

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**  
**IN THE COURT OF SPECIAL PRESIDING OFFICER, RERA, BIHAR**  
**RERA/CC/553/2022**

**Ms. Shree Kumari**

**..... Complainant**

**Vs**

- 1. M/s Swastika Mangal Developers Pvt. Ltd. through its Managing Director Sri Manish Kumar Sharma**
- 2. Smt. Krishna S Sharma/Landowner of the Project “Krishna Enclave”**
- 3. M/s APS Mass Pvt. Ltd through its Director Sri Abhay Kishore**  
**.....Respondents**

**Project: APS KRISHNA ENCLAVE**

**Present: For the Complainant: Mr. Sumit Kumar, Advocate**  
**For Respondent No.3: Mr. Amit Singh, Advocate**

**24.09.2025**

**ORDER**

Hearing taken up. Heard Mr. Sumit Kumar, learned counsel appearing for the complainant and Mr. Amit Singh, learned counsel appearing for Respondent No.3.

2. The complainant has filed this case for relief to get physical possession of the flat in question from Respondent No.1 to 3 and also for registry of absolute sale deed of the flat and also action may be initiated and penalty may be imposed against Respondent No.1 and 2 for violating Sections 3 and 15 of the RERA Act, 2016 and also for initiation of revocation proceeding under Section 7 of the Act, 2016 against Respondent No.3 for violating Sections 4, 12 and 15 of the RERA Act and Rule 3 of the Bihar RERA Rules, 2017 and also for allowing to approach the Adjudicating Officer for compensation and also for any other relief(s), it deems fit and proper.

3. The facts of the case of the complainant are that the complainant entered into an agreement for sale dated 06.12.2019 with the Respondent No.1, who is the actual promoter of the Real Estate Project, namely, Krishna Enclave on the land of Respondent No.2 by way of development agreement. After completion of almost 75% of the project work as on February, 2021, the Respondent No.2 in connivance with Respondent No.1 secretly transferred the

land and erected asset of the aforesaid project to a new promoter, namely, M/s APSMASS Pvt.Ltd./Respondent No.3 and this was done only to commit breach of trust.

4. Respondent No.1 is a Real Estate Developer and is run by Mr. Manish Kumar Sharma who executed an agreement for sale in favour of the complainant on 06.12.2019. After booking the flat, the complainant applied for home loan with ICICI Bank where it was asked whether the project was registered in RERA or not and home loan was not granted for lack of RERA registration but processing fees of Rs.11,000/- was taken by the Bank.

5. Respondent No.2 even after knowing the aforesaid booking of the complainant in the project with mala fide intention entered into a new development agreement with Respondent No.3 without discharging the liabilities. After knowing the facts, the complainant had visited the site of the aforesaid project and found the project in the name of Respondent No.3 i.e., APS Krishna Enclave and there was no banner of Respondent No.1, on which he sent a legal notice to the Respondent No.1 on 12.03.2022 and asked for clarification. Instead of justified clarification, the Respondent No.1 demanded escalated price of Rs.23,00,000/- or else he would rather cancel the allotment of the complainant in the project.

6. Respondent No.2/land owner had covertly entered into another development agreement vide registered Deed No.3903 dated 10.03.2021 with another Real Estate Company, namely, APSMASS Pvt. Ltd./Respondent No.3 and he applied for RERA registration of the project.

7. The respondents are bound to hand over the flat in terms of the conditions stipulated in the agreement for sale. However, it is pertinent to note here that the respondents have acted in contravention of the provisions contained in Sections 3, 4, 12 and 15 of the RERA Act, 2016 and rules and regulations made thereunder. Hence this complaint.

8. On behalf of Respondent No.3, reply was filed on affidavit, stating therein that it is not maintainable either in the terms of facts or law. The Respondent No.3 is land owner-cum-allottee under Section 2(d) of the Real

Estate (Regulation and Development) Act, 2016 and as such, the Authority has no jurisdiction to entertain a complaint case between the allottees. Respondent No.3 also being a land owner does not come within the definition of promoter. Respondent No.3/land owner has revoked his development agreement with M/s Swastika Mangal Developers Pvt. Ltd. dated 06.03.2012 by a registered agreement dated 03.03.2021 and a fresh development agreement was executed between the Respondent Nos.2 and 3 on 10.03.2021 and hence, there is no obligation on Respondent No.3 regarding the transactions between the complainant and Respondent No.1. The Authority has only jurisdiction to decide cases related to the Projects which are registered with the RERA. It is further stated that the Respondent No.2 has no liability towards the complainant. The complainant has no cause of action due to misjoinder of parties. On this ground, the case is to be dismissed on the ground of maintainability.

9. Heard both sides. Perused the case record.

10. The Respondent No.3 filed an order dated 31.01.2024 of the Real Estate Regulatory Authority, Bihar passed in RERA/CC/472/2022 by a Full Bench of the Authority and argued to dispose of this case in terms thereof.

11. After perusal of the aforesaid order of the RERA Authority dated 31.01.2024, which has been passed by the Full Bench of the Authority, it appears that the case i.e., RERA /CC/472/2022, which has been disposed of by the Authority, had same matter and same grounds, which has already been decided. It is pertinent to mention here that none of the parties arose the fact that this order is not final and as such, it should be considered final at this stage. The Authority in paragraphs 24, 25, 26 and 27 have given some directions, which are quoted herein below:

“24. The Authority notices from the Development Agreement signed between the respondent no.2 and 3 on 10.03.2021 that 50 percent of the share of the flats would be given to the land owner by the respondent no.3. The Authority

therefore, directs the respondent no.3 to give a flat to the complainant from her share.

25. The respondent no.2 is directed to ensure that the flat no.104 is allotted to the share of land owner and in case any third party right is created for that particular apartment, an alternative flat is of equivalent area is given to respondent no.3 in her share, who would then give this to the allottee.

26. The complainant is directed to pay the remaining amount of consideration to the respondent number 3.

27. The Authority directs the respondent no.1 to pay the amount collected from the complainant along with interest thereon to the respondent no.3 as she is giving a flat from her share to the complainant.”

12. There is no reason to deviate from the earlier order of the Authority and as such, this case is also disposed of in terms of the directions/order dated 31.01.2024 given by the said Full Bench of the Authority in RERA/CC/472/2022, which are as follows :

“24. The Authority notices from the Development Agreement signed between the respondent no.2 and 3 on 10.03.2021 that 50 per cent of the share of the flats would be given to the land owner by the respondent no.3. The Authority therefore, directs the respondent no.3 to give a flat to the complainant from her share.

25. The respondent no.2 is directed to ensure that the flat no.104 is allotted to the share of land owner and in case any third party right is created for that particular apartment, an alternative flat is of equivalent area is given to respondent no.3 in her share, who would then give this to the allottee.

26. The complainant is directed to pay the remaining amount of consideration to the respondent number 3.

27. The Authority directs the respondent no.1 to pay the amount collected from the complainant along with interest thereon to the respondent no.3 as she is giving a flat from her share to the complainant.”

**Sd/-**  
**(Vinod Kumar Tiwari)**  
**Special Presiding Officer,**  
**RERA, Bihar**