REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/CC/294/2024

Mr. Ejaz Shoaib Hussain and Mr. Arbaaz Shoaib … Complainant

Versus

M/s. Honest Builders and Developers Pvt. Ltd. … Respondent

Project: Hashmi Residency

Present: For Complainant: Adv. Helal Ahmad.
For Respondent: Adv. Ashar Akhtar

ORDER

04.05.2026

1. Hearing taken up. Adv. Helal Ahmad was present on behalf of the Complainant. Adv. Ashar Akhtar 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 against the Respondent Company, inter alia, stating that the parties entered into a Development Agreement dated 26.09.2017 with M/s Honest Builders and Developers Private Limited for development and construction over 7 kathas of land (measuring 9,890 sq. ft.). The said project, namely *"Hashmi Residency,"* was to be completed within a period of 2 years, with an additional grace period of 6 months. It is the case of the Complainant that the Respondent, vide Possession Letter dated 13.04.2022, handed over possession of 9 flats. Out of these, one flat situated on the 3rd floor was transferred in favour of the daughter of

the Complainant. However, as per the terms of the Development Agreement, the Complainant was entitled to 10 flats, and therefore, handing over only 9 flats amounts to a violation of the agreed terms. It is further alleged that the parking spaces corresponding to the flats were not handed over along with possession. The Complainant submits that, till date, he has not received his 50% share in the built-up area, nor the corresponding 50% share in the parking space, as stipulated under the Development Agreement. It is further contended that no compensation has been provided by the Respondent. The Complainant has also alleged that the Respondent has carried out illegal construction in violation of the sanctioned plan and without approval from the competent authority (PMC), thereby adversely affecting the proper allocation of flats and parking spaces. On the basis of the aforesaid averments, the Complainant has prayed for appropriate directions against the Respondent, including handing over of the agreed share, issuance of share certificates, and grant of compensation.

4. The records of the case have been perused. The Complainant has filed an undated reply pursuant to the order dated 24.04.2025, whereby this Bench directed the Complainant to respond to the allegations made by the Respondent that the Complainant had violated the terms of the Development Agreement by encroaching upon the parking space through construction of a gymnasium and by establishing a stable for horses in the setback area. The Complainant has denied the said allegations, contending that no encroachment or unauthorized construction has been carried out, and that any construction pertains to common facilities in accordance with the understanding between the parties. The allegation regarding the existence of a horse stable has also been denied as baseless and defamatory. It is further submitted that the Respondent has, in fact, failed to comply with the terms of the Development Agreement by not handing over the agreed 10 flats and

corresponding parking spaces, and that only 9 flats have been delivered, thereby constituting a breach of contractual obligations. The Complainant has contended that the allegations raised by the Respondent are false, unsupported by evidence, and made with mala fide intent to evade contractual liabilities. Accordingly, the Complainant has prayed for rejection of the said allegations and for directions to the Respondent to fulfil its obligations under the Development Agreement, along with other reliefs as deemed fit in the interest of justice.

5. The Respondent has filed its reply dated 01.07.2025, seeking dismissal of the complaint. It is contended that one of the complainants, Arbaz Shoaib Hashmi, has no locus standi, as he neither entered into any agreement with the Respondent nor was allotted any unit, and his inclusion amounts to abuse of the process of law. The Respondent submits that the Development Agreement dated 26.09.2017 defines "landowners" as five specific individuals who have not been properly impleaded, nor has any representative capacity been disclosed. It is further contended that the agreement contains an arbitration clause, which the Complainant has failed to invoke. The Respondent has also argued that landowners do not fall within the definition of "allottees" under the applicable provisions. It is further stated that the agreed shares have already been handed over. Additionally, the Respondent has alleged suppression of material facts regarding the transfer of one flat pursuant to a prior settlement and has contended that the complaint is barred by a subsequent agreement waiving disputes. On merits, the Respondent has denied the allegations and submitted that the project *"Hashmi Residency"* was constructed under a 50:50 sharing arrangement and completed within the stipulated timeframe. It is stated that out of 20 flats constructed, 9 flats along with parking spaces and share certificates were handed over to the landowners in accordance

with the Development Agreement. It is further submitted that during construction, a title dispute (T.S. No. 589 of 2010) arose, which was amicably settled through a tripartite agreement dated 06.03.2018, whereby one 3BHK and one 2BHK flat were to be allotted to the heirs of Late Nooruddin Ashraf. While the Respondent fulfilled its obligation, the Complainant initially failed to do so, leading to adjustment and eventual transfer of a 2BHK flat on 05.02.2024. It is also submitted that an additional 600 sq. ft. flat in another project was voluntarily provided to compensate for any shortfall. The Respondent has further alleged suppression of material facts and breach by the Complainant, including unauthorized use of parking space for a gym and illegal construction in the setback area, causing inconvenience to other allottees. Accordingly, dismissal of the complaint has been prayed for.

6. The Complainant has filed rejoinders dated 13.10.2025 and 09.02.2026, reiterating that the parties entered into a registered Development Agreement dated 26.09.2017 for development of land admeasuring 9,890 sq. ft., with agreed sharing of constructed area and parking rights. It is alleged that the Respondent has violated both the terms of the agreement and the sanctioned building plan dated 31.10.2018 issued by the Patna Municipal Corporation. The Complainants have contended that the Respondent improperly included an additional landowner, executed parallel arrangements, and altered the agreed project structure. It is further alleged that construction has been carried out beyond sanctioned limits, including conversion of parking areas into flats, construction of additional units on terraces, and deviation from approved plans, in violation of the Bihar Municipal Act and RERA provisions. It is also alleged that possession of the agreed upper-floor flats has not been handed over, and instead, ground floor units meant for parking have been allotted,

thereby depriving the Complainants of their rightful share. Allegations regarding unauthorized sale/allotment without occupancy certificate, misuse of common terrace area, and forgery of signatures have also been raised. The dispute pertains to land situated at Mouja Chitkohra, Gardanibagh, Patna, measuring 22.70 decimals, which was lawfully purchased in 2006 by multiple individuals, namely Ejaz Shoaib Hashmi, Sanjeeda Hashmi, Shahid Shoaib Hashmi, Khalid Shoaib Hashmi, and Md. Naushad, through registered sale deeds, with valid title, possession, and mutation. It is further alleged that the Respondent committed multiple violations, including unauthorized inclusion of a third party, execution of separate agreements, deviation from the sanctioned plan, failure to adhere to agreed share allocation, wrongful delivery of ground floor units in place of upper floors, and denial of 50% parking share. Additional allegations include failure to obtain consent of all landowners prior to plan approval, delay in completion beyond the stipulated period without payment of penalty, non-compliance with contractual obligations, illegal constructions (including on ground floor and terrace), encroachment of common areas, unequal distribution of built-up area, non-conduct of final measurements, non-formation of society, and failure to obtain completion and occupancy certificates. It is also alleged that the Respondent committed forgery by using fabricated signatures of landowners. These acts are stated to be in violation of the Development Agreement, provisions of the RERA Act, and municipal laws.

7. Upon consideration of the pleadings, submissions, and materials available on record, it is observed that the execution of the Development Agreement dated 26.09.2017 between the parties is undisputed. The dispute primarily pertains to the alleged shortfall in handing over the agreed share of flats and parking spaces, along with

allegations of deviation from the sanctioned plan and violation of contractual obligations.

8. This Bench further observes that, as per the technical report dated 15.04.2026 and the photographs submitted at the time of filing the Quarterly Progress Report (QPR) of the project, the construction of the project appears to have been carried out in accordance with the sanctioned building plan, which is Basement + Ground + 3 Floors (B+G+3). Accordingly, the allegation of deviation from the sanctioned plan is not substantiated on the basis of the available record.
9. The core issue that remains for determination is whether the Complainant has received his contractual share, i.e., 50% of the built-up area and corresponding parking spaces, as stipulated under the Development Agreement.
10. The Respondent has contended that the agreed share has already been handed over, along with certain adjustments arising out of subsequent arrangements. The Respondent has further submitted that, as per the Deed of Agreement dated 05.02.2024, the Complainant was allotted a flat in another project, namely "Kortha Residency," Flat No. 204, second floor, developed by the Respondent itself. It is stated in the said Deed of Agreement that "*a multi-storey building was to be constructed under a development agreement on the plot of land belonging to the second party at Mauja–Chitkohra, Police Station–Gardnibag, District–Patna, Police Station No. 17, Khata No. 99, Plot Nos. 145 and 146. The plot allotted to the second party under partition was found, upon measurement, to be less than 50 percent of their share in terms of built-up area. Consequently, for adjustment of their share, the first party agreed to provide the second party with a flat measuring 600 sq. ft. of total built-up area on the second floor of Kortha Residency, Chitkohra, Patna, constructed by the first party, bearing Flat No. 204*". The said Deed of Agreement was signed by the Complainant, Ejaz

Shoaib Hashmi, which reflects the consent of both parties with respect to the adjustment of the share in relation to the present project, “Hashmi Residency,” as the project stands on the same Khata and Khesra numbers.

11. It has also been observed that the respondent/promoter, in order to settle the dispute in Title Suit No. 589 of 2010 pending before the Sub-Judge IV, Patna, between the landowner (Ejaz Shoaib Hussain) and Nooruddin Ashraf concerning the project land, intervened and, along with the present complainant, jointly offered one 3 BHK flat from the respondent’s share and one 2 BHK flat from the complainant’s share to Nooruddin Ashraf. For this purpose, they entered into an agreement (Ekaranama) dated 16.03.2018, which also bears the signature of the complainant, thereby evidencing the consent of the parties. If any dispute arises in this regard, the complainant is at liberty to approach the competent forum for redressal of the same.
12. In view of the foregoing discussions, pleadings of the parties, and material available on record, this Authority observes that the allegation regarding deviation from the sanctioned plan is not substantiated on the basis of the technical report dated 15.04.2026.
13. However, with respect to the issue of shortfall in the Complainant’s share, this Bench observes that the Respondent has relied upon the subsequent Deed of Agreement dated 05.02.2024, whereby an alternative flat in another project, namely “Kortha Residency,” has been allotted to the Complainant towards adjustment of his share. The said agreement, having been signed by the Complainant, reflects the consent of the parties with regard to such adjustment.
14. Accordingly, this Bench holds that the claim of the Complainant regarding deficiency in handing over the agreed share is not sustainable, as the Complainant has already received his share in the project as explained in the preceding paragraphs. Further, with regard

to parking, the Respondent/promoter is directed to hand over adequate parking space to the complainant in accordance with the Development Agreement.

15. Nevertheless, disputes persist with regard to the use of common areas and parking space. Even though the Complainant has denied the allegations, the material on record indicates unauthorized use of the parking space by the complainant.

16. Hence, after giving cautious, serious, and judicious study to the facts and evidence pertaining to the matter in question, the following directions are hereby issued:-

i. The Respondent shall ensure that the Complainant is in peaceful possession of the flat allotted under the Deed of Agreement dated 05.02.2024, if not already handed over, and shall complete all necessary formalities, if any, within a period of 60 days from the date of issue of this order.

ii. The Respondent shall ensure proper demarcation and allocation of parking spaces strictly in accordance with the Development Agreement dated 26.09.2017 and applicable rules within 60 days from the date of issue of this order.

iii. The Complainant is hereby directed to remove the illegal construction of the gymnasium, if any, from the parking area of the project forthwith, and in any case within a period of 60 days from the date of issue of this order, so as to restore the parking space to its original use.

iv. The Complainant is further directed to refrain from making any unauthorized construction or encroachment in the common areas, including setback areas, in violation of the sanctioned plan and applicable laws.

v. In case of non-compliance with the above directions, the Respondent and/or the concerned authority shall be at liberty to take appropriate action in accordance with law.

17. The Complainant is at liberty to approach the Adjudicating Officer under the provisions of the Real Estate (Regulation and Development) Act, 2016 for adjudication of compensation, if any.

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

Sd/-

Sanjaya Kumar Singh
Inquiry Commissioner
RERA Bihar