

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mr. Naveen Verma, Chairman

Case Nos. RERA/CC/536/2021

Rinki Kumari.....Complainant

v.

M/s Aikya Engicon, LLP.....Respondent

Project: - SAI BHAVNA APARTMENT

INTERIM ORDER

28-1-2022

The matter was last heard on 17-1-2022.

The case of the complainant is that she booked a bearing flat no. 301 on 3rd floor in the project measuring 1621 sq. ft, the total consideration of which was Rs. 46 lacs. An agreement for sale was executed on 09-12-2020 and Rs. 10,00,000/- was paid by her. It has been alleged that the respondent company has unilaterally booked the flat in question and sold to another person. Therefore the complaint has been filed praying for handing over of the possession of the flat with compensation.

The complainant has placed on record the agreement for sale dated 09-12-2020.

The learned counsel for the complainant had submitted on 04-01-2022, has stated that assurance was given by the respondent company that the company would get the loan disbursed from State Bank of India but around February 2021, the complainant was informed that the loan could not be disbursed. It was also submitted that the complainant requested the company to provide relevant papers so that the complainant could get the loan sanctioned herself. Accordingly, the loan was approved and sanction letter was issued to the complainant but later, the respondent company

unilaterally cancelled the allotment and returned Rs. 10 lacs by way of cheque of ICICI Bank.

The learned counsel for respondent company had mentioned during hearing that their reply was filed on 14-07-2022. However, no such reply is available in our record. The respondent has filed a supplementary objection to the assertion of the complainant.

In its reply, the respondent company has denied the allegation that assurance was given by the company for sanctioning of loan from State Bank of India. It has also been stated that the State Bank of India had turned down the loan application of the complainant due to negative PSS (Pre- Sanction Survey) report which was also informed by the Bank to the complainant vide letter dated 07-02-2021. Further, during the hearing conducted on 17-12-2021, the learned counsel for the respondent company has admitted the rejection of loan by State Bank of India and has submitted that the complainant's husband requested the company to cancel the booking and transfer Rs. 10 lacs to the account of the complainant which was accordingly transferred. The respondent company has further stated that a legal notice was sent by the complainant asking the reason for cancellation of allotment and informing the sanctioning of loan from Punjab National Bank. The respondent company has also alleged that the fact of obtaining loan from Punjab National Bank was never brought to the knowledge of the respondent company until receipt of legal notice.

The Bench was further informed that all the flats in the project have been sold and the flat in question was sold to another buyer only after refunding the amount as per the request of the complainant's husband.

The learned counsel for the complainant vehemently opposed the submissions of the respondent company and has stated that loan from Punjab National Bank was approved on 06.02.2021 and the amount of Rs. 10 lacs was refunded to the complainant on 15.02.2021 i.e., after the approval of the loan.

Having heard the submissions of both the parties, the Bench observes that the booking of the flat was cancelled by the respondent and the amount refunded. It is for the complainant to submit whether the cancellation was unjust and whether this was done with the knowledge that loan has been sanctioned by Punjab National Bank.

The Bench notes that the relief sought by the complainant pertains to handing over of the possession with compensation. The Bench also notes that the flat in question has been sold to another buyer by the respondent company and there are no unsold flats in the project and that Rs. 10 lacs have admittedly been refunded to the complainant.

An opportunity is given to the complainant to file its rejoinder on the petition filed by the respondent on 27.1.2022 and specify the relief being sought from the Authority in the given circumstances.

The Bench can certainly direct the respondent company to pay interest to the complainant on the said amount of Rs. 10 lacs at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for one year from the date of refunding the said amount i.e., 15-06-2021 till payment within 60 days of the issue of the order.

So far as the claim for compensation is concerned, the complainant is at liberty to approach the court of Adjudicating Officer.

Put up on 10.02.2022.

Sd/-
Naveen Verma
Chairman