

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/265/2019

Dharmendra Ranjan.....Complainant

Vs

M/s Raman & Kumar Construction Co. Ltd.Respondent

Project: Brajendra Residency

For Complainant: In Person

For Respondent: Mr. Sumit Kumar, Advocate

27 /07/2022

ORDER

The matter was last heard on 20-06-2022.

The complainant, Dharmendra Ranjan, a resident of K-600, Kali Mandir Road, Hanuman Nagar, Kankarbagh, Patna-20, has filed a complaint petition against the respondent namely M/s Raman & Kumar Construction Co. Ltd., promoter and developer company, for the delivery of the possession of flats as per the development agreement and rent due.

In short, the case of the complainant is that the complainant had entered into Development Agreement dated 23-11-2013 for the construction of multi storied building upon his land and as per the agreement, the complainant will get total nine three BHK flat along with car parking space as per the schedule-II of the said agreement. He further submitted that almost more than 3.5 years has been passed from the date handing over the possession of land but till date, the respondent has neither constructed the building and handed over his shares of flat nor paying the penalty for delay as per the development agreement. He further submitted that respondent has given possession to some flat owners under construction building without obtaining occupancy certificate and other required documents from the Competent Authority. He also submitted that some flat owners are staying their without completion of many works in building like water supply, sewage and drainage system, electricity connection and fire safety and other mandatory facilities.

Perused the record of the case. No specific reply has been filed. However, Mr. Sumit Kumar, learned counsel remains present during the course of hearings on the behalf of the respondent company and filed a list of documents on 06-05-2022, enclosing a copy of police complaint and photographs of the building.

On 20-06-2022, complainant has filed a petition stating therein that the respondent has violated section -3 of the RERA Act as respondent has not registered the project with Authority and liable for penalty under section 59 of the Act. It has been further submitted that respondent has made false statement that Association of Allottees has filed a FIR against complainant for removing encroachment and the documents filed by respondent is false and fabricated and they tried to misguide the court. It has been further submitted that more than 10 years has been passed from the date of execution of development agreement but till date respondent has not given the possession of his shares of flat as per the agreement. It has been further submitted that respondent submitted that building is complete and allottees association i.e. many allottees are staying in the same building then question arises, how respondent completed entire building and sold many flats without handed over possession to complainant. It has also been submitted that the respondent has done many illegal construction in above project in contravention of law and approved map and also constructed 30 flats instead of 27 in contrary to the map approved. It has been also submitted that some construction in contrary to approve map was done by the respondent in the parking space. It has further submitted that respondent has sold one flat falls under complainant's share. It has also been submitted that the respondent had taken electricity connection for construction of above building but could not pay electricity bill and there is approximately Rs 2.5 laks dues of electricity bill on the part of respondent and due to this dues, electricity department is not issuing meter for common area of same building. It has also been submitted that the respondent has sold and handed over almost all his flats and did registry of some flats to flat owners without getting valid NOC and occupancy certificate from concerned agencies and without completing other mandatory requirements like lift, installing fire extinguisher system and other basic amenities.

During the last hearing on 20-06-2022, the complainant has submitted that he has the agreement is of the year 2013. He further submitted that from 2013 to 2016 whole building is ready. The respondents have sold out all his flats. He further submitted that in 2018, he has filed this case. He further submitted that project is not registered with the Authority. He submitted that no common line, no lift, no proper lighting has been done in the building. He also submitted that he demanded the flat of his shares but they did not want to give the same. He further submitted that no NOC, no occupancy certificate has been obtained from the

competent authority. He also submitted that boundary has been made by bricks in 20 parking. Therefore, the respondent may be directed to complete the project.

Learned counsel for the respondent has submitted that if there is no compliance of para-13 of the development agreement dated 23.11.2013 they will not make his flat and nor they will give peaceful possession. He also submitted that the complainant is making illegal demands. He referred to para-13 of the agreement that if the coaching is not removed they will not complete his share and give him the share.

The Bench observes that landowners are allottees as per Regulation no. 6(3) of the Bihar Real Estate Regulatory Authority (General) Regulations, 2021 and hence the matter is maintainable.

After the perusal of documents placed and submissions made, the Bench observes that the project is not yet completed and is still in its construction stage, hence, Bench directs the respondent to register the project immediately, failing which appropriate action will be taken as per the provisions of the Act.

So far the issue regarding handing over the share of complainant as per the development agreement is concerned, upon that issue respondent has submitted during the course of hearing on 11-04-2022, that there is a coaching centre run by the complainant in the premises of project area where the complainant shares fall and he does not want to remove the coaching centre. He further submitted that they are ready to complete the project as per specification but due to encroachment by running the coaching centre there, the work could not be completed. He further also submitted that complainant has not given peaceful possession of the land so that respondent should complete the work.

On the other hand complainant has submitted that area upon which flat has to be constructed is totally free from encroachment but till date, respondent has not started any construction over there and so far the area of coaching center is concerned, complainant is ready to remove the area once respondent will complete the flat.

Upon the above submissions of the parties, the Bench observes that respondent is duty bound to complete the portion of the shares of complainant as per the Development Agreement dated 23-11-2013 and further directs respondent to first complete the construction over the land of the share of complainant which in all way free from any kind of encroachment and as soon as it is in at their completion stage, respondent will free to demolish the left out share of land over which coaching is running by complainant and start construction over that also.

The Bench further directs complainant to cooperate with the respondent as per the above observations.

The Bench directs respondent to ensure that shares of complainant should get complete with all the amenities and facilities as per the development agreement within 6 months. If the respondent fails to complete the works within 6 months, then a penalty of Rs.1,000/- for each day of delay would be imposed upon respondent.

So far the issue of illegal construction in contravention of approved map is concerned; the complainant may approach the competent authority.

As regards the prayer inform of compensation for delay in handing over the possession or any rent arrear is concerned, the complainant is at liberty to press the claim for that before the Bench of A.O.

With these observations and direction, this complaint is disposed of.

Sd/-

Nupur Banerjee
Member

