

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

Case No: RERA/CC/304/2023

Rajesh Kumar & Nutan Kumari **...Complainant**

Vs.

M/s Sankalp Engicon Pvt. Ltd. **...Respondent**

Project: Pacific Oak's, Block-A

03/07/2024

ORDER

The matter was last heard on 31.05.2024, when Mr. Shrawan Kumar, Advocate learned counsel for the complainant was present and the respondent was absent.

In short, the case of the complainants is that the complainants are husband and wife and they have approached to purchase flats in Sankalp Engicon Pvt. Ltd. and on the assurance of the respondent, the complainants became ready to book Flat No.303 in the name of Rajesh Kumar and Flat No.302 in the name of Nutan Kumari in Block-A of the said project. After acceptance of the proposal of the respondents, the complainants gave two cheques dated 09.05.2016 of UCO Bank of Rs.2.51 lakh and Rs.2.51 lakh of S.B.I. in the name of the respondent's company and the Director gave a money receipt dated 09.05.2016. It is stated that the respondents have neither started the project nor returned the amount to the complainant. Thereafter, the complainant gave a legal notice to the respondent on 09.01.2020. In reply, the respondents have assured to either adjust the amount in other projects or return the amount. They also assured to start the project shortly but even till date the respondents have neither started the project nor taken any steps to resolve the matter. Therefore, the complainant has prayed to direct the respondent to refund the principal amount of Rs.5.02 lakh with interest and compensation.

The complainant has placed on record the copy of the money receipts, legal notice dated 09.01.2020 and the reply to the legal notice dated 10.02.2020.

Perused the record. No reply has been filed by the respondent.

On the last date of hearing the complainant reiterated his submissions as made in the complaint petition and has prayed for refund of the amount with interest. In this connection the cancellation letter is still not received.

The Authority ought to have approached only after the promoter fails to respond to any communication regarding refund after cancellation. However, since the matter has already been heard and despite several opportunities the respondent failed to appear before the Bench so, in the interest of justice, order is being passed on the basis of documents available on record.

In the light of the documents placed on record and submission made and considering that the respondent has taken the economic benefit of the amount paid by the complainant in lieu of booking of the alleged flat, the

Bench hereby directs the respondent company and its Directors to refund the principal amount of Rs.5.02 lakh to the complainant along with interest at the rate of marginal cost of fund-based lending rate (MCLR) of State Bank of India as applicable for three years plus 2% interest from the date of booking till the date of refund within sixty days of issue of this order.

As regards claim for compensation is concerned, the complainant is at liberty to press the same before the A.O. as per the provisions of the Act.

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

Sd/-
Nupur Banerjee
Member