

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Bench of R.B.Sinha & S.K. Sinha, Members of the Authority

Case Nos.CC/151/2018

Subhash Chandra.....Complainant

Vs

M/s DPM Infrastructure & Housing Pvt LtdRespondent

28/12/2019

O R D E R

1. Mr Subhash Chandra, s/o Sri Raj Nandan Prasad, a resident of Bank of Baroda, Chapra Branch, Hathua Market, Adarsh Tower, Chapra-841301 has filed a complaint petition against Mr Pankaj Kumar Singh, MD of M/s DPM Infrastructure & Housing Pvt Ltd, East Boring Canal Road, Patna under Section 31 of the Real Estate (Regulation and Development) Act 2016 for refund of his deposit amount of Rs 5,50,952/- along with interest against booking of a flat in their project “DPM Sheodhari Enclave”, Khagaul, Patna and Rs 2,00,000/- as compensation for inconvenience, harassment, mental tension caused to him.

Case of the Petitioner

2. In his complaint, Mr Subhash Chandra has stated that on 04th June 2018 he had booked a flat in the project “DPM Sheodhari Enclave”, Khagaul, Patna of the Respondent company M/s DPM Infrastructure & Housing Pvt Ltd, East Boring Canal Road, Patna by transferring an amount of Rs 1,02,000 (Rupees one lakh and two thousand only) and till date of filing complaint (17th December 2018), he has paid/transferred Rs 5,50,952 (Rupees five lakhs fifty thousand and nine hundred fifty two only) to the bank accounts of the aforesaid company or the director. He claimed that the respondent company has neither executed any agreement for sale nor

any construction work was started by them till date. He claimed that the respondent company has also not specified the date for completing and handing over the flat.

In such a situation, he has requested the Promoter/Respondent company to refund the amount deposited by him along with interest.

Response of the Respondent Company:

3. The respondent company has not submitted any response to the notice issued to them on 28/01/2019 for furnishing their comments on the petition filed by the complainant under Real Estate (Regulation & Development) Act, 2016. Accordingly they were called for hearing.

Hearing

4. Hearings were held on 25/03/2019, 22/06/2019, 29/07/2019, 28/08/2019 and 16/09/2019. In course of hearing, the respondent company was represented by Mr Mani Shanker Kumar whereas the Complainant defended his case in person. On the first date of hearing, no one appeared on behalf of the Respondent company. Thereafter, another notice was served on the Respondent company to ensure presence of the Director on the next date of hearing. On 22nd June 2019, learned counsel of the Respondent Company admitted the receipt of the full amount of the deposit and offered to refund the amount in installment as the Project had not yet been registered with the Authority. During the course of hearing on 29/07/2019, the respondent company gave a cheque of Rs 2,50,000/- to the complainant. However, on the next day of hearing on 06/08/2019, the complainant filed a petition claiming that the cheque issued by the respondent company had bounced back by the bank and could not be encashed. On 28/08/2019 learned counsel of the company committed that refund of the deposited amount will be made within a fortnight. The Bench directed until the refund is made, the application of the Respondent company for registration of their project would be kept in abeyance. Further, the complainant was directed to consider filing a criminal complaint case before the concerned Police Station /thana

against the respondent company for the wrongful act of issuing a cheque which has bounced on presentation before the concerned bank. The Respondent company again failed to keep their promise of refund of the deposited amount on the next date of hearing.

Issues for consideration

5. There is no dispute on the fact of the case. The Complainant has claimed the payment of Rs 5,50,952 to the Respondent Company for booking a flat in their project DPM Sheodhari Enclave, Khagaul, Patna. The Respondent Company has accepted the receipt. Further, the respondent company had issued a cheque for Rs 2.50 lakh as part refund in course of hearing on 29th July 2019, which was bounced by the drawee bank.

Order

6. It is, therefore, ordered that the respondent company refund the deposited amount of Rs 5,50,952 along with interest of MPLR of State Bank of India plus two percent from the date of deposit to the date of refund to the complainant.
7. As regards compensation, the complainant may approach, if he wishes so, the Adjudicating officer under section 31/71 of the Real Estate (Regulation and Development) Act 2016.

Sd/-
(R.B. Sinha)
Member

Sd/-
(S.K. Sinha)
Member