

**REAL ESTATE REGULATORY AUTHORITY
(RERA), BIHAR.**

Bench of Dr. S.K. Sinha, Member of RERA, Bihar

RERA Case No- CC/504/2019

Md. Tohid NaiyarComplainant

Vs

M/s Technoculture Building Centre Pvt. Ltd.....Respondent

Counsel of Complainant: In Person

Counsel of Respondent: Mr. Dheeraj Kr. Roy, Advocate

04.01.2021

ORDER

Mr. Tohid Naiyar has booked a flat in Aditi Patna Project, Phase 4 in M/s Technoculture Building Centre Pvt. Ltd. The respondent is not giving the flat or also not refunding the money.

COMPLAINT OF PETITIONER

An agreement for sale was made between the respondent and the complainant on 19/01/2012. According to the agreement, the respondent was suppose to construct the proposed flat described in the schedule in the agreement for the cost of Rs. 13,00,000/- and construction cost shall be paid by the complainant to the respondent i.e. sum of Rs. 2,40,000/-. As per payment schedule referred in the agreement, complainant has already paid on 03/01/2012 vide receipt no. 1266, Rs 13,00,000/- on 25/12/2012 vide receipt no. 40241 and Rs. 12,0000.- on 31/05/2013 vide receipt no. 223. But the respondent did not hand over the flat or refunded the money. However the respondent counsel argued that as per payment schedule, respondent repeatedly sent reminder via letter and asked the complainant to meet in the office for refund but did not refund any amount. Respondent argued that against total consideration amount of Rs. 13, 50,000/-, payment was done for Rs. 4, 55,000/- and balance amount is Rs. 8, 95,000/-.

RESPONSE OF RESPONDENT COMPANY:-

Respondent argued that as per progress linked payment schedule, complainant was asked to pay full consideration money accordingly, on failure to which, the respondent cancelled the booking of the complainant and claimed cancellation was as per agreed land. The respondent did not refund any amount. Complainant requested to allot any other flat as 1st allotted flat was completed long before. Now complainant was asked to visit other completed site recently and agreed to take other flat of higher cost. Then during the hearing the Bench directed both the parties to settle their dispute and come with, compromise formulae for the new flat.

REPLY OF THE COMPLAINANT

During the hearing, complainant expressed that he is ready to accept other agreed flat on new cost and is also ready for amicable settlement of the rate and flat.

HEARING

The case was heard on 14/02/2020; 28/09/2020; 13/10/2020; 6/11/2020; 24/11/2020; 10/12/2020; 18/12/2020; 28/12/2020; 31/12/2020.

Learned counsel of the respondent agreed that total amount Rs. 4.55/- Lakhs has been paid by the complainant against the total consideration value of Rs. 13,00,000/- Accordingly, notices were served to the complainant repeatedly & lastly booking was cancelled and the flat was sold to other person. But respondent also offered the complainant to choose any other flat if wanted on new cost for other already completed flat (for the prestige of reputed low cost builder provider). Complainant agreed and selected a flat and asked for proposal in detail of cost for selected flat. Cost proposed was also deals with complainant and respondent accordingly.

ISSUE OF CONSIDERATION

1. Whether there was any progress link programme of payment schedule agreed with agreement and whether complainant followed the same?
2. Whether complainant is asked for remaining balance of payment even after completion of the flat?
3. Whether cancellation is bad in the eye of law?

Yes there was a progress link program of payment schedule and complainant failed to pay entire consideration amount agreed upon in the agreement. Even after completion of the flat construction only Rs. 4.55/- Lakhs was paid, out of total consideration value of Rs. 13,50,000/- Lakh.

Respondent has asked complainant for payment as per progress schedule.

Therefore, cancellation is not bad in eye of law and as per agreement between the parties.

Interim Order

Cancellation of the booking of flat is not wrong. But respondent has availed economic benefit of paid amount due to non refund of the payment. Hence, a simple interest @ rate of 4% per annum on paid amount is here by ordered by Bench to be paid to complainant and as per amicable settlement, amount shall be adjusted for the amount of now selected flat by the complainant. Intimation to the Authority regarding the settlement of flat or refund must be communicated. If no mutual settlement arrived between the parties then in that case they are given liberty to approach the authority again for redressal of their grievances in light of above interim order.

**Sd/-
S. K. Sinha
Member
04.01.2021**