

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh, RERA,
Bihar

RERA/CC/305/2025

Prasannata Devi

.....Complainant

Vs

M/s Nutan Developers Pvt. Ltd.

.....Respondent

Project: Shanti Vihar Apartment, Block-A

Present: For Complainant: Mr. Anup Kumar Sinha, Advocate
For Respondent: None

11/09/2026

ORDER

The matter was last heard on 05.08.2026 when Mr. Anup Kumar Sinha, learned counsel appeared on behalf of the complainant. No body appeared on behalf of the respondent.

2. The matter was heard through a series of hearings conducted on several dates when the respondent was represented by the learned counsel Mr. Sandeep Kumar. Finally an opportunity to both the complainant as well as the respondent was given to file written notes of argument on their behalf. Both the complainant and the respondent have filed their written notes of argument and hence, the order, which was reserved on 05.08.2026, is being pronounced today.

3. The complainant has filed the present complaint case against the respondent company stating that an absolute sale deed dated 07.11.2022 followed by a rectification deed dated 20.12.2022 was executed between the parties in respect of Flat No. 305 in Block-B of the impugned project named Shanti Vihar Apartment admeasuring 1300 sq.ft., but despite execution of the sale deed which was done after full and final payment of the entire consideration amount of Rs.48.45 lakh by the complainant to the respondent, the possession of the said flat has not been handed over to the complainant. The complainant further submits that the respondent has rented the said premises to a third party, who is residing in the impugned flat booked by the complainant. Learned counsel for the complainant further submits that a copy of the sale deed pertaining to the impugned Flat No.305 executed on 07.11.2022 and the rectification deed for the said flat executed on 20.12.2022 was shown to the Bench during the hearing and a copy of the same has been annexed therewith by the learned counsel for the complainant. Learned counsel for the complainant prays for a stringent direction to the respondent for handing over the possession of the impugned flat along with a car parking space after completing the pending work and has also prayed for imposing exemplary cost on the respondent for deliberately delaying in handing over the possession of the same.

4. Learned counsel for the respondent has filed a written notes of argument mentioning therein that Mr. Sunil Kumar, the Director of the respondent company is critically ill and has been diagnosed with malignant brain tumour in the month of June, 2023 and has undergone a surgery for the same. In the said

notes of argument it has been submitted that owing to the critical illness of the Director of the respondent company, it became difficult for the respondent to timely respond to the requirements of the present complaint case. It has further been submitted that notwithstanding the details as contained in the sale deed, the complainant still owes a huge sum of money (Rs.33.89 lakh) pertaining to the consideration amount of the impugned booked flat and hence, has claimed that the correctness of the fact, as stated in the sale deed, is false and denied. It has also been submitted that even if the points claimed in the sale deed is considered to be correct, the relief of possession, as claimed by the complainant in the present complaint, stands satisfied as it has been explicitly mentioned in the sale deed that the complainant has already received the possession of the impugned flat and thus, no cause of action now survives in the present case.

5. On perusal of the record of the case and after hearing the submissions of both the parties and also after giving a cautious and judicious study to the facts and evidences pertaining to the matter in question including the written notes of argument submitted by both the parties, it is clear that a registered sale deed has been executed by the Director of the respondent company Mr. Sunil Kumar in favour of the complainant Ms. Prasannata Devi for Flat No.305 Block-B on 3rd floor in Shanti Vihar Apartment admeasuring 1300 sq.ft. along with a covered car parking space at basement on 07.11.2022. In the said sale deed it has explicitly been mentioned at page-5 of the said deed that the seller (the Director of the respondent company) has received the entire agreed amount of Rs.48.45 lakh from the purchaser (the complainant) and hence, there is no dues remaining to be paid by the purchaser (the complainant). It is also clear that a registered rectification deed pertaining to the impugned flat has also been executed between the seller (the Director of the respondent company) and the purchaser (the complainant) wherein again it has been explicitly mentioned at page-3 that the seller after receiving the entire sale value of the impugned property has executed the sale deed dated 07.11.2022 in favour of the purchaser (the complainant). The said rectification deed also explicitly mentions at page-4 that the purchaser is free to use the impugned property in her favour as per her own wish and will.

6. The Bench observes that despite execution of the sale deed in favour of the complainant by the Director of the respondent company, the property has not been handed over to the complainant and it has been rented out to a third party who is not vacating the flat and thus, the complainant is still deprived of her genuine right of enjoying the possession of the sold flat to her. The Bench further observes that refusal of the respondent to handover the possession of the booked flat in favour of the complainant despite receipt of the entire sale consideration amount and execution and registration of the absolute sale deed in favour of the complainant thus depriving her the peaceful possession of the said flat tantamounts to an arbitrary deprivation of the property rights.

7. The Bench observes that despite receiving the entire amount the respondent has failed to deliver the possession of the impugned flat thus depriving the complainant of her genuine right for nearly four years from 07.11.2022 till date and hence, the respondent is liable for penalty u/s 61 of the Real Estate (Regulation and Development) Act 2016 for not handing over the

possession of the booked flat in time as per the provisions of law. A penalty of Rs.1,00,000/- (one lakh) is hereby imposed against the respondent for his deliberate act of violation of the provisions of the Act.

8. Article 300A of the Constitution of India mandates that no person shall be deprived of his/ her property except by the authority of law. In the present case, once the complainant has discharged all her contractual obligations and accordingly, sale deed has been executed in her favour, the corresponding legal right accrues in her favour for enjoying the peaceful possession of the said flat. Any denial or withholding of such lawful possession without sanction of law results in unlawful deprivation of her proprietary rights.

9. Furthermore, the said conduct also infringes Article 21 of the Constitution of India which guarantees the right to life and personal liberty and has been expansively interpreted to include the right to live with dignity, security and peaceful enjoyment of one's home and property. Failure to handover the possession of the booked flat to the complainant creates uncertainty over her lawful title thereby affecting her entitlement to freely enjoy, secure and deal with her exclusive property. Such denial of complete legal recognition of ownership infringes upon the complainant's right to dignified housing and peaceful enjoyment of the shelter which forms an essential component of Article 21 of the Constitution of India.

10. The Hon'ble Supreme Court in the case of **Mansi Brar Fernandes vs. Shubha Sharma and anr.**, reported in 2025 SCC Online SC 1972 has reinforced the principle laid down in the case of **Pioneer Urban Land and Infrastructure Ltd. vs. Union of India**, reported in (2019) 8 SCC 416 and has held that:

“22. Ultimately, this is a matter of policy, falling within the exclusive domain of the Government, it cannot remain a silent spectator. The Government is constitutionally obliged to protect the interests of home buyers and the economy at large..... Before parting, we observe that the right of housing is not merely a contractual entitlement but a facet of the fundamental right to life under Article 21.”

“Genuine home buyers represent the backbone of India's urban future, and their protection lies at the intersection of constitutional obligation and economic policy. Through these directions, this Court seeks to restore faith in the regulatory and insolvency framework, better speculate to misuse, and ensure that the dream home of the India's citizens does not turn into a lifelong nightmare.”

11. It is, thus, clear that though the respondent promoter has received the entire consideration amount and has also executed the sale deed of the booked flat as mentioned above explicitly mentioning therein to have received the entire consideration amount paid by the complainant to the respondent company, but despite the same the possession of the said flat has not been handed over in favour of the complainant by the respondent company. Hence, in exercise of powers conferred u/s 11, 34(f) and 37 of the Real Estate (Regulation and Development) Act, 2016 and without adjudicating upon the compensation

claims falling within the jurisdiction of the Adjudicating Officer u/ss 12,14, 18 and 19 of the Act, the following directions are given herein below:

- (i) The respondent is directed to ensure that the project is completed in all respect strictly in accordance with the sanctioned building plan and the terms and conditions laid in the agreement for sale as well as executed sale deed within a period of 30 days from the date of this order.
- (ii) The respondent shall within a period of 60 days handover the peaceful and lawful possession of the booked flat in favour of the complainant along with a car parking space and also along with all requisite documents, keys and access to common areas. If any structural defect or defect in workmanship, quality or provision of services is brought to the notice of the respondent within a period of five years from the date of handing over of the possession of the said flat, the respondent shall rectify such defects within a period of 30 days from such notice, failing which the complainant shall be at liberty to approach the Adjudicating Officer for appropriate relief including the compensation.
- (iii) The complainant is at liberty to approach the Adjudicating Officer under the provisions of Real Estate (Regulation and Development) Act, 2016 for adjudication of claims relating to compensation or any other monetary relief u/s 12, 14, 18 and 19 of the Act.
- (iv) The respondent is directed to pay the penalty of Rs.1,00,000/- (one lakh) within a period of 60 days from today.

12. With the aforementioned directions and observations, this case is disposed of accordingly.

Sd/-

(Sanjaya Kumar Singh)
Inquiry Commissioner,
RERA, Bihar