

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Complaint Case Nos.CC/121/2018

Smt Umda Devi.....Complainant

Vs

M/s Creastate Infrastructure Pvt Ltd.....Respondent

**Present: For the Complainant :Mr Sharad Shekhar, Adv
For the Respondent :Mr Manoranjan Kumar, Adv**

22/10/2019

ORDER

1. Smt Umda Devi @ Sumitra Devi, w/o Late Rajendra Prasad Singh, a resident of 51, Sirnava, Village Sirnava, Anchal Chandi, PS Bena, District Nalanda has filed a complaint petition against M/s Creastate Infrastructure Pvt Ltd through its Director Mr Ranjeet Kumar for revalidation of the sale agreement and assurance to the complainant for possession of the plot of land and for direction to the respondent company to register the plot at the time of delivery of the plot.

Case of the Complainant:

2. The complainant in her petition has claimed that she had entered into an agreement with the respondent company for allotment of plot in their residential project "Jan Awasiya Yojana" to be developed at Naharpura, Phulwari Sharif, Patna in October, 2016. As per letter of allotment of plot issued by the developer, the petitioner was allocated Plot No.35 having area of 900 sq ft in their residential project "Jan Awasiya Yojana" on a basic cost of Rs 6,75,000/- only inclusive of preferred location charges (the basic sale price @ Rs680/- per sq ft and PLC @ Rs 70/- per sq ft) as

per prescribed payment plan enclosed therewith. As per payment plan, the entire amount was to be paid at prescribed rates in 38 installments starting from 15/11/2016 and ending on 14/11/2019. The last installment of 10 percent was to be made at the registration of the plot of land.

3. As per terms and conditions of the allotment letter, the developer had committed that development of the plot would be completed by December, 2019 with a grace period of six months. Further, it was committed that a written intimation on completion of the project will be sent to the allottee and a fit out period of one quarter would be given from the date of offer for possession. The developer had also committed that the basic amenities like 30' and 20' wide internal road, main entrance gate, street lamps, community hall, sites for school and hospital, gymnasium etc would be developed by them.
4. One of the terms and conditions prescribed by the developer stipulated that installments due towards payment of the plot would be made at the intervals prescribed in the payment plan and in case, payment is not received within the stipulated period or in the event of breach of any of the terms and conditions of the allotment letter, the allotment will be cancelled and 10% of the basic price would be forfeited and the balance amount will be refunded without any interest after 90 (ninety) days. The allotment letter further prescribed that no separate payment letter will be issued and it was obligatory on the part of the allottees to pay the installments on or before the due dates as mentioned in the payment schedule.

Response of the Respondent Company:

5. In their response to the notice issued by the Authority to the respondent company in November, 2018, the respondent company has stated that the complainant only fulfilled its commitment of making payment of installments till 24/09/2017 only and paid a total sum of Rs 1,91,250/- only out of the total amount of Rs 6,75,000/-. As per terms and conditions prescribed in the allotment letter, the respondent company issued reminders on 16/04/2018 and 18/06/2019 for making the due payments.

They also tried to contact her on the given mobile number but failed. Accordingly, they cancelled the allotment of plot of land to the complainant. However, the responded company stated that they would like to resolve the issue by refunding the balance amount left after forfeiture of 10% of the basic price of the plot.

Hearing:

6. Hearings were held on 30/01/2019, 03/04/2019, 19/06/2019 and 29/07/2019. In course of hearing i.e. on 03/04/2019 learned counsel of the complainant stated that since the development of the project was not up to the mark and promoter had also failed to register their project with RERA, the complainant stopped making payment of installments and that she was a widow and felt helpless in the situation. The Complainants requested for refund of the principal amount along with due interest at the market rate as the respondent company had not refunded the deposit amount after cancellation of the allotment letter. The Respondent company agreed to refund the deposit amount.
7. As the respondent company had already agreed to refund the amount deposited by the complainant, the Bench directed the respondent company to make payment of the principal amount deposited by the complainant with the company. In pursuance to the direction given by the Bench, the respondent company transferred a sum of Rs 1,91,250/- to the bank account of the complainant on 19/06/2019.

Issues for Consideration :

8. The main issue for consideration in this case is whether the complainant has followed the payment schedule prescribed by the developer and agreed to by the complainant and made payment of installments regularly. From the receipts produced by the complainant, it is seen that the complainant was regular in making payment up to September, 2017 and the respondent company has also admitted the same. The complainant stated that she did not make payment of other installments as the project was not registered with RERA and there was sluggish progress in the development of the site

and she was not given any satisfactory response when she approached the developer for the requisite information. It is also a matter of fact that it was only in the months of April and June, 2018 that the respondent company issued the notices to the complainant for making payment of further installments which prima facie confirms the contention of the complainant that there was little progress in the development of the project. Further, though the respondent company cancelled the allotment but did not refund the deposited amount within prescribed period.

Order :

9. As the respondent company has availed the economic benefits of the amount deposited by the complainant from November, 2016 to September, 2017 and not refunded the deposit amount as required under the terms and conditions of the allotment letter, the Bench orders that interest of 8% per annum be paid on the amount of deposit from the date of deposit to the date of refund by the respondent company to the complainants within 60 (sixty) days of issue of this order.

Sd/-
(S.K. Sinha)
Member

Sd/-
(R.B. Sinha)
Member