

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mrs. Nupur Banerjee, Member

Case No. RERA/CC/1001/2021

Abhishek Kumar

.....Complainant

Vs.

M/s Ghar Laxmi Buildcon Pvt. Ltd.

.....Respondent

Project: Income Tax Residency

For Complainant: Mr. Rai Saurav Nath, Advocate

For Respondent: None

INTERIM ORDER

6.9.2022

This matter was last heard on 03.8.2022.

This matter has been filed for the possession of flat. The case of the complainant is that he had booked 3 BHK flat, bearing flat no. C-404, In Block-C which was subsequently changed to flat no. 308, in Block -A of Income Tax Residency earlier named as Aayekaar Vihar in 2015 and has paid Rs.6.51 Lakh as total booking amount as demanded by respondent on different dates. He further submitted that subsequently, both the parties has entered into M.O.U. dated 08-04-2015 and further submitted that even after booking in 2015, the respondent on various occasions has demanded

through letter to committee for payment from the allottees and also shown schedule of completion of work by Sep, 2019 but till date, the builder has not handed over the flat by completing it in all aspect. Hence, this complaint.

The complainant has placed on record the money receipts and account statement showing the amount paid to respondent as alleged in complaint petition.

On 20-09-2021, complainant has filed detailed supplementary affidavit stating therein that complainant had booked a 3 BHK flat bearing flat no.207 and accordingly M.O.U., dated 08-04-2015, has been executed between the parties but no construction started at the project site even after waiting for years, thereafter, the respondent compelled to cancel the flat and go for refund and further prayed for the possession of the flat.

Perused the record of the case. The respondent has not filed any specific reply and even not appeared during the course of hearing despite notices and summon issued, hence, ex-parte order is being pronounced.

On the last date of hearing, learned counsel for the complainant has submitted that the complainant want that

amount paid in lieu of booked flat should be refunded by the promoter. On 11.02.2022, the Bench has observed that the respondent has not complied with the earlier order of the Bench, hence penalty of Rs.25,000/- was imposed upon them. Now, the complainants want refund of the money with interest.

The Bench levied a penalty of Rs.25,000/- upon the respondent for non appearance despite issue of summon and directs to deposit the levied penalty amount immediately, failing which, it can be recovered as per section 40(2) of the Real Estate (Regulation & Development) Act, 2016, read with Order 21, Rule 30 of the Code of Civil Procedure, 1908.

In the light of submissions made and documents placed and considering that complainant has prayed for possession but during last hearing, the learned counsel for complainant has submitted that now the complainant wants refund of the money paid but the Bench finds that no affidavit has been placed on record by complainant amending his prayer, hence, Bench directs complainant to file the same within two weeks. The Bench also directs complainant as well as respondent

giving once more opportunity to respondent to appear and to submit the status of the project.

List the matter again for hearing on 14-10-2022.

Inform both the parties accordingly.

Sd/-

**Nupur Banerjee
(Member)**