

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Hon'ble

Member Mr. S.D. Jha, RERA, Bihar,

RERA/CC/1370/2020

Mr. Atul Kumar Triyar Complainant

Vs.

M/s Adharshila Housing Buildcon Pvt. Ltd. Respondent

For the complainant:

For the Respondent:

Project: CENTRAL CITY AARON

ORDER

21.02.2023 Hearing taken up. Sri Shyam Nandan Thakur, Advocate, appears for the complainant and Mr. Sumit Kumar, Advocate, appears for the respondent.

Learned counsel for the complainant submits that he has filed an application under section 39 of the RERA Act, 2016 for rectification in paragraph -5 of the order dated 8.6.2022, wherein it is mentioned that the land never belonged to the respondent does not hold as the latter (respondent) had executed the deed in his (complainant) favour after which mutation was done. He further submits that the land, which was transferred by execution of deed to the complainant by the respondent – promoter, was not mutated in the name of the builder and consequently the name of the complainant was also not mutated. Hence, the builder is not the legal owner of the land and no further deed can be executed in his favour unless that land is mutated in his name.

Learned counsel for the respondent submits that the complainant moved an appeal before the Real Estate Appellate Tribunal against the order dated 8.6.2022, where the complainant withdrew the appeal (Real Appeal No.42/2022) for rectification of error, if any, on the face of the record. He further submits that the order dated 8.6.2022 cannot be rectified as that will amount to change the substantive portion of the order. He also submits that the matter is very simple one because of the fact that the respondent - promoter only wants the deed of the land, which he executed in favour of the complainant, be either returned by execution in his favour or be moved for cancellation of that deed as the promoter has already refunded the entire amount to the complainant.

After having perused the record and having heard learned counsel for both the parties, prima facie, it is clear that the approach of the complainant is only to multiply the litigation because of the fact that when the respondent has already returned the consideration amount of the land to the complainant, the complainant is only required to execute a Deed of Conveyance for transferring the land to the respondent or to get that deed cancelled by moving the appropriate authority and that will close the matter. Notwithstanding the above, it is further held that the mistake is not apparent from the record and even if it is apparent from the record, it cannot be rectified as it would amend the substantive part of the order, which is not permissible under 2nd Proviso of Section 39 of the RERA Act and, therefore, the application for rectification of the order dated 8.6.2022 is rejected.

With the aforesaid observations, the application for rectification is disposed of.

Sd/-
S.D. Jha
Member