

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Full Bench of Mr Naveen Verma, Chairman, Mr R.B. Sinha
& Mrs Nupur Banerjee, Members**

Case no. RERA/CC/1182/2020

Suresh Kumar Sinha..... Complainant

Vs

M/s Nissa Realtors Pvt Ltd.....Respondent

Present: For Complainant: Mr. Shubham Raj, Avdocate

For Respondent : Mr AK Singh, Advocate

ORDER

27-10-2021

The matter was last heard along with the batch of cases before the full bench on 26-07-21.

The case of the complainant is that he had entered into an agreement for sale with the respondent company on 20.07.2011 for flat no. B-107 in the project Ghar Apna admeasuring 946 sq. ft. The total consideration amount was Rs.16,09,146/- and the possession of the flat was to be delivered within 2 years from the date of agreement. The complainant further submitted that he has paid Rs 13.67 lakhs and Rs 2.05 lakh as interest to the bank however even after lapse of 10 years, possession has not been handed over to the complainant. The complainant further submitted that he also availed a housing loan from IDBI Bank to the tune of Rs. 13 lacs which was being released to the respondent company in instalments according to the progress in construction, which was later stopped due to no progress in construction.

Perused the records of the case. The respondent company has filed its reply wherein they have submitted that out of the consideration amount of Rs 16.05 lakh only Rs 10.67 lakh has been paid. It is further submitted that since the complainant was not interested in taking the flat, the respondent company refunded a sum of Rs. 5 Lacs on 11/03/2016 and the allotment was cancelled on 03/07/2017 and sold out to one Mr. P.K. Bhattacharya vide deed no. 7516 dated 03/07/2017.

The Bench notes that the respondent company have also stated in their reply that they are ready to refund the amount paid to the complainant in 12 months or any suitable date fixed by the Authority. The Bench also notes that even though the respondent company is ready and willing to refund the amount to the complainant and other allottees, this case is fit for police investigation as

the matter involves siphoning of fund by the deceased MD of the respondent company. It has been observed that a letter was sent to the respondent company on 03/03/2021 to submit certain information but they have done nothing in this regard.

The Bench observes that the registered sale agreement was cancelled by the respondent company without due notice and providing opportunity to the allottee to clear the dues. This act of cancellation of the agreement and selling the flat to other buyer is untenable in the eyes of law for which the complainant is at liberty to approach the appropriate court.

The Bench takes note of the prayer of the complainant to either get possession of the flat or get refund with suitable compensation and observes that since the flat in question has already been sold, the prayer of the complainant for handing over of the possession can be acceded only if the respondent company has any other alternative flat to offer in the project.

The Bench directs the respondent company to submit the payment schedule of the refund to the complainant of the principal amount of Rs. 13.67 lakhs. The Bench further directs the respondent company to pay the above amount to the complainant along with interest on such amount at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years plus 2% from the date of receiving the payment till the date of making payment within a reasonable timeframe. The complainant is at liberty to move for compensation before the Adjudicating Officer.

The Bench grants liberty to the complainant to approach the Authority under relevant sections of the Act in case the respondent company fails to make the refund within the proposed time.

With these directions the matter is disposed of.

Sd/-
Nupur Banerjee
Member

Sd/-
R.B. Sinha
Member

Sd/-
Naveen Verma
Chairman