

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/37/2021

Manoj Kumar..Complainant

Vs

M/s Kanan Dream Homes Pvt. Ltd.....Respondent

Project: Ramchandra Residency

For Complainant: Mr. N.N. Mishra , Advocate

For Respondent: Mr. Sudhir Kumar, Advocate

19/07/2022

ORDER

The present complaint petitions had been filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 by the complainant on 12-01-2021, seeking relief to direct the respondent to hand over the possession of the flat with interest for delay.

The matter was last heard on 20-06-2022 and after hearing the parties the order was kept reserved.

The facts reveal that complainant had entered into the agreement for sale dated 23-07-2014, vide Deed no-7232 to purchase a flat on 3rd floor, flat no. 301 in project "RAM CHANDRA RESIDENCY" of the respondent company situated at Ved Nagar, Rukunpura, Bailey Road, Patna. Complainant further submitted in complainant petition that according to the agreement,

the total consideration amount of the flat was Rs 35,00,000/- and out of which he had paid total amount Rs. 21,00,000/-. It has been further submitted that unfortunately the Developer company (M/S Kanan Dream Homes Pvt. Ltd.)'s one Director Mr. Subodh Kumar S/o Late Devendra Kishore Sinha died on 10.04.2015 and the another director of the developer company Smt. Bibha Kumari W/o Late Subodh Kumar (deceased director of the company) has stopped the construction of said building after the death of her husband. It has also been submitted that the Bank account of M/S Kanan Dream Homes Pvt. Ltd. has been freezed (closed). Complainant in complainant petition has also submitted that more than 6 years & 4 months have already been passed from the date of execution of Agreement for Sale but the flat has not completed till date and the respondent company is not showing any interest in completion of flat and to hand over the possession and the execution of sale deed in favor of complainant.

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.

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 has 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 these directions and observations, the matter is disposed off.

Sd/-
Nupur Banerjee
Member