

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Bench of Inquiry Commissioner Shri Sanjaya Kumar Singh,
RERA, Bihar**

RERA/CC/366/2025

Quazi Abdul Waris

.....Complainant

Vs

M/s Silm Infratech Pvt. Ltd.

.....Respondent

Project: Shanti Plaza

Appearance:

For the Complainant: Mr.Bhola Shankar, Advocate

For the Respondent: None

08.10.2026

ORDER

Hearing was last taken up on 12.05.2026 when learned counsel Mr. Bhola Shankar was present on behalf of the complainant, but the respondent was absent. During the previous hearing, the complainant had submitted a copy of the publication taken out in the newspaper for ensuring the presence of the respondent as the respondent was absent throughout the proceedings in this matter. The Bench after observing that the respondent had preferred to remain absent throughout the hearing process on all the four consecutive hearings held in this matter, gave a last opportunity to the respondent to file written notes of argument on his behalf. A similar opportunity was also given to the complainant to file written notes of argument on his behalf.

2. Learned counsel for the complainant in compliance of the above direction, filed written notes of argument, but the respondent again did not file any notes of argument on his behalf.

3. Order VIII Rule 10 of the C.P.C. provides that the defendant must file the written statement within 30 days from the date of service of summons, which period may be extended by the Court up to a maximum of 90 days. If the defendant fails to file the written statement within this prescribed or extended time, the Court, under Order VIII Rule 10, may in its discretion proceed to pass an *ex parte* decree. Order VIII Rule 10 of the C.P.C. is quoted as follows:

“Order VIII Rule 10. Procedure when party fails to present written statement called for by Court.—Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up.”

4. The Bench observes that the Hon’ble Apex Court, in several decisions, has consistently affirmed the legal position that when a respondent, despite being duly served with notices and granted repeated opportunities, fails to file a reply or appear, it is deemed that the respondent has waived the right to present its defence. In view of this settled principle of law, the Bench is left with no other alternative but to proceed without the respondent’s reply. As there exists no sufficient justification to further delay the adjudication of the matter, the Bench is therefore constrained to decide the present case on the

basis of hearing, pleadings, documents and evidences available on record.

5. The complainant has filed the present complaint case against the respondent-Company stating that he had booked a residential 2 BHK flat, bearing Flat No.304, on third floor having super built-up area about 1200 Sq.ft. along with one reserved car parking space on the ground floor of the impugned project named “Shanti Plazza”. The respondent had executed an Agreement for Sale dated 06.09.2019 with the complainant in respect of the aforesaid flat after receiving a total amount of Rs.26,00,000/- out of total consideration amount of Rs.36,00,000/-. The payment of Rs.26,00,000/- was done by the complainant by means of adjustment of Rs.21,00,000/- which had been paid by the complainant earlier to the respondent M/s Silm Infratech Pvt. Ltd. through its Director Mr. Maaz Naiyer. On inordinate delay caused by the respondent in handing over the residential flat booked by the complainant at Bangalore, for which he had earlier paid a sum of Rs.21,00,000/-, the complainant booked the impugned flat at Patna and the said amount of Rs.21,00,000/- was adjusted against the present flat at Patna with the consent of both the complainant as well as the promoter (respondent). Apart from the payment of above said Rs.21,00,000/-, the complainant had further paid an amount of Rs.5,00,000/- towards booking amount and thereafter entered into an Agreement for Sale dated 06.09.2019 on payment of total amount of Rs.26,00,000/- out of the consideration amount of Rs.36,00,000/- for the said flat.

6. It has further been submitted by the complainant that apart from the aforesaid paid amount of Rs.26,00,000/-, the complainant has subsequently paid a sum of Rs.8,00,000/- to the respondent after following all the instructions given by the respondent. Thus, the complainant has already paid a total amount of Rs.34,00,000/- out of total consideration amount of Rs.36,00,000/- to the respondent. The complainant has further submitted that he has followed the schedule of payment as stated in the said agreement and has accordingly paid the total amount of Rs.34,00,000/- to the respondent by 28.07.2021.

7. Learned counsel for the complainant further submitted that on various occasions, the complainant has requested the respondent (promoter) to hand over the possession of the above said booked flat, but the respondent did not pay any heed to the request of the complainant. However, notwithstanding the payment of approximately 95% of the total consideration amount by the complainant, the said flat and the impugned project remain incomplete and the said flat has not been handed over to the complainant till date. The complainant has expressed his willingness to pay the balance consideration amount, if any, in accordance with the terms of the Agreement. Accordingly, learned counsel for the complainant has prayed that the Authority be pleased to direct the respondent to hand over vacant and peaceful possession of the booked flat to the complainant. It has further been prayed that pending such hand over, the respondent be restrained from creating any third party right, title, or interest in respect of the said property.

8. Upon the complainant bringing to the notice of the Bench the continued non-cooperative, dilatory and evasive conduct of the respondent and considering the circumstances of the case, the Bench deems it appropriate, in order to safeguard the interests of the complainant and to preserve the subject-matter of the proceedings, to extend protection to the complainant by imposing a restraint on the sale, transfer, or creation of any third party right in respect of all the flats comprised in the said project until further orders.

9. The Bench observes that refusal of the promoter (respondent) to execute and register the absolute sale deed in favour of the complainant and hand over the possession of the same to the complainant, despite receipt of almost the entire sale consideration, amounts to an arbitrary deprivation of property rights. Article 300A of the Constitution of India mandates that no person shall be deprived of his property except by authority of law. In the present case, once the complainant has discharged all contractual obligations, a corresponding legal right accrues in his favour for execution of the absolute sale deed and handing over of the possession of the booked flat to him. Any denial or withholding of such conveyance without sanction of law results in unlawful deprivation of his proprietary rights.

10. Furthermore, the said conduct also infringes Article 21 of the Constitution of India, which guarantees the right to life and personal liberty and has been expansively interpreted to include the right to live with dignity, security, and peaceful enjoyment of one's home. The failure to execute the sale deed and hand over the

possession of the said property in favour of the complainant despite making payment of almost entire consideration amount to the promoter, creates uncertainty over his lawful title, thereby affecting his ability to freely enjoy, secure, and deal with the property. Such denial of complete legal recognition of ownership impinges upon the complainant's right to dignified housing and peaceful enjoyment of shelter, which forms an essential component of Article 21.

11. The Hon'ble Supreme Court in the case of **Mansi Brar Fernandes Vs. Shubha Sharma and Anr.** (2025 SCC OnLine SC 1972) while reinforcing the principle laid down in the case of **Pioneer Urban Land and Infrastructure Ltd. Vs. Union of India** [(2019) 8 SCC 416] has held that

“22. Ultimately, this is a matter of policy. Falling within the exclusive domain of the Government, it cannot remain a silent spectator. The Government is constitutionally obliged to protect the interests of home buyers and the economy at large.....Before parting, we observe that the right of housing is not merely a contractual entitlement but a facet of the fundamental rights to life under Article 21.”

“Genuine home buyers represent the backbone of India's urban future, and their protection lies at the intersection of constitutional obligation and economic policy. Through these directions, this Court seeks to restore faith in the regulatory and insolvency framework, better speculate to misuse, and ensure that the dream home of India's citizens does not turn into a lifelong nightmare.”

12. It is clear that the respondent-promoter has received the substantial consideration amount pertaining to Flat No.304 in the impugned project “Shanti Plaza”, but despite enjoying the economic benefit out of the entire amount paid by the complainant to the respondent, the respondent has not executed the sale deed of the impugned Flat No.304 in favour of the complainant, which amounts to a blatant violation of the provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “the Act”) and the Rules made thereunder.

13. Perused the entire material on record and submissions made by the learned counsel for the complainant. After giving a conscious and judicious study to the facts and evidences pertaining to the matter in question, the Bench in exercise of the powers conferred under Sections 11, 14, 34 and 37 of the Act and without adjudicating upon compensation claims falling within the jurisdiction of the Adjudicating Officer under Sections 12, 14, 18 and 19 of the Act, hereby gives the following directions for compliance by all concerned:

(i) A complete ban is hereby imposed upon the sale of the entire flats/units/part thereof, of the impugned project “Shanti Plaza” except to the complainant for his booked Flat No.304 till further orders.

The Bench requests I.G. (Registration), Bihar, Patna to issue necessary directions to the Sub-Registrar concerned for ensuring the compliance of the directions given herein above.

(ii) The respondent is directed to strictly adhere to the terms and conditions of the Agreement for Sale and accordingly ensure that the impugned project (building), including the flat booked by the complainant, is completed in all respects strictly in accordance with the sanctioned plan, within a period of 60 (sixty) days from the date of this order.

(iii) The respondent shall, within the same period, execute the sale deed in favour of the complainant for his booked Flat No.304 along with one reserved car parking space and hand over peaceful and lawful possession of the same to the complainant along with all requisite documents, keys and access to the common area after receiving the remaining consideration amount (if any) within the period of (60) sixty days from today.

(iv) If any structural defect or defect in workmanship, quality or provision of services is brought to the notice of the promoter within the defect liability period as prescribed under Section 14(3) of the Act, the respondent (promoter) shall rectify such defects within 30 (thirty) days of such notice, failing which the aggrieved party shall be at liberty to approach the Adjudicating Officer for appropriate relief, including compensation.

(v) The complainant is at liberty to approach the Adjudicating Officer under Section 71 read with Section 72 of the Act for adjudication of the claims relating to compensation, liquidated damages, or any monetary relief under Sections 12, 14, 18 and 19 of the Act.

(vi) The respondent-promoter shall ensure continued compliance with all statutory obligations under the Act and the Rules framed thereunder, including updating project status on the RERA web portal, if not already done.

14. With the above observations and directions, this case stands disposed of accordingly.

Sd/-

(Sanjaya Kumar Singh)
Inquiry Commissioner,
RERA, Bihar