

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Bench of**

**Hon'ble Member Mr. S.D. Jha, RERA, Bihar,**

RERA/CC/190/2023

RERA/AO/19/2023

Asheesh Shanker Sharma..... Complainant

Vs.

M/s Vastu Vastaya Builder Pvt. Ltd. .... Respondent

For the complainant: Mr. Abhishek Kumar, Advocate

For the Respondent: Mr. Sachin Kumar, Advocate

**Project:—MALTI KUNJ**

**ORDER**

**13.05.2024** This case was last heard on 29.04.2024 and the order was reserved. Mr. Abhishek Kumar, Advocate, appeared and defended the case of the complainant. Mr. Sachin Kumar, Advocate, appeared and defended the case of the respondent. The respondent was granted on week's time to file reply to the rejoinder dated 6.5.2024 and the same has been filed, which would be dealt with hereinafter. The order is being delivered today (13.05.2024).

2. Learned counsel for the complainant submitted that the complainant had entered into an Agreement For Sale on 17.10.2020 with the respondent – builder Mr. Asheesh Shanker Sharma to purchase Flat no.303 on 3<sup>rd</sup> floor of 1184 sq. ft. in the project situated at Gaya, Bihar, on consideration amount of Rs.48,10,000/- which was paid by the complainant and the respondent executed Registered Sale Deed on 31.03.2022 transferring possession and ownership but upon receiving possession he found deviation and violation to the commitment and promises made by respondent in the Agreement. He further submitted that since there is deliberate violation of the commitments, approved plan and the project, the complainant is entitled to get refund of entire amount with interest. The

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complainant made several reminders and communications to the respondents to either take corrective measure or refund entire amount but they did not pay heed to it. Hence, he has filed this complaint for refund of money with interest and compensation.

3. Learned counsel for the respondent by filing reply dated 6.5.2024 submitted that this case is not maintainable on the ground that the present case has been filed for refund of principal amount but in this case Absolute Sale Deed of the flat in question has already been executed in favour of the complainant on 31.3.2022 and the complainant has been residing therein for the last two years. Further, the Occupancy Certificate has also been issued by the competent Authority on 1.10.2022. He further submitted that in case of any structural defect or any other defect, the complainant may take recourse to Section 14(3) of the RERA Act, 2016. He also submitted that for the same and similar reliefs the complainant has also filed a complaint case before the Nagar Parishad, wherein, proceedings are being conducted by the Executive Officer and that case is pending. Hence, the present complaint for the same and similar relief before the Authority is not maintainable.

4. Learned counsel for the complainant by filing rejoinder through Gmail dated 9<sup>th</sup> May, 2024 stated that the complainant is entitled to compensation under Section 18 of the RERA Act, 2016 as the builder-promoter is not ready to cure the defects and numerous deviations in plan. He also stated that the respondent - promoter has converted the common space on the ground floor of the building and the ramp into shops violating sanctioned maps and plans.

5. Perused the record. The Authority observes that in this case the respondent executed Absolute Registered Sale Deed on 31.3.2022 and the complainant has been residing in the flat for the last two years. The Occupancy Certificate has

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also been issued by the competent Authority on 1.10.2022. The Authority notes that the complainant has already filed a complaint before the Nagar Parishad on the similar issues as raised before the Authority, which is going on. The Authority observes that it would be more appropriate that the question of deviations in sanctioned map and plan is raised before the map sanctioning Authority to look into it. The Authority further observes that it is the duty of respondent – promoter to get the structural defect or any other defect cured on being brought to his notice by the allottee as provided under Section 14(3) of the RERA Act, 2016 and, accordingly, the Authority directs the respondent – promoter to get the structural defect or any other defect in workmanship, quality or provision of services as highlighted in the complaint cured within two months from the date of issue of this order.

6. Taking into consideration the facts that the respondent - promoter has already executed Absolute Registered Sale Deed in favour of the complainant of the flat in question on 31.3.2022 and the complainant has been residing in the flat for the last two years and further the competent Authority has also issued the Occupancy Certificate on 1.10.2022 to the respondent - promoter, the Authority holds that this complaint seeking refund of money is not maintainable and, accordingly, the same is dismissed.

**With the aforesaid observations and directions,  
this case is disposed of.**

**Sd/-  
S.D. Jha  
Member**