REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr.Ved Prakash,
Special Presiding Officer

Exe. Case No. 208/2024
RERA/CC/966/2021

Ajay Kumar ....Executant(s)

Vs

M/s Tirupati Homes Pvt. Ltd ....Respondent

PROJECT- **Royal Garden**

For the complainant: Mr. Rahul Kumar (Adv.)
For the respondent: Mr.Roushan (Adv.)

01.09.2026 **O R D E R**

Hearing is taken up. Learned counsel on behalf of both the parties are present.

2. The instant execution case, arising out of complaint case no. 966/2021, has been filed for compliance of the order dated 01.08.2023 passed by Smt. Nupur Banerjee, the Hon'ble Member of the Authority wherein the Hon'ble Member, based on the technical team report, directed the respondents to complete the remaining works as stated in the Agreement for Sale dated 21.05.2011 and Deed of Absolute Sale dated 09.02.2017 and also as per the sanctioned plan, and cure the defects in the basement, dampness in walls and lobbies and termite clearance. As regards the amenities and facilities not provided as per brochure, the Bench observed that those amenities could not be constructed in the project site as because they were not shown the sanctioned plan, even if the allottees were willing to pay for it at present. The allottees can claim for compensation for this breach of promise made by the respondent during the pre-launching of brochure. The allottees can also claim compensation from the respondent for not providing them community Hall as mentioned in sanctioned map for the respective Blocks. As regards the corpus fund on account of onetime

maintenance, the agreement for sale deed, Schedule –C mentions the total consideration amount for the flats, which includes maintenance charges of Rs. 2.50 lacs, but this was applicable for some allottees. Hence, the actual amount given by those allottees of the project against the maintenance charges could not be ascertained from the technical report. Further, the Bench directed the respondents to conduct a meeting with the allottees of building of the project, including the complainant and form a society. After formation of society and their registration, the respondent promoter was directed to declare the total number of allottees who have paid onetime maintenance charges of Rs. 2.50 lacs along with their consideration amount for the flat, as per their agreement for sale deed, Schedule –C, calculate the total amount collected as maintenance charges from them, deduct the expenditure already paid for the maintenance the building, including Transformer installation cost and the paying of amount of R. 1,05,000/- every month for two years as maintenance charge and then transfer the remaining fund to the account of the society, after audit by C.A. The society will look after the building and maintain henceforth on day to day basis. The Bench further directed that completion of the remaining works, including curing of defects etc and the formation of society with money transfer as specified above, should be executed within sixty days of issuance of the order.

3. Learned counsel for executant submits that in spite of the above order dated 01.08.2023 passed by the Hon'ble Member, no steps have been taken by the respondent promoter towards compliance of the order or any part thereof. The executant, after having waited for the last 8 months, have approached the Authority for compliance of the said order. The executant/decree holder prays that the respondent promoter may be directed to comply with order dated 01.08.2023 in favour of the executant, failing which an appropriate penalty under section 63 of the Act, 2016 may be imposed on the judgment debtor.

4. Learned counsel for the respondent by filing a petition cum reply 10.11.2025 submits that the instant execution case, arising out of complaint case 967/2021, is not maintainable as because the project in

question, Royal Garden was completed in December, 2012 and it falls within the exemption of section 3 of the RERA Act, 2016.He further submits by filing copy of the order dated 27.08.2025 that Hon.ble Chairman of the Authority has also found that the project Royal Garden was completed prior to enforcement of RERA Act 2016 as he has dropped the Suo Motu case No.RERA/SM/577/2022 and other related cases.

5. Learned counsel further contends that the respondent company has already taken steps in view of order dated 01.08.2023 and there is nothing remaining to be completed. The defects in the basement, dampness in wall or termite clearance are the subject matter of maintenance. However, the respondent company has taken steps to remove such defects on regular interval since January, 2023. Learned counsel further contends that onetime maintenance charges was applicable only for those allottees who have surfaced in the technical report of the RERA Team. Hence the present execution case may be dropped.

6. Considering the arguments advanced on behalf of the parties as well as on going through the record, it appears that there are still some disputes between the parties with respect to remaining works, maintenance charges as well as defects in the basement as well as dampness in the wall of the building. The Bench further notes that the Hon'ble Member, vide order dated 01.08.2023, issued directions to the respondent company to resolve the those issues with respect to maintenance charges, completion of remaining works, including removal of defects etc The Bench further notes that since there was still some works to be done in the building till the filing of the complaint case as well the present execution case. Hence the project cannot be said to be a completed project.

7. The respondent has neither placed details of the completed works as disclosed by the Hon'ble Member in the order nor has filed completion certificate/Occupancy Certificate issued by competent authority, which may remove the doubts of completion of project. The order dated 27.08.2025 of the Hon'ble Chairman was passed after the order dated 01.08.2023 of the Hon'ble Member, hence there is no legal effect and the respondent has to comply the said order of Hon'ble member. It has to be kept in the mind that

the matter was remanded by the Hon'ble Tribunal and as per directions of Hon'ble Tribunal and after RERA Team enquiry report, the order was passed by the Hon'ble Member. Hence, the claim of the respondent that the case is not maintainable as because the project was completed in 2012 is fit to be rejected and it is accordingly rejected.

8. The Bench further notes that the execution court has a very limited option. It cannot skip over the spirit of the order passed in the complaint case. The execution court has to ensure the full and substantial compliance of the complaint case order. In this view of the matter, the respondent company has no option left but to act as per the spirit of the order so as to resolve the issue relating to building/project.

9. In view of what has been discussed above, the Bench/Authority directs the respondent promoter to comply with the order dated 01.08.2023 passed by Hon'ble Member of the Authority in its letter and spirit within a period of 60 days from the date of issue of the order, failing which invoking section 63 of RERA Act, 2016, a penalty of Rs. 1000/- per day for each day of delay on expiry of 60 days of this order is imposed against the respondent.

With these observations/directions, the instant execution case is disposed of.

Sd/-
(Ved Prakash)
Special Presiding Officer
RERA, Bihar