

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

RERA/CC/202/2023

Indra Deo Prasad

....Complainant(s)

Vs

Mr. Upnesh Kumar

....Respondent

PROJECT- Madhav Palace

For the complainant:

Mr. Rabindra Kumar (Adv.)

For the respondent :

Mr. Jai Ram Singh (Adv.)

26.11.2025

ORDER

Learned counsel on behalf of both the parties are present.

2. The complainant has filed this complaint petition before the Authority for issuing direction to the respondent to hand over suitable parking in sequence, occupancy certificate, completion certificate and entire title deeds, including sanctioned map as well as to install Lift and also form association of allottees. The complainant has further prayed to the Authority to direct the respondent to pay Rs. 10,00,000/- (Ten Lakh) to him as damages, harassment and litigation cost.

3. The case of the complainant in brief is that the respondent promoter had taken land from Shri Sanjay Kumar @ Sanjay Kumar Rai and Shri Jagat Narayan Singh in the year 2009 for construction of the Apartment. The complainant purchased the flat by paying his hard earned money during the construction of the building. However, the complainant is not utilizing the said flat for want proper amenities as per agreed terms and conditions.

4. The complainant entered into an agreement with the respondent company to purchase flat no. 404 with super built-up area of 1440 sq. ft. along a car parking space and proportionate share in land in the project, "Madhav Palace" situated in mauza – Jaganpura, P.S- Kankarbagh, P.O- Lohiya Nagar, 800020, over a survey plot no. 1035, Khata no. 08, Revenue Survey Thana no. 26 for the total consideration of Rs. 35,52,000/-. The

complainant paid the entire consideration money plus registration charges and other charges before the registration of sale deed.

5. Pursuant thereto, the respondent executed a sale deed with assurance that all the amenities would be provided in the Apartment as per lay out plan and further promised that it would be registered in RERA and all documents would be given on obtaining occupation certificate and completion certificate. Furthermore, despite assurances given by the respondent to the complainant, the respondent has failed to provide any of the amenities as mentioned above. Two Lifts were to be installed in the Apartment, but only one lift was installed so far. The respondent has neither installed other Lift, nor has provided car parking space nor has provided occupancy certificate and completion certificate nor has formed the association of allottees till date.

6. The respondent has filed a petition dated 19.09.2025 through which he has controverted the claims of the complainant. Learned counsel for respondent submits that the complainant is residing peacefully in his respective flat, which was allotted to him prior to the enactment of the RERA Rules, 2016. The respondent has executed a registered Absolute Sale Deed in favour of the complainant with respect to the said flat. Further, a suitable parking space has also been allotted to the complainant. After a lapse of six years, the complainant has filed this case seeking reallocation or modification of already allotted parking space, which is not sustainable in the eye of law. Hence, the present case is not maintainable.

7. Learned counsel for respondent further submits that a SM case bearing no RERA/SM/618/2023 was also registered against the respondent for the same cause of action, which was subsequently dropped by the Hon'ble Chairman on 14.11.2024 wherein the Hon'ble Bench observed that there was nothing on record to show that any transaction in connection with the project had taken place after the enactment of the RERA Act. It was further held that there is nothing on record to show that the project is ongoing. Hence, the SM proceeding was dropped.

8. The learned counsel for respondent further submits that the competent courts/forums have settled the issue that no complaint shall be

maintainable under RERA Act against the projects which were completed before the enactment of RERA Act.

9. The learned counsel for respondent further submits that the complainant, after a lapse of six years, cannot raise the issue of parking space, which was already settled. If the complainant is still dissatisfied with the space allotted to him, the respondent is willing to refund the amount received against car parking space along with applicable interest.

10. The learned counsel for complainant opposed the submission of learned counsel for respondent and by filing rejoinder submits that the claim of the respondent that the complainant is residing peacefully in the allotted flat is wholly misconceived and unsustainable in law. He further submits that the RERA Act came into being with effect from 01.05.2017 while the sale deed in favour of the complainant was executed on 19.06.2017.

11. Learned counsel for complainant further submits that the parking space that was claimed to have already been allotted is also wrong and far from the truth. He further submits that the respondent has not filed any paper nor has handed over the paper to the complainant.

12. He further submits that it is wrong for the respondent to take a plea that the case has been filed after 6 years for reallocation or modification of the already allotted parking space. In sale deed there is no clarification that this is/was parking space with boundary.

13. Learned counsel for complainant further submits that it is a well-established law that a judgment or order which is not inter-parties is not admissible in evidence and has no binding effect. Hence, the order passed in RERA/SM/618/2023 is not applicable against this complainant.

14. Learned counsel further submits that in sale deed no. 5701 dated 19.06.2017, the respondent himself has mentioned that he is vender/developer. Hence, the respondent cannot rescind from the array of Developer.

15. Learned counsel further submits that in 1917 when the sale deed was executed, the apartment in question was not fully completed and even today the Lift has not been installed for which the colour photographs along with GPS location has been provided on the record.

16. Learned counsel further submits that the present complaint case is well maintainable in law as well as on facts. Hence, the petition of the respondent may be rejected and he may be directed to complete the project, including installation of Lift and providing car parking space to the complainant.

17. Heard and perused the record.

18. Admittedly, the project is unregistered with the Authority, but the respondent promoter has claimed that the project was completed prior to enforcement of RERA Act, 2016 as well as Bihar RERA Rules, 2017 effective with effect from 01.05.2017. There is substance in the submission of learned counsel for respondent that the Sale Deed may be executed by any promoter /owner with respect to any flat /plot even after the enforcement of RERA Act if the flat or project is completed and is still not sold and it finds support from the notification RERA-Gen.Dy No 436 (2018/825) dated 28.12.2018 of Authority. Hence, there is no force in the submission of learned counsel for complainant.

19. Though the on-going project has to be registered in the RERA under the provisions of section 3 of RERA Act, 2016, but Hon'ble Chairman treating this project, Madhav Palace as a completed one prior to enforcement of RERA Act on 01.05.2017 dropped the SM case bearing no. RERA/SM/618/2023 on 14.11.2024 pending against the respondent. In this respect in the following manner, it may be discussed:-

(i) Submission of learned counsel for complainant that a judgment or order which is not inter parties is not admissible in evidence and has no binding effect. Hence, the said order of the Hon'ble Chairman is not binding upon the complainant, as the project, Madhav Palace cannot be treated as a completed one. The submission of learned counsel for complainant is not sustainable in the eye of law as it is established law that whether the project is completed or not completed. Once it is held that the project is a completed one prior to enforcement of RERA Act, 2016, it will remain valid on the allottees as well as promoter till it is set aside by the Appellate Authority. The submission of learned counsel for complainant with respect to inter party is also not applicable in the present case. Section 3 of RERA Act

requires the ground that all ongoing projects have to be registered within three months of enforcement of RERA Act, 2016, but since it is a completed one, there was no need for filing of application for RERA Registration.

(ii) If the complainant was willing to treat the project as an ongoing, he should have taken active part in the proceedings of case no. RERA/SM/618/2023 as he had knowledge of pendency of the said case, which finds support from the order sheet dated 20.06.2025 of the present case when the learned counsel for complainant has submitted before the Bench by filing cause list dated 29.08.2024 of Hon'ble Chairman that RERA/SM/618/2023 is pending as the project Madhav Palace is ongoing, but thereafter he did nothing in the said case and it was dropped. Hence, from all grounds this has come and proved that the project, Madhav Palace is completed prior to enforcement of RERA Act, 2016 on 01.05.2017.

(iii) It is also not out of place to mention that only those complaint cases are entertainable with respect to the project, which are either registered or registriable, but such cases cannot be entertained where the project is not registered. However, the present project, Madhav Palace is not registered, but as discussed, it is also not registriable. Hence, the complaint case with respect to the said project cannot be entertained. Therefore, the present complaint case is not maintainable before this Bench/ Authority. Hence, the complainant, if so advised, may place his grievances before the appropriate forum/court.

20. Admittedly, the respondent has executed the sale deed dated 19.06.2017 in favour of the complainant with respect to flat no. 404 having super built-up area of 1440 sq. ft on 4th floor of the building, Madhav Palace along with one car parking space on the ground floor on consideration of Rs. 35,52,000/-. Para 6 of the sale deed states that the vendor has already acknowledged the receipt of possession of the property conveyed herein as per terms and conditions, having been satisfied with the nature, quality, manner and construction as well as amenities/facilities, such as fixtures, fittings and other specifications provided in the said completed building. It shows that the complainant has got possession of the said flat with all other amenities, including car parking space. If the complainant was still

dissatisfied, he should have immediately filed the case, but he filed this case after a lapse of 5 years and 9 months and 7 days, which shows that the complainant has filed the complaint after-thought and exceeding the limitation period. Hence, the complainant is estopped to claim the car parking space after the period of limitation. Accordingly, the complaint case on this ground is also not maintainable.

21. In the light of discussions made above and on the basis of documents/material placed on record and also in view of the fact that the project, Madhav Palace was completed prior to the enforcement of the RERA Act, 2016, the complaint case filed by the complainant is not maintainable. Secondly, the complaint case is also hit by the law of limitation and estoppel. On this ground also, the complaint case is not maintainable. Hence, the maintainability petition of the respondent has substance and it is allowed, and as such, the present complaint case has to be dismissed and it is accordingly dismissed.

Sd/-
(Ved Prakash)
Special Presiding Officer