

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Full Bench of Mr. Naveen Verma, Chairman,
Mrs. Nupur Banerjee & Mr. S.D. Jha, Members, RERA, Bihar.**

RERA/CC/342/2019

Mr. Amiya KumarComplainant

Vs.

M/s Vision Land Pvt. Ltd.Respondent

ROJECT: VISION POLARIS

ORDER

20.12.2022

23.12.2022

Hearing was taken up on 20.12.2022. The complainant was present through video conferencing . The learned junior counsel to Sri R.K. Srivastava, Advocate, appeared for the respondent. The Promoter was also present.

This matter was last heard on 9.11.2022, on which date the learned counsel for the respondent had submitted that the internal work was going on and that it would not be possible to complete the work by June 2023 as suggested by the complainant. . He further submitted that he has applied for approval/revalidation of map six months back as well as extension of registration. He had submitted that the promoter was ready to complete the project up to October, 2023.

The complainant submitted on 20.12.2022 that work on the project was progressing, although a bit slow.

The complainant also submitted that the promoter has neither given the copy of the approved map nor uploaded the same on the website.

This submission was contested by the promoter who stated that the approved map was already on the website of RERA. However, the complainant refuted this , to which the promoter said that he would be sending a copy of the approved map to the complainant through email.

The Authority had directed the promoter on 9.11.2022 to upload the approved existing map and share it with the complainant and other allottees. It observes that the promoter has not complied with its directions despite penalty having been imposed on them on different occasions. The Authority would be constrained to impose further penalty if the approved map is not uploaded and shared with the complainant within a week.

Learned counsel for the promoter submitted that the complainant is not paying the remaining amount. He further submitted that the respondent has also demanded the interest from the complainant on account of the delay in payment of his dues.

The complainant refuted this and stated that no demand letter was issued and that he is willing to pay the remaining amount when the demand letter linked with progress of construction is received by him. He also reiterated his demand for interest on delay of delivery of possession of the flat.

The Authority observes that the Model Agreement to sale, annexed with the Bihar RERA Rules, 2017 has a provision that a promoter can charge interest for delay in payment by the allottees but they would have to establish that the payment of installment was due if the construction linked payment was mentioned in the agreement to sale. However, this is not a matter to be adjudicated by the Authority at this stage. The promoter and allottee may attempt to settle this issue and if necessary, file a separate matter.

The complainant had filed the matter for issuing direction to the promoter to complete the project and handover the flat; give interest on the period of delay; adjust the interest amount against the installment remaining to be paid, and the money paid to the financial institution as EMI and interest thereon.

The Authority notes that the promoter is willing to hand over possession of the flat by October, 2023. The complainant reiterates that the flat must be completed and handed over by October, 2023, to which the promoter agrees, subject to the payment of remaining amount by the allottees.

In the light of Section 18 (1) of the RERA Act, 2016 the promoter has to pay interest for every month of delay till handing over the possession of the flat to the allottee at such rate as may be prescribed.

The complainant was to be given possession of the flat by December, 2015 as per para 15 of the sale agreement with grace period of six months.

The Authority, therefore observes that interest is due to be paid by the promoter to the allottee w.e.f June, 2016.

Hence, the Authority directs the respondent – company to pay the interest on the amount paid by the allottee from June, 2016 till the handing over the possession.

Learned counsel for the respondent had submitted that the interest for nine months during which the Covid 19 pandemic spread all over the world including India may not be charged as *force majeure*, to which the complainant agrees. Hence, the relief for nine months, as prayed, is granted.

The Authority notes that the allottee has to abide by the provisions of Section 19 (6) of the Act and make the payment as per the schedule in the agreement to sale. There is no provision for adjustment of interest against the amount to be paid by the allottee. The complainant also has to abide by the provision of the Act and to make payment as per demand made by the promoter in terms of the Schedule C of the agreement for sale dated 26.2.2014.

Hence the complainant is directed to make the payment of the remaining installments as per the schedule agreed in the sale agreement. His claim for interest for the period of delay has already been admitted as above.

In so far as the amount claimed for payment of interest and EMI to the financial institution is concerned, the Authority observes that this is in the nature of compensation. The complainant may press this claim before the Adjudicating Officer.

With these observations and directions, this case is disposed of.

Sd/-
S.D.Jha
Member

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman