

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Bench of**

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

**RERA/CC/537/2022**

Rajendra Prasad Mandal ..... Complainant

Vs.

M/s Wishluv Buildcon Pvt. Ltd. .... Respondent

For the complainant: Mr. Rakesh Raushan, Advocate

For the Respondent: None

**Project:- WISHLUV CITY**

**ORDER**

**27.06.2024** Hearing taken up. Mr. Rakesh Raushan, Advocate, appears for the complainant. The complainant also appears in person. The respondent is absent.

2. Learned counsel for the complainant submits that the complainant had entered into an Agreement For Sale with the respondent in the year, 2018 to purchase 13 Khathas of land in the project "Wishluv City" situated at Mauza - Chiraura, P.S. Bikram Naubatpur, Patna, on consideration amount of Rs.1,75,50,000/- out of which the complainant paid Rs.1,57,11,000/-. The possession of the land was to be handed over within the specified period of time but the respondent failed in honouring the commitment. Thereafter, the complainant requested for refund of his money, upon which the respondent – promoter refunded Rs.1,22,00,000/-. Again on persuasion by the complainant, the respondent refunded Rs.37,11,000/- through cheques, which includes a sum of Rs.1,12,000/- on account of stamp & challan, but those cheques were bounced and, thus, the respondent has to return the remaining amount of Rs.35,11,000/-. Hence, the complainant has filed this complaint for refund of Rs.35,11,000/- with interest as per the RERA Act, 2016.

3. It is evident from the record that the complainant has filed the written submission on 21.06.2024 in

compliance of the proceeding dated 07.05.2024 and a copy of which appears to have been sent to the respondent's counsel vide mail dated 24.06.2024. The respondent's counsel during course of the proceeding dated 07.05.2024 had raised the issue of maintainability on the ground that the complainant never made payment to the project Wishluv City and the Agreement was executed between Wishlu Buildcon Pvt. Ltd, to which the complainant's counsel by making reference to a money receipt of Rs.11000/- dated 26.03.2018 submitted that money was also received against the project Wishluv City. On this issue, the Authority vide proceeding dated 07.05.2024 directed the complainant to file written submission within four weeks with a copy to the respondent to file reply thereto within two weeks but the respondent - promoter has neither appeared nor has filed reply to the written submission. He was further directed that in case of non-compliance by him, it would be presumed that he has nothing to say further in the matter and an order would be passed on the basis of material available on the record. It was observed that no further adjournment would be given in this case. Hence, the Authority is left with no option but to pass the order on the basis of material available on the record.

4. Perused the record including the written submission filed on 21.06.2024. The Authority observes that the respondent neither honoured the commitment made to the complainant of handing over the land as per Agreement nor has refunded the remaining amount of Rs.35,11,000/- in spite of requested made by him to the respondent – promoter. The Authority further observes that the respondent is not interested in getting this case disposed of because of the fact that in spite of time given to him neither he filed reply to the written statement nor has appeared in spite of specific direction that in case of non-appearance, it would be presumed that the respondent is not interested in pursuing the matter and the case would be disposed

of on merit on the basis of material available on the record. Further, the Authority observes that the issue of maintainability raised by the respondent during the course of the proceeding dated 07.05.2024 does not hold water as neither he had adduced any corroborative evidence in support of the said claim nor filed the reply to the written submission in spite of granting sufficient time. Further, the material available on the record also show that the respondent – promoter has refunded major portion of the amount of Rs.1,22,00,000/- to the complainant which itself raises question that if the claim of the complainant was not maintainable then why the respondent refunded Rs.1,22,00,000/-. Hence, considering the above facts and the hardship being faced by the complainant, the Authority does not think it proper to allow this case pending for further period and, accordingly, the case is disposed of today itself.

5. In the backdrop of the submissions made on behalf of the complainant and on going through the material available on the record, the Authority directs the respondent - company and its Directors Mr. Luvkush Sharma, Mr. Suryakant Sharma and Mr. Kumar Shishir to refund the remaining amount of Rs.35,11,000/- to the complainant along with interest within sixty days of issue of this order. The rate of interest payable by the promoter shall be at two percent above the prevalent Prime Lending Rates of the State Bank of India on the date on which the amount becomes due till the date of payment.

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

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