

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

RERA/CC/381/2022

Mrs. Anupama Mohan

....Complainant(s)

Vs

M/s Raman and Kumar Construction Pvt. Ltd. Respondent
PROJECT- Sharda Mansion

For the complainant:

Mr.Sharad Shekhar (Adv.)

For the respondent :

Mr.Tarun Sagar (Adv.)

24.06.2026

PROCEEDING

Hearing is taken up. Learned counsel on behalf of both the parties are present.

2. Learned counsel for complainant submits that an Agreement for sale dated on 08.09.2017(Annexure-1) was executed between the complainant and respondent company through its Managing Director, Shri Sitesh Raman, for sale of Flat no. 205 on 2nd floor, measuring area 1200 sq. ft in the project, Sharda Mansion of respondent company, located at Hanuman Nagar, Mauza – Malahi Pakri, P.S.- Patrakarnagar, Kankarbagh District-Patna, on consideration of Rs. 40,85,000/- plus applicable taxes, including the cost of amenities, out of which the complainant paid Rs. 22,01,000/- in different installments to the respondent (Photocopy of receipts as annexures-2,3 is annexed). Learned counsel for the complainant further submits that till date the construction work has not been completed and the project is pending for about seven years.

3. Before proceeding further, it will be pertinent to mention here that the subsequently, complainant at the stage of conciliation filed an application for amending the relief portion of the complainant case through which the complainant, instead of refund, prayed for handing over the possession of the booked flat no. 205 in the said project. The Hon'ble Chairman of the Authority, Shri Naveen Verma was pleased to pass an interim order on 04.12.2023 with regard to amendment of relief. It was further observed by

the Authority from the proceedings of 18.10.2022 of the Conciliation Forum that on the next date of hearing ie 12.12.2022, the counsel for respondent had offered an alternative flat. The respondent was served with a copy of the amendment petition. Considering the change in the relief sought in complaint case, the Authority did not agree with the contention of the respondent that it cannot accept such petition for modification. The Authority further observed in the said order dated 04.12.2023 that the agreement for sale was executed on 08.09.2017 and the possession was to be delivered within four years. Hence, the offer of the respondent to refund only the principal amount does not appear to be legally tenable.

4. Learned counsel for respondent promoter submits that the complainant cannot amend the reliefs sought initially in the complaint case. The learned counsel for the respondent further submits that the complainant has booked the said flat in the above project for a consideration of Rs. 40, 85,000/- out of which he has paid Rs. 22,01,000/- till 18.12.2018 and he has failed to make payment as per schedule 4 of the Agreement for Sale. He further submits that time is essence of the contract, that is why, the respondent has sent legal notice dated 19.07.2019. He further submits that due to default of the allottee in making timely payment of installment, the completion of the project is delayed. He further submits that due to callous attitude of the complainant in making payment, the respondent had to suffer financial losses. Ultimately, the respondent promoter cancelled the booking due to non-payment of installment and he is always ready to refund the principal amount.

5. Heard and perused the record.

6. On going through the record as well as considering the documents available on record, it appears that the complainant had initially filed the complaint case for refund of the principal amount of Rs. 22, 01,000/- along with interest. Further at the stage of conciliation, it was pleaded to amend the relief portion of the case and the matter was referred to the Authority for taking a decision and passing the order. The Hon'ble Chairman of the Authority, Shri Naveen Verma passed an interim order dated 04.12.2023 wherein it was held that after the cancellation of booking of Flat, the

respondent should have immediately refunded the principal amount with interest, but the respondent promoter failed in his obligation and did not make payment of the principal amount along with interest. According to the Authority, this is fundamental point of an issue. Had the respondent refunded the principal amount just immediately after cancellation of booking, the complainant could not have sought for amendment of reliefs. In this view of the matter, the Authority, vide said order, allowed the amendment from refund to that of delivery of possession.

7. In such facts and circumstances, the Bench/Authority holds that the complaint's claim, though at later stage, deserves consideration and the contention of the respondent that the reliefs cannot be modified at later stage is not sustainable in the eye of law. The present case can be disposed of with directions.

8. The Bench/Authority observes that the complainant has paid Rs.22,01,000/- out of total consideration Rs.40,85,000/-. The project was under construction not even on 19.07.2019 when the allotment of flat was cancelled, but also on 04.12.2023 when Hon'ble Chairman observed on the basis of QPR that it was under construction. The complainant was willing to pay remaining consideration through Bank loan and she requested from the respondent promoter to provide documents, but the respondent instead of providing documents stated that Bank will sanction loan only on basis of agreement for sale and lastly without waiting sold the flat to another prospective buyer. In such facts and circumstances the cancellation of allotment of flat of the complainant by the respondent appears unreasonable and accordingly it is rejected.

9. On basis of material available on the record, the Bench/Authority hereby directs the respondent company through its Director, Shri Sitesh Raman to hand over the possession of Flat no. 205 on 2nd floor having 1200 Square Feet along with one car parking space in basement of the Project-Sharda Mansion to complainant and to execute an Absolute Sale Deed in her favour after receiving the remaining consideration amount. Similarly, the complainant is also directed to pay the remaining consideration along interest @2% above the MCLR of SBI applicable for 3 years plus applicable

GST and other taxes to the respondent before delivery of possession and execution of sale deed. In alternate the respondent is further directed to deliver alternate flat and parking space in vicinity to the present project having same area and consideration and execute sale deed in favour of the complainant within 60 days of the order.

10. The complainant, if so advised, shall be at liberty to press other relief(s), if any, which are in the nature of compensation, before the Adjudicating Officer, RERA, Bihar.

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

Sd/-
(Ved Prakash)
Special Presiding Officer