

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mrs. Nupur Banerjee, Member

Case No: RERA/CC/214/2023

Shashi Bhushan Prasad

...Complainant

Vs.

M/s Nissa Realtors Pvt. Ltd.

...Respondent

Project: Ghar Apna

12/06/2024

ORDER

The matter was last heard on 18.03.2024 and was fixed for orders on 27.05.2024. However, due to pre-occupation of the Bench in other matter, order could not be pronounced on the date fixed. On that date, Mr. Ranjan Kumar Srivastava, Advocate appeared on behalf of the complainant and the respondent is absent.

In this case, the complainant has prayed for a direction to the respondent to give possession of Flat No.403 in Block-B of area 1465 sq.ft. at Ghar Apna, near Shaguna More, Patna and to pay interest @ 18% on the sum retained by the respondent and also suitable action be taken against the respondent as per law.

In short, the case of the complainant is that based on the advertisement made by the respondent, the complainant had booked a 3-BHK flat bearing Flat No. 403 in Block-B in the project Ghar Apna having an area of 1465 sq.ft. with one parking space on the ground floor for a total consideration of Rs.26.37 lakh and accordingly, provisional allotment dated 25.09.2012 was given by the respondent company to the complainant. Out of the said consideration of Rs.26.37 lakh the complainant has paid Rs.23.50 lakh to the respondent for which payment receipts were granted by the respondent. Rest amount of Rs.2.87 lakh has to be paid by him. It is stated that he approached several times to the respondent for handing over the said flat but only assurance was given on the ground of revised map by the PMC. The stipulated period of time for handing over the flat was 2½ years from the date of advertisement but the respondent has not completed the said project and did not hand over the possession of the said flat to him. Hence, this complaint.

The complainant has placed on record the copy of the advertisement, provisional allotment letter dated 25.09.2012 and the money receipts.

Perused the record. In spite of notice and summons, the respondent has not appeared before the Authority nor has filed any reply.

On the last date of hearing learned counsel for the complainant reiterated his submissions as made in the complaint petition. He has also filed two orders of the Division Bench dated 11.01.2023 passed in RERA/CC/417/2021 (Urmila Devi vs. M/s Nissa Realtors Pvt. Ltd.) and RERA/CC/418/2021 (Rekha Gupta vs. M/s Nissa Realtors Pvt. Ltd.) and submitted that the case of the present complainant is similar to the case of Urmila Devi and Rekha Gupta.

Having gone through the record and the submissions advanced by learned counsel for the complainant, it is evident that the respondent- promoter is trying to not hand over possession of the flat to the complainant because of the fact that on most of the dates they remained absent.

The Authority observes that the complainant should not be allowed to suffer for a longer period and the respondent cannot be allowed to defraud her in spite of allotment letter given to her. In this connection and to save the interest of the allottees, the Bombay High Court in Lavasa Corporation Ltd. Vs. Jitendra Jagdish Tulsiani & ors., Second Appeal (Stamp) No. 9717/2018 and its analogous cases with Civil Application No. 683/2018 and its analogous cases, has observed that RERA is brought on statute Book to ensure greater accountability towards the consumers and significantly reduce frauds and delay, as also the current high transaction costs. It attempts to balance the interest of consumers and promoters by imposing certain responsibilities on both the respondent and the complainant.

Hence, the Authority directs the respondent- promoter to handover the flat to the complainant after completing the remaining work and other formalities within three months of this order and at the same time the complainant is directed to deposit the remaining amount of Rs.2.87 lakh to the respondent within a week from the date of handing over the possession of the flat. If the respondent- promoter fails in handing over the flat within the time granted by the Authority, the complainant shall be at liberty to move the competent Authority of the RERA for execution.

The complainant is at liberty to press other claims, if any, which are in the nature of compensation before the Adjudicating Officer, RERA as per provisions of the Act.

With these directions and observations, the matter is disposed of.

Sd/-

Nupur Banerjee
Member