilet and kitchen, common area not developed, no water tank, electricity fittings were not done, no boundary wall and terrace was incomplete. The complainant also came to know that the respondent Director was accused in Kotwali P.S. Case No. 540 of 2018 and has also been arrested and further granted bail by Hon'ble Patna High Court on 20.03.2020. The complainant has stated that she is staying in a rented accommodation and further that the aforesaid project is also not registered with RERA.

Hence, the complainant has filed the case seeking relief for directing the respondent to complete the construction of the building and the entire work as stated in the agreement to sale and to compensate for the loss of Rs. 15,000/- per month from August 2019 till the final allotment of the flat after completion.

The complainant has placed on record copy of development agreement dated 14.11.2011, format of agreement for sale, copy of final deed of absolute sale dated 13.08.2019, copy of legal notice, copy of bail application passed in criminal miscellaneous no. 1659/2020 dated 20.03.2020 passed by Hon'ble Patna High Court and copy of payment of property tax.

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

On 09.02.2021, the Bench directed the counsel of the Authority Mr. Jainandra Kumar, to inspect the aforesaid project and submit the report. The inspection report dated 23.03.2021 submitted by Mr. Jainandra Kumar, Counsel of the Authority stated that no fire fighting, generators were installed, parking and common area were incomplete, no electric panel was installed, no grill was provided in the ladder portion, only outer plaster of the project on 1<sup>st</sup> and 3<sup>rd</sup> floor were made and brick work of 2<sup>nd</sup> floor was incomplete for which the photographs have also been placed on records.

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 complied with any directions given by the Bench despite repeated directions. Consequently, an interim order was passed on 31.03.2021, 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 23.08.2021, Bench directed the respondent to apply for RERA registration within a week, i.e. by 31st August, 2021 otherwise penalty of Rs. 10,000/- per day for every day delay will be levied upon the respondent under section 63 of the Act.

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 complied with any directions given by the Bench despite repeated directions.

The Bench requests the Registration Wing to confirm whether an application for registration has been filed or not. If not, action may be initiated to recover the penalty from the promoter as provided under section 40(1) and 40(2) of the Real Estate (Regulation and Development) Act, 2016.

On the last date of hearing dated 13.01.2022, Mr Sumeet Singh learned counsel of the complainant reiterated that the flat has been registered in her name and the possession has also been handed over but no facilities have been provided to her. The counsel further informed the Bench that the project is not registered which is a clear violation of section 3 of the Act.

The Bench notes that the respondent has violated Section 3 of RERA Act, 2016 as the respondent was continuously advertising, marketing, booking, selling apartments/plots without registering the real estate project with RERA for which Suo Motu proceeding be initiated against the respondent company

under Section 59 of the Real Estate (Regulation and Development) Act, 2016.

Having heard the submissions of both the parties, the bench hereby directs the Respondent Company and its Directors to complete the project and provide the amenities as mentioned in the agreement within three months of this order. The Bench further directs that a penalty of Rs. 10,000 per day would be imposed if the project is not completed within that period.

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

With these directions and observations the matter is disposed of.

Sd/-

**Nupur Banerjee**  
**(Member)**

Sd/-

**Naveen Verma**  
**(Chairman)**