

**REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR**

RERA/CC/01/2024

RERA/AO/01/2024

Deep Kumar

.....Complainant

Vs

M/s Ashirwad Engicon Pvt. Ltd.

....Respondent

Project: I.O.B. Galaxy

For the Complainant :Shri Santosh Satyarthi, Advocate.

For the Respondent/s :Shri Ishtiyaque Hussain, Advocate.

06/10/2025

ORDER

This complaint case is filed by the complainant for compensation from the respondent(s) as follows:

- (i) Compensation amount as per market value is around Rs. 25,20,000/- after deducting Rs. 15,79,662/- (Principal + interest @ 14.85=16.85%) from Market value of the property Rs. 41,00,000/- till 29.10.2023 and thereafter interest on that compensation amount.
- (ii) Monthly rent of Rs. 15,000/- per month since January, 2021 till date of payment of entire compensation amount.
- (iii) Rs. 5,00,000/- (Rs. Five lakhs) as compensation for economic, physical and mental harassment suffered due to violation of Agreement for sale dated 12.05.2015 and Rs. 50,000/- for cost of litigation expenses.

2. The case of the complainant in brief is that, as per complainant, the respondent had entered into an agreement dated 12th May 2015 with complainant for sale of one flat having carpet area nearly 950 sq. ft. and super built up area of nearly 1370 sq. ft. along with amenities and one car parking space in the project “ IOB GALAXY” for the consideration amount of Rs. 6,51,000/- (Rs. Six Lakh Fifty one thousand only). The said total consideration amount was received by the respondent and a

money receipt dated 12.05.2015 was also issued by the respondent. The respondent did not deliver possession of the said flat and car parking space as agreed in the agreement for sale. The respondent/ promoter has also purchased several pieces of land after entering into an agreement with the complainant. The rising price of immovable property and intention to earn more money is the sole reason to deny the rightful claim of the complainant. The complainant filed complaint case bearing RERA/CC/534/2022 for delivery of possession of flat along with amenities and one car parking space in the project "IOB GALAXY" within 15 days of filing case and till the delivery, Rs. 50,000/- per month should be paid from delivery date as per agreement i.e. 5 years after approval of building construction plan by competent authority. During hearing, the respondent also showed his inability to handover the possession of flat to the complainant. The complainant also later submitted that if the respondent is not able to handover the possession of the flat then they should refund the amount to him as per the present market value of that flat. He also requested for suitable compensation.

The Authority directed the respondent company and its Managing Director, Mr. Ajay Singh, to refund the principal amount of Rs. 6,51,000/- to the complainant along with interest within sixty days of issue of this order. The rate of interest payable by the respondent shall be at two percent above the prevalent prime Lending Rates of the State Bank of India on the date of which the amount becomes due till the date of payment and as per direction of the Authority, he has filed this case for compensation before the Adjudicating Officer of RERA. It is further mentioned that the respondent has paid only principal amount, but its interest is yet to be paid. The respondent had to deliver the agreed flat in the month of January 2021 i.e. 5 years after approval of building construction plan by competent authority which was approved vide Plan Case No. 11/B+G+10/16, but the respondent failed to do so. As such the

respondent is liable to pay compensation and relief as sought for in Form-N of the complaint case.

3. The respondent appeared but did not file any reply or statement, nonetheless orally denied the case of the complainant.

4. After hearing both side and after perusal of Annexure-II it appears that the complainant filed a case before RERA and the RERA Authority ordered the respondent company and its Managing Director Mr. Ajay Singh to refund the principal amount of Rs. 6,51,000/- to the complainant along the interest within sixty days of this order. The rate of interest payable by the promoter shall be at two percent above the prevalent prime Lending Rates of the State Bank of India on the date on which the amount becomes due till the date of payment. It is further stated that the complainant is at liberty to press other claims, which are in the nature of compensation, before the Adjudicating Officer, RERA, as per order of the Authority dated 04.09.2023.

5. The complainant filed this complaint case as per above direction. As per order of the Authority, it has been held that if the respondent is not able to hand over possession of the flat then they should refund the amount to him in the present market value of the flat. As per this order, the respondent is liable to refund the amount and so far the compensation is concerned, it may also be compensated by the respondent to the complainant.

6. The complainant has sought relief of Rs. 35.00 lacs as compensation amount as per present market value but he has not filed any document or ground on which he has assessed the amount of Rs. 35.00 lacs. For this purpose, Rs. 10.00 lacs appear to be justified as compensation amount and so far as monthly rent of Rs. 10,000/- per month since 2021 till date of payment of entire compensation amount is concerned, it appears to be justified. So far compensation for

economical, physical and mental harassment is concerned, Rs. One lakh appears to be justified and also litigation cost Rs. 50,000/- is justified.

7. Considering the aforesaid facts and circumstances, it is clear that the complainant is liable to get relief for compensation for not handing over the possession of the flat and not supplying reasonable car parking area. Complainant is liable to get: (i) Rs. Ten lacs compensation amount, (ii) Rs. 10,000/- (Rs. Ten thousand) per month as rent since 2021 till date of payment of entire compensation amount, (iii) The complainant appears to get compensation for mental agony of Rs.1,00,000 (Rs. One lakh) and also (iv) litigation expenditure of Rs. 50,000/- (Rs. Fifty thousand) only.

The respondent is directed to pay the aforesaid amount within a period of two months of this order, failing which the complainant may proceed further as per law prescribed.

8. With the aforesaid observations and directions, this case is disposed of.

Sd/-
(Vinod Kumar Tiwari)
Adjudicating Officer

