

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

Exe. Case No. 414/2024
RERA/CC/606/2022

Rupesh Kumar Executant(s)

Vs

M/s S.N. Infracon Pvt. Ltd. Respondent

PROJECT- **Sahay Mansion**

For the complainant/executant:	Mr. Rahul Kumar (Adv.)
For the respondent:	None
For intervener respondent --	Mr. Kishore Kunal (Adv.)

08.09.2026

ORDER

Hearing is taken up. Shri Rahul Kumar, learned counsel on behalf of executant and Shri Kishore Kunal, learned counsel on behalf of intervener respondent are present, but the respondent promoter is absent.

2. Learned counsel for complainant/executants submits that the executant through this execution petition has prayed for execution of the order dated 29.04.2024 passed in complaint case no. 606/2022 by Shri S.D. Jha, the Hon'ble Member of the Authority whereby and whereunder the Authority directed the respondent company and its Director, Mr. Ashwani Kumar Sinha to hand over the possession of 3 BHK flat no. 301 having area 1439 sq. ft on third floor with one reserved car parking space along with all amenities as per agreement in the project- Sahay Mansion and execute conveyance deed after completing all legal formalities within two month. The complainant was also directed to make payment of remaining amount as per agreement before execution of conveyance deed. The Authority further observed that the interim order of stay dated 04.12.2023 of not executing registration of any flat/apartment of the project would remain operative till handing over possession of flat in question to the complainant.

3. The learned counsel for the executant reiterates his submission as made in the complaint case that in pursuance of execution of an agreement for sale dated 10.11.2017, the complainant booked flat no. 301 (3BHK) on

3rd floor having area of 1439 sq. ft along with one reserved car parking space, situated at Mauza- Saidpura, Salempur, Chatura, Pargana, & P.S. Phulwarishariff, Surevey P.S.- Danapur, District- Patna, bearing Tauzi no. 5452 & 5733, Khata no. 237 & 337, Survey Plot No. 940 for a consideration of Rs. 35,77,500/- out of which the complainant/executant paid Rs. 21,50,000/- (Rs. 1,50,000/- at the time of booking and Rs. 20,00,000/- through housing loan from Bank of Baroda, Khagaul. Learned counsel further submits that in spite of personal request by complainant, the respondent promoter has failed to comply the order dated 29.04.2024 passed by the Authority.

4. On the other hand, some adjournment petitions on behalf of respondent promoter have been filed on record on one or other grounds. However, a petition dated 27.04.2026 has been filed on behalf of respondent promoter to bring on record the status of REAT Appeal which is vacant and non-functional. It was also mentioned in the said petition that the respondent promoter has preferred a civil writ petition before the Hon'ble High court, assailing the proceedings arising out of Execution Case no. 414/2024 and the matter is sub-judice before the Hon'ble High court. He submits that the proceeding in the instant execution case may be stayed till the outcome of writ petition pending before the Hon'ble High Court.

5. The learned counsel for the Intervener respondent by filing photocopy of registered sale deed No.8454 dated 22.06.2018 submits that the respondent Director Mr. Ashwani Kumar Sinha had executed above Sale Deed with respect to flat No.301 along with car parking space in Project-Sahay Mansion situated at Mauza -Saidpura Salempur Chatura PS-Danapur District -Patna in favour of Smt. Sushma Kumari Singh W/o Kamal Kishore Singh R/o 112 Mahesh khunt, Pachiyari Tola, Khagaria Bhelauri, District- Khagaria and presently she is residing in the said flat. Hence above order dated 29.04.2024 passed in complaint Case RERA/CC/606/2022 by the Authority may be modified as the same is not executable. He further submits that purchaser was ignorant about the agreement for sale between the complainant and promoter with respect to

flat in question. Now she is owner and title holder of said flat, hence she may not be evicted from the said flat.

6. Director of the respondent company kept mum on the second transaction with the new purchaser Smt. Sushila Kumari Singh, but assured the Bench/Authority that the matter may be amicably resolved.

7. Considering the submissions made on behalf of the parties as well as on going through the record, the Bench observes that the Execution Court has to ensure the substantial compliance of the order passed in the complaint case no. 606/2022 dated 29.04.2024. Since then, more than two years have elapsed and the respondent promoter has been taking adjournment in the name of appeal before the Hon'ble Tribunal as well as writ pending before the Hon'ble High Court, but he has failed to produce stay order from the Hon'ble higher court. It proves that he has adopted a dilatory tactic to keep the matter pending for an indefinite period. He has not been able to clarify as to whether the Hon'ble higher court has admitted the appeal and issued notices to the concerned parties. Mere filing of appeal by the respondent promoter against the order of the Authority dated 29.04.2024 passed in complaint case 606/2022 does not give him any rider to defer the matter till indefinite period. It appears that the respondent promoter is not sincere in the matter. If he had been sincere, he would have pursued the appeal at earliest. It is also to be noted that respondent has also not made sincere effort to resolve the dispute and comply the order of the Authority. The Bench/Authority holds that the respondent promoter cannot escape from his obligations by filing appeals in higher forum. Hence, the respondent promoter is legally bound to adhere to the directions given by the Authority in the complaint case no. 606/2022 in absence of any stay order passed by Hon'ble higher court.

8. On basis of submissions of the parties and going through the material available on the record, the Bench/Authority notes that the registered sale deed 8454 dated 22.06.2018 was executed by the Director of the respondent company Mr.Ashwani Kumar Sinha in favour of second purchaser Smt. Sushila kumari Singh after execution of deed of agreement for sale with the complainant/executants on 10.11.2017 and before the order dated

29.04.2024 passed by the Authority in the complaint case No. RERA/CC/606/2022. However in spite of physical appearance or on representation, the respondent has never informed to the Authority about further development, rather always tried to seek adjournment on one or other grounds. Subsequent purchaser of flat No.301 has now appeared and claimed the possession on basis of sale deed, who was not party in the original proceedings of the Authority. The Bench/Authority at present is not in position to adjudicate on title of the flat or set aside the sale deed executed in favour of the intervener respondent Smt.Sushila Kumari Singh with respect flat in question.

9. However by execution of the subsequent sale deed the respondent Director is not absolved from his obligations towards the decree holder complainant /executant towards the agreement for sale or order passed by the Authority. The respondent company and its Director, Shri Ashwani Kumar Sinha shall be remaining liable for the consequences of their acts of omissions committed in the present case.

10. Hence on the grounds of what have been discussed above, the Bench/Authority directs in following manner:-

Firstly -The complainant /executant shall be at liberty to seek appropriate relief before the competent Civil Court with respect to registered sale deed and possession of flat No.301 of the project -Sahay Mansion and executant is also permitted to file FIR against the respondent promoter.

Secondly-The complainant/executants, if advised, is at liberty to file a separate case in form of compensation before the Adjudicating Officer, RERA Bihar.

Thirdly -A penalty of Rs.2,000/- per day under Section 63 RERA Act 2016 is imposed against the respondent promoter for non compliance of the order passed by the Authority since the date of expiry of 60 days of order dated 29.04.2024 till the actual compliance.

Fourthly -A penalty of Rs.3,00,000/-(Three Lakh) under Section 61 RERA Act 2016 is imposed against the promoter for execution of sale deed with respect to flat No.301 in favour of prospective buyer Smt.Sushila

Kumari Singh without information to the complainant/executant as required under Section 11 of RERA Act 2016.

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

Sd/-
(Ved Prakash)
Special Presiding Officer
RERA ,Bihar
08.09.2026