

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Ved Prakash,
Senior Legal Consultant

Exe. Case No -22/2023
RERA/CC/1176/2021

Vijay KumarComplainant/Executant(s)
Vs.
M/s Sri Soho Infrastructure Pvt. Ltd.Respondent
PROJECT : SOHO BADRI NARAYAN ENCLAVE

For the complainant In Person
For the respondent : Shri Manoj Kumar Singh

05.07.2024

ORDER

On 26.04.2024 a petition was filed on behalf of the respondent landowner, Shri Ranjeet Kumar Choudhary praying therein to exonerate him from the present execution case no. 22/2023 arising out of RERA/CC/1176/2021.

2. Shri Manoj Kumar Singh, learned counsel on behalf of landowner submits that the present execution case is filed in connection with the order dated 27.09.2022 passed by the Hon'ble Chairman in RERA/CC/1176/2021 against the respondent promoter, but later on, the landowner has been impleaded as a respondent in the present execution case against which the present respondent has already filed an objection petition as he has no role in the agreement signed between the complainant and the promoter. According to him, it is very surprising that without involvement of the respondent landowner in dealing with agreement for sale, he has been dragged in this case by the executant. He further submits that neither any notice was issued to the landowner nor he has taken part in the proceedings of the original complaint case no. RERA/CC/1176/2021 as the Authority has already understood the manner adopted by the complainant and that is why the order passed by the Authority is confined to the respondent promoter.

3. It is further submitted that the allotment letter submitted by the complainant along with the complaint case shows that there is no specific description regarding the booked flat and its Block, including the size and area of the flat. It is simply mentioned that flat no. 204 on so-called 2nd floor in Soho Badri Narayan Enclave located at Bijay Nagar, Hanuman Nagar, Patna. It is also not mentioned that in which block, the flat has been booked and whether it is with respect to one BHK, 2 BHK or 3 BHK in specification. He further submits that the complainant is totally confused and that is why he has been placing the contradictory facts.

4. He further submits that the promoter has signed the development agreement for construction of the multi-storied building namely, Soho Badri Narayan Enclave, and the project was to be completed within 3.5 years with a grace period of six month, which means that the project should have been completed by the end of 2016, but the promoter has not completed the said project as yet. Hence the promoter is a habitual defaulter and malpractitioner.

5. He further submits that the landowner, Shri Ranjeet Kumar choudhary had filed a complaint case before the Authority in 2021 and after thorough hearing, the said case was disposed of with some observations. In this way, the present landowner has no role in the complaint case as well as execution of the order passed by the Hon'ble Chairman. He further submits that the promoter has trapped a number of allottees, including the landowner and without completing the project, misused the collected fund and now the present complainant is also one of the allottees who has paid Rs. 27 lakh out of consideration Rs. 30 lakh.

6. He further submits that the complainant has set up a concocted story to mislead the court that the complainant's flat is under the possession of so-called respondent no. D -cum- landowner and his father, which is totally unacceptable and unlawful stand taken by the complainant who is unaware of the facts that the respondent landowner's father had died a week ago. He further submits that the complainant has wrongly mentioned that Shri Ranjeet Kumar Choudhary is dead and not alive, whereas the fact is that the present

reply is filed on his behalf. He further submits that the promoter with a malafide intention brought the landowner in the present case, hence there being no liability of the respondent landowner, he may be exonerated from the present execution case.

7. Shri Sumit Kumar, Learned counsel on behalf of complainant /executant has filed reply to the above petition, submitting that the Hon'ble Chairman, vide order dated 27.09.2022 in RERA/CC/1176/2021 has directed the respondent promoter to deliver possession and execute sale deed of flat no. 204 in Block -A of the project, which is in possession of the landowner respondent no. D and his father Shri Badri Narayan Choudhary. He further submits that enough opportunity was given the present respondent, but he has chosen not to appear and now he is misleading the bench by taking a plea that he has not been made party in the proceedings of original complaint case, which is incorrect and due to which the complainant is directly affected in the matter.

8. He further submits that the respondent landowner is keeping the bench in dark and showing that flat no. 204 in Block -A of the project is in the share of the land landowner. It will also find support from the development agreement dated 08.11.2022 annexed as Annexure-A of the reply. He further submits that the respondent landowner is doing so only with a view to harassing the complainant. Thus, his objection that he is not a necessary party in the execution proceeding has no leg to stand on and the same may be rejected and he may also be directed unlock the flat no. 204 of Block -A of the project, Badri Narayan Enclave and deliver physical possession to the complainant/executant as respondent promoter is not appearing before the Authority.

9. Perused the record.

10. Neither the respondent promoter as appeared before the bench of the Hon'ble chairman during the proceedings of RERA/CC/1176/2021 in spite of

repeated reminder nor did he appear before this bench. Hence, it is established that the respondent promoter is absconding without any rhyme and reason.

11. The Hon'ble Chairman, vide order dated 27.09.2022 in the complaint case no. RERA/CC/1176/2021 has observed that flat no. 204 in Block -A of the above project was booked by the complainant and the same was not delivered to him by the respondent in spite of payment of principal amount of Rs. 27 lakh out of total consideration of Rs. 30 lakh. He further discussed that it was incumbent upon the respondent to explain as to how the flat booked in favour of the complainant has been in the possession of some other person. It is also mentioned in the order that from the supplementary affidavit and photographs, the flat no. 204 in Block -A is in the possession of respondent no. D and his father, Shri Badri Narayan Choudhary. In this view of the matter, the Hon'ble Chairman has directed the respondent to execute the registered sale deed in favour of the complainant after receiving the remaining consideration amount from the complainant and hand over the possession of flat to him within 60 days of the order.

12. The executant has filed development agreement no. 28709 dated 08.11.2012 executed between Shri Badri Narayan Choudhary and other and promoter. M/s Soho Infrastructure Pvt. Ltd through its Director Shri Vijay Kumar as at Annexure -A, wherein four schedules have been mentioned and flats at Schedule no. 2 holding 51 per cent of share has been allotted to the landowner in the entire Block -C and southern portion of Block -B and likewise 49 % of share of the project has been allotted in the share of promoter in which the entire Block -A and northern portion of Block -B have been allotted in the share of the promoter.

13. Though the respondent landowner is claiming flat no. 204 of Block -A of the above project as allotted in his share, but he did not submit any documentary evidence in support of his claim over the concerned flat.

14. It is also a fact that the respondent landowner has locked flat no. 204 of Block -A of the above project as per development agreement comes under the share of promoter and the Hon'ble Chairman has also directed the respondent promoter to deliver possession and execute sale deed of the said flat in favour of the complainant /executant.

15 In view of the above facts and circumstances of the case, the respondent landowner cannot be exonerated from the proceedings of this case as he is one of the necessary parties for disposal of the present execution case. Accordingly, the petition of the respondent landowner is hereby rejected.

Put up on 20.08.2024 for further hearing.

Sd/-
(Ved Prakash)
Senior Legal Consultant
RERA, Bihar