

REAL ESTATE REGULATORY AUTHORITY, BIHAR

2nd Floor, BSNL Telephone Exchange, North Patel Nagar, Road No. 10,

Patna -800023

Before the Double Bench of Mr. Naveen Verma, Chairman

& Mrs. Nupur Banerjee, Members

Complaint Case No.: CC/946/2020

Bijay Kumar Kishorepuria.....Complainant

Vs.

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

Project: Ghar Apna Phase- II

ORDER

23-11-2021

26.11.2021

The matter was last heard before the double bench on 27.10.2021.

The case of the complainant is that he had entered into an agreement for sale on 14.05.2012 with the respondent company for purchasing Flat bearing Flat No.302, in block - C, measuring 946 sq.ft. along with parking space in Ghar Apna project and paid Rs.23,51,000/- out of the total consideration amount of Rs.25,00,000/- but, till now the possession has been not given to the complainant.

The complainant has placed on record a ledger account for the period between 1-04-2012 to 31-03-2013, issued by the respondent company against the payments made.

The respondent company has filed its reply on 12-04-2021, stating therein that, the present case relates to the period of Prabhat Kumar Verma, who was then, the Managing Director of the company and at the time of his death, the company had negative balance of Rs.1,23,22,270/- and after his death, the audit report was prepared by the Chartered Accountant and it was found that Rs. 2,83,37,303/- has been transferred in three transactions

in the personal account and two private firm of M.D. Prabhat Kumar Verma. The respondent company further submitted in para -4 of the counter affidavit that the complainant was later not interested in the flat and has requested for refund of the paid consideration amount. The respondent while referring to Annexure- A of the counter affidavit, submitted that, the respondent had returned to complainant Rs.13,22,700/- i.e. in the year 2012-13 i.e. Rs.2,01,220/-, Rs.7,00,400/- in the year 2013-14 and Rs.4,21,100/-in the year 2014-15, thus, only Rs.10,77,300/- remains to be paid by the complainant. The respondent further, in para-7 of the counter reply, submitted that at present this flat has been transferred to Smt. Manju Gupta and Sri Raj Kumar Gupta vide absolute sale deed no.3435 dated 23-03-2013 and earlier the agreement for sale of this flat was made on 02-05-2010 and at present no flat is available in this project. It is also further submitted by the respondent that late MD Prabhat Kumar Verma had taken money from 30-40 persons in the name of the allotment of flat but nothing was done by him during his period and several cases has come before the RERA and before new management and so, the present management is facing great hardship in the matter.

It has been also submitted by the respondent in para-7 of the counter affidavit that there has been discussion with the complainant and there is every possibility of settlement/compromise and the intention of the present management is to settle the dispute between them self even in financial crisis.

The complainant filed reply to show cause filed by the respondent on 05-11-2021, denying all the averments made by respondent in counter affidavit. It is further submitted by the complainant that, the entire amount mentioned in sale agreement had paid by the complainant by taking loan from the bank and no any amount was returned. It has been also submitted by the complainant that the shown amount by respondent is only paid the EMI in bank, thus, the respondent is responsible for giving the flat and also

denied the contentions of the respondent made in para-6 of counter affidavit regarding unpaid amount of only Rs.10,77,300/- left to be returned and submit due amount before respondent is Rs.23,00,000/- and requested for the possession of flat.

The complainant had further submitted in para-5 of the reply to show cause filed by the respondent on 05-11-2021 that the respondent has mutually agreed to deliver the flat in other place and he is ready to take it.

The Authority takes note of the submissions made by both parties and observes that when the new directors took over the company after the death of Shri Prabhat Kumar Verma, the then MD, they should have taken care of all the liabilities of the company as well as its assets. Their plea that the erstwhile management was responsible for diversion of funds and for not handing over the apartment is not tenable under the Real Estate (Regulation and Development) Act, 2016 as they both own the assets and liabilities of the company.

The Bench, however, notes that the respondent in para-7 of the counter affidavit submitted that there has been discussion with the complainant and there is every possibility of settlement/compromise and the intention of the present management is to settle the dispute between themselves even in financial crisis and complainant also submitted in para-5 of the reply to show cause filed by the respondent on 05-11-2021 that the respondent has mutually agreed to deliver the flat in other place and he is ready to take it.

In view of the above submissions, the Bench observes that no specific order may be necessary at this stage. With these observations the present case is disposed of. The complainant is at liberty to approach the Authority if any grievances remain outstanding.

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman