

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before Mr R.B.Sinha & Mr S.K. Sinha, Members of the Authority

RERA Complaint Case No: CC/178/2018

Subodh Jaiswal.....Complainant

Vs

M/s Realise Realcon Pvt Ltd.....Respondent

Present

For the Complainant : In person
Mr Santosh Kumar, Advocate
For the Respondents : Mr Shailendra Kr Giri, MD
Mr Mohit Raj, Advocate

20/01/2020

O R D E R

1. Mr Subodh Jaiswal, a resident of F-502, Shukan Sky, Near City Pulse Cinema, Kudasana-382421, District Gandhinagar, Gujarat has filed a complaint petition under the section 31 of the Real estate (Regulation and Development) Act 2016 on 16th December 2018 for refund of his booking deposits along with interest for a flat in the project Realize Green Exotica, near AIIMS, Patna from the promoter M/s Realize Realcon Pvt Ltd. He has enclosed the copies of the receipts of the payments made to the respondent company and correspondence made with them.

Case of the Complainant

2. In his Petition, the complainant has stated that he had booked a Flat No.201 in the real estate project Realize Green Exotica, near AIIMS, Patna promoted by M/s Realize Realcon Pvt Ltd in the name of Ms Kranti Sarjana on 14/10/2016 and paid a sum of Rs 6.80 lakh

between 14/10/2016 to 11/02/2017. The flat was to be handed over to him by the end of December, 2018 but during the telephonic conversation with the respondent company on 23/11/18 he was informed that the booked flat No.201 has been sold out to someone else without his consent. He, therefore, asked the respondent company through email on 26/11/2018 to refund back the full amount of Rs 6.80 lakh but the company has failed to refund the deposited amount. He has therefore, filed this complaint petition seeking refund of his hard earned money of Rs 6.80 lakh along with interest from the builder.

Response of the Respondent Company:

3. In response to the notice sent to Mr Shailendra Kumar Giri and Smt Baijanti Kumari, Directors of M/s Realize Realcon Pvt Ltd to file reply on the aforementioned complaint petition by 18/02/2019, the respondent company replied that they were ready to refund the entire amount in approximately four installments of Rs 1,65,000/-. However as the respondent company had not refunded a single instalment in three months, the respondent company through their director Mr Shailendra Kumar Giri were called for hearing.

Hearings :

4. Hearings were held on 28/03/19, 03/05/19, 21/06/19, 08/07/19, 26/07/19, 29/07/19, 31/07/19, 05/08/19, 28/08/19, 14/11/19, 18/12/19 and 24/12/19. In course of hearing, the complainant was either himself present or represented by Mr Santosh Kumar, Advocate whereas the respondent company was represented by their MD Mr Shailendra Kr Giri, Late Mr Durga Naranyan, Advocate, Mr Mohit Raj, Advocate. In the course of hearing on 3rd May 2019, the learned counsel of the respondent company submitted a post-dated (10th May 2019) cheque of Rs 2,50,000/- (Rupees two lakh fifty thousands only) drawn on ICICI Bank, Saguna More Branch to the complainant. The cheque however bounced on presentation on 10th May on the grounds of “insufficient

funds”. When the matter was brought to the attention on the next date of hearing on 21/06/19, learned counsel of the respondent company assured that Rs 2,50,000/- would be paid to the complainant by RTGS within next 3-4 days and he would submit a payment schedule for refund of the entire booking amount within a week. The same was however not done. The respondent company paid a meager sum only on 30/07/19 and that too under directions of the Bench. The respondent company has finally refunded the entire principal amount deposited by the complainant in December 2019.

Issues for consideration :

5. Since the respondent company has refunded the principal amount to the complainant, the only issue left to be decided is whether any interest was required to be paid and if yes, at what rate. The Respondent Company had received Rs 6.80 lakh from the complainant during the period 14th October 2016 to 11th February 2017 and had not even executed the agreement for sale with the complainant. Moreover, the respondent company unilaterally cancelled the booked flat and allotted it to someone else. The Respondent company did not contest the claim of refund by the complainant and has also not refunded any sum to the complainant on their own. They refunded the booking amount only after repeated directions of the Bench and that too, after more than a year of request. Thus the respondent company has availed the economic benefits of the funds deposited by the complainant for nearly three years. Therefore, equity would demand payment of interest by the respondent company at a reasonable rate to the complainant.

Order :

6. It is therefore, ordered that an interest at the rate of Marginal Cost of Lending Rate (MCLR) of State Bank of India as applicable for two years plus 2% per annum on the total amount deposited by the complainant, be paid by the respondent company to the complainant

from the date of deposit to the date of refund of the principal amount within 60 (sixty) days of issue of this order.

Sd
(S.K. Sinha)
Member

Sd
(R.B. Sinha)
Member