REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh, RERA, Bihar.

RERA/CC/102/2024

Neelam Kumari … **Complainant**

Versus

M/s. Jan Ekta Construction & Services India Ltd. … **Respondent**

Project: Sinha Complex

Present: For Complainant: Adv. Jai Ram Singh
For Respondent: Adv. Manoj Kumar

ORDER

17.04.2026

1. Hearing taken up. Learned Counsel Shri Jai Ram Singh was present on behalf of the Complainant. Learned Counsel Shri Manoj Kumar was present on behalf of the respondent company.
2. The present matter was last heard on 10.02.2026 and the order was reserved and is being pronounced today.
3. The Complainant has filed the present complaint case against the Respondent company stating that a Registered Agreement for Sale dated 17.05.2013 was executed between the parties in respect of Flat No. 202, admeasuring approximately 500 sq. ft., situated in Sinha Complex, along with a covered parking space. However, the said apartment has neither been completed till date nor have the promised amenities been provided, though approximately 90% of the project is stated to be complete. It is further submitted by the Complainant that she has paid a sum of Rs. 51,000/- at the time of execution of the

Agreement for Sale, out of a total consideration amount of Rs. 12,00,000/- and thereafter allegedly paid an additional sum of Rs. 50,00,000/- to the Respondent, for which no receipt has been issued. It is also stated that the building plan was sanctioned vide PRN No. PAT-466/3887 and that despite repeated telephonic requests made by the Complainant for delivery of possession, the same has not been handed over, although the Complainant has expressed readiness and willingness to pay any outstanding dues subject to the Respondent delivering possession of the said Flat No. 202.

4. It is further submitted by the learned counsel for the Complainant during the course of hearing that a total of nine flats has been constructed in the project in question and that the same remained incomplete as on the date of enforcement of the Real Estate (Regulation and Development) Act, 2016 (Herein after referred as the Act). The same was also agreed upon by the respondent in proceeding dated 05.06.2025. It is further contended that despite the Respondent being fully aware of the provisions of Section 3 of the said Act, and having knowledge that the project was an ongoing project at the time of its enforcement, no application for registration was made, thereby prima facie constituting a violation of the provisions of the Real Estate (Regulation and Development) Act, 2016.
5. This bench vides interim order dated 16.09.2025 directed the registration wing to verify the claim of the complainant following which the Registration Wing submitted its report stating therein that a suo motu proceeding, bearing S.M. Case No. 636/2024, has already been initiated against the Respondent, but the same was kept in abeyance since evidence regarding the same could not be procured earlier. However, on the admission of respondent regarding constructing nine flats, a fresh preliminary notice for violation of section 3 has been initiated.

6. Learned counsel for the Complainant further prayed for issuance of a direction to the Respondent to hand over possession of the flat booked by the Complainant. Upon query regarding the amount paid, learned counsel submitted that, till date, a sum of only Rs. 51,000/- has been paid by the Complainant against the total consideration amount of Rs. 12,00,000/-. It was further submitted by the Complainant that she is ready and willing to pay the remaining consideration amount, subject to the Respondent handing over possession of the said flat. Accordingly, a prayer was made for issuance of appropriate directions to the Respondent to deliver the possession of the flat in question.
7. Perused the records of the case. The Respondent has filed a counter affidavit dated 17.06.2025 along with subsequent notes of argument, wherein it is contended that the property in question was developed by Smt. Pramila Devi, wife of Late Bipin Bihari Sinha, situated at Mauza Rasidachak, Thana Alamganj, Khata No. 154, Tauzi No. 175, Plot No. 212 (part). It is further submitted by the respondent that the total area of the said plot is 299.80 square meters and, therefore, in view of the provisions contained in Section 3(2)(a) of the Real Estate (Regulation and Development) Act, 2016, registration of the project was not required, and consequently, the matter falls outside the purview of this Court. It has also been averred that the project had been completed prior to the year 2016, i.e., before the establishment of Bihar RERA; however, the Respondent could not furnish the completion certificate of the impugned project.
8. It has further been submitted by the learned counsel for the Respondent that subsequent to the agreement dated 17.05.2013, the Complainant has failed to evince any interest in the subject matter of the agreement and has never come forward to tender the balance consideration amount. It has also been contended by the respondent that the Complainant neighter gave any request letter nor communicated his

readiness and willingness to make payment of the due amount despite the construction of the project being in progress.

9. Learned counsel for the Respondent therefore contends that for the reasons as mentioned herein above the agreement for sale dated 17.05.2013 is not legally enforceable. It has also been submitted by the respondent that, in terms of Article 137 of the Schedule to the Indian Limitation Act, 1963, the prescribed period of limitation, where no specific provision is made, is three years from the date on which the right to apply accrues. Reference has also been made to Article 54 of the said Act, which provides a limitation period of three years for seeking specific performance of a contract from the date of its refusal. It is submitted that since the agreement in the present case is dated 17.05.2013, the complaint filed by the Complainant is hence barred by limitation.

10. Upon consideration of the pleadings and on serious study of the documents available on record, and submissions advanced by the parties, this bench finds that it is an admitted position that the Respondent company had executed Registered Agreement for sale on 17.05.2013 with the complainant and the same is not disputed by either of the party. That after a lapse of nine years the complainant has filed this complaint regarding handing of the possession of the impugned flat on 08.05.2024.

11. The plea regarding maintainability and jurisdiction of the respondent that the Real Estate Regulatory Authority lacks jurisdiction to adjudicate the present matter, and that the subject project does not fall within the ambit of Section 3 of the Act, is wholly untenable and liable to be rejected. It is evident from the record that the respondent has constructed nine flats, thereby exceeding the exemption threshold of less than eight apartments as stipulated under Section 3 of the Act. Consequently, the project squarely falls within the regulatory purview

of RERA. Further, the respondent has averred that the construction of the project was completed prior to the coming into force of the Act but no cogent or documentary evidence has been adduced in support of such a claim. In particular, no Occupancy Certificate or Completion Certificate has been produced to substantiate the alleged completion. In the absence of any credible proof of completion, this bench therefore observes that the respondent's plea is devoid of merit and hence deserves outright rejection. Accordingly, this bench observes that RERA is fully competent and vested with the requisite jurisdiction to adjudicate the present matter.

12. It is further noted that the plea of respondent regarding limitation is taken into consideration and it has been observed that Hon'ble supreme court in the case of **Usha Devi & Ors. Versus Ram Kumar Singh & Ors.**, *Civil Appeal No. 8446 Of 2024 (Arising Out of Slp (C) No.2997 Of 2023*) stated that Specific Performance Suit's limitation period runs from date for performance & not from expiry of agreement's validity. The Court observed that *"The First Appellate Court and the High Court went on the consideration that the agreement further recorded that this agreement would remain valid for a period of five years from today's date i.e. date of the execution of the agreement to sell. Placing reliance on this clause, in our considered opinion, is totally irrelevant. The performance was to take place within one month. <u>The validity of the agreement is something different and does not change the date of performance</u>. What was the reason for incorporating this clause of validating the agreement for five years is not spelled out in the agreement, but in any case, it does not change the date fixed for the performance."*,

13. Section 31 of the Act does not prescribe a specific limitation period for filing initial complaints before the Authority. Section 88 of the Act states Application of other laws not barred: *"The provisions of this Act*

shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force."

14. On perusal of the record it appears that the complainant has instituted the present complaint case seeking possession of the subject flat after an inordinate and unexplained delay of approximately nine years from the expiry of the stipulated period under the Agreement for sale and that too on payment of only a paltry sum of ₹51,000 to the respondent which is less than 5% of the consideration amount and has even failed to make any further payment of consideration during the entire intervening period as contemplated under the terms of the agreement.
15. Moreover, the complainant did not, at any point within this prolonged duration, approach any other competent forum or authority for enforcement of the alleged rights, thereby exhibiting a clear lack of due diligence and acquiescence. In such circumstances, and having regard to the doctrine of laches and delay, the claim now sought to be enforced appears to be grossly belated and inequitable.
16. Additionally, taking into account the significant passage of time and the prevailing economic factors, including substantial inflation and the exponential rise in the cost of construction raw materials reportedly increasing manifold over the said period, it would be manifestly unjust and commercially impracticable to direct the respondent to hand over possession of the flat at the originally agreed consideration amount of ₹12,00,000.
17. In view of the foregoing, the complainant's claim for possession, on the basis of the original terms of the Agreement for sale, is devoid of merit, unreasonable, and contrary to the settled principles of equity, justice, and good conscience.
18. Nevertheless, it is clear that the respondent has enjoyed full economic benefit out of the amount paid by the complainant to the respondent company for the entire period from the date of payment till the present

day and therefore the complainant is entitled to refund of the entire principal amount along with due interest as per the provisions of law.

19. Accordingly, the Respondent company is hereby directed to refund the entire principal amount of Rs 51,000/- to the complainant along with interest @2% above Marginal Cost of fund-based Lending Rate (MCLR) of State Bank of India as applicable for three years from the date of booking till the date of refund within a period of 60 days from the date of passing of this order.

With the above directions, the present complaint case is accordingly disposed of**.**

Sd/-
Sanjaya Kumar Singh
Inquiry Commissioner
RERA Bihar