

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of

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

RERA/CC/336/2022

Dr. Ratan Kishore Tiwary Complainant

Vs.

M/s Vikramshila Developers Pvt. Ltd. Respondent

For the complainant: Mr. Sumit Kumar, Advocate

For the Respondent: Ms. Kriti Suman, Advocate

Project:- SUNRISE PREMISES

ORDER

21.06.2024 This case was last heard on 06.06.2024 and the order was reserved with the mutual consent of the parties. Mr. Sumit Kumar, Advocate, appeared and defended the case of the complainant. Ms. Kriti Suman, Advocate, appeared and defended the case of the respondent. The complainant's counsel, as requested, was directed to file written submission within a week with a copy to the respondent's counsel, who was directed to file reply within a week thereafter. The complainant's counsel has filed the written submission by mail dated 13.06.2024 and the respondent's counsel has also filed written submission on 20.06.2024, which would be dealt with here-in-after at appropriate place. Accordingly, the order is being delivered today i.e. 21.06.2024.

2. The present complaint has been filed by the complainant under Section 31 of the RERA Act, 2016 for revocation of registration of the project. It is further stated therein that the respondent – promoter has been developing the project by violating the norms of the Bihar Building Bylaws, 2014 and Section 4(2)(b) read with Section 7(1)(d) of the RERA Act, 2016. It is also stated therein that a Title Suit bearing no. T.S.487/2021 over the land, where the project is being developed, has been

pending before the Civil Court, Bhagalpur, in which an injunction order dated 22.11.2021 has been granted.

3. The instant case came to be listed before the Authority on 03.06.2024 and the Authority having gone through the entire record transferred this case to the Administrative Division for processing the same for final decision by the Authority.

4. The Administrative Division got the instant matter processed and after decision of the Authority has conveyed vide letter dated 19.04.2024 that the previous order of Hon'ble Authority issued under Section 7 of the RERA Act, 2016 for keeping the registration of the project in abeyance and restraining on booking and sale of flats has been withdrawn, subject to the order of the appellate court/High court, on the ground that injunction order passed by the Court is against Khata no.553 and plot no.428 and not against the land bearing Khata no.240 and Khesra no.437, over which the map for construction of the building has been sanctioned.

5. Learned counsel for the complainant by filing written statement through mail dated 13.06.2024 has reiterated his submission and has further stated that the complainant has come to know just after hearing dated 06.06.2024 that two different orders were passed on different dates by the administrative wing of RERA without communicating either to the complainant or to his counsel, which is complete violation of natural justice as well as the principle of Audi Alteram Partem. Not only this, no copy of documents was supplied to the complainant, which the respondent had filed before the Administrative Wing for its rebuttal. The Authority has no jurisdiction to review its earlier order through its second order dated 19.04.2024 reverting the order dated 05.03.2024. He has further stated that the Authority in its letter bearing no.115/2021/186 dated

19.04.2024 has vacated the order restraining the promoter and landowners on the basis of opinion dated 05.06.2023 of the Government Pleader, Civil Court, Bhagalpur, but further fact is there that Law Department vide letter no.7614 dated 19.09.2023 has already issued show cause to the Government Pleader for misconduct in giving legal opinion in the title suit and the opinion of the said Government Pleader should not be relied upon. He has also stated that the Hon'ble High Court in its order dated 08.02.2024 in Civil Misc. Jurisdiction No.257 of 2023 has directed the respondent no.5 that the respondent of this case will not make any construction over the service lane of the subject matter of the property. The Administrative side/registration wing has given ample opportunity to the respondent to defend their case but the Authority failed to give proper opportunity to the complainant to defend his case. Lastly, he stated that the instant case may not be disposed of until disposal of Civil Misc. Jurisdiction no.257/2023.

6. Learned counsel for the respondent by filing written submission dated 20.06.2024 has stated that the complaint for revocation filed under Section 7 of the RERA Act, 2016 is not applicable as no evidence in support of the claim has been brought on the record and also in the Title Suit before the Sub Judge -1, Bhagalpur, no any order against the respondent has been passed. She has further stated that the complainant has created a false and imaginary "gali" on paper because as per report of the Circle Officer, Bhagalpur, and Survey Plan 1976 -77 published by the Municipal Corporation, which is enclosed with the written submission, there is no any service lane/"gali" which comes in Khasra no.438 & Khata no.553. She has also stated that the structure of the building has been completed and no any damage has been caused to the plot adjacent to the project and finishing works of the building are going on as per the map

passed by the Authority against Khata no.240 & Khasra no.437 having total area 11,679 sq. ft. The respondent is not making any construction over the disputed land as per report of the Circle officer and the Municipality. She has also stated that the status quo order has been passed by Hon'ble High court on the Title Suit no.787/2021 which is against plot no.428 & Khata no.553. She also submits that the Authority has power under Section 39 of the RERA Act, 2016, to rectify any mistake apparent from the record and amend/rectify its order or the proceeding. She has also stated that the allegations made against the Government Pleader appointed by the Superintendent of Police are false and fabricated. The G.P. report is based on evidences on record of the Title Suit no.487/2021. The letter dated 09.04.2023 of Legal Department, Government of Bihar, is old one and is not related to the instant case.

7. Perused the records including the letter dated 19.04.2024 of the Administrative Division, RERA, as well as written submissions filed by the complainant and the respondent. On the basis of the findings arrived at by the Authority, which has been conveyed vide letter dated 19.04.2024, this Bench observes that since the injunction order passed by the Civil Court, Bhagalpur, is not against the plot (bearing Khata no.240 and Khesra no.437) over which the map for construction of the building has been sanctioned and the project is being developed, the request for revocation of registration of the project is rejected. Accordingly, the instant complaint stands dismissed.

8. Before parting with the order, the Authority further observes that Section 39 of the RERA Act, 2016 defines for rectification of any mistake apparent from the record and amend any order passed by it, if the mistake is brought to its notice by the parties. In the instant case, the earlier order/proceeding has not been reviewed, rather, the

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order/proceeding has been rectified when it came to the notice of the Authority that the Tile Suit has been filed against a different plot and not against Khata no.240 & Khesra no.437, over which the map for construction of the building has been sanctioned by the Authority and further there is no restraint order of the Court against Khata no.240 & Khesra no.437 .

The complaint petition is, accordingly, disposed of.

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