

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

**Case No: RERA/CC/591/2022**

**Sabita Kumari**

**...Complainant**

**Vs.**

**M/s Ashirwad Engicon Pvt. Ltd.**

**...Respondent**

**Project: IOB Galaxy**

**30/05/2024**

**ORDER**

The matter was last heard on 22.02.2024 and was fixed for orders on 30.04.2024. However, due to pre-occupation of the Bench in other matter, order could not be pronounced on the date fixed. On that date, Mr. Ankit Verma, the son of the complainant was present, Mr. Ishtiyaque Hussain, learned counsel for the respondent was also present.

In short, the case of the complainant is that the complainant had booked a flat in the said project for a consideration of Rs.6.51 lakh. She has made payment of Rs.5.51 lakh through Bank transfer in the account of the builder and Rs.1.00 lakh in cash for which the builder issued money receipts of Rs.6.51 lakh. It is stated that the builder also executed an agreement for sale on 12.05.2015. but till date the possession has not been given to her. Therefore, the complainant has prayed to direct the respondent to allot the flat as soon as possible which was booked by her with a penalty of Rs.50000/- per month.

The complainant has placed on record the copy of the Agreement for Sale dated 12.05.2015 and the money receipt.

Perused the record. From the records it appears that the respondent had appeared through his learned counsel Mr. Ishtiyaque Hussain and filed a counter affidavit on behalf of the respondent stating that the present case is not maintainable under RERA Act because RERA Act came into existence on 1<sup>st</sup> May, 2017 whereas the present agreement for sale was entered into much prior i.e. on 12.05.2015 and the respondent company has not taken the map approval for the entire land. It is stated that on 12.05.2015 the respondent company had entered into an agreement for sale with the complainant to construct and deliver a 3-BHK flat measuring an area of 1370 sq.ft. in the said project and as per para-3 of the agreement, the total consideration of the flat was fixed at Rs.6.51 lakh to which the complainant claimed to have been paid but the complainant has alleged to have paid Rs.4.51 lakh and the balance amount has not been paid. In para-10 completion date of the apartment was fixed for five years with a grace period of six months to handover the building. It is further submitted that the company had have plan to construct 2200 flat in the said project phase-wise and after obtaining map approval only 25% area have been constructed after passing the map and from its profit remaining land have to be developed but the map approval has not been done. In some of the cases the Authority already directed the respondent to refund the booking amount along with interest who has already got the refund money. Therefore, the company is ready to refund the booking amount.

On the last date of hearing i.e. on 22.02.2024 the son of the complainant reiterated his submissions as made in the complaint petition but learned counsel for the respondent stated that they are unable to give possession of the flat due to some reasons but they are willing to refund the money along with interest. On the said submission, the son of the complainant stated that if the flat is not provided then he is willing to get the refund of money with 20% interest. On the direction of the Authority, on the last date of hearing the complainant has filed a hard copy of the cancelation letter with a copy of the money receipt of Rs.6.51 lakh issued by the Managing Director of the company and also a copy of the Agreement for Sale dated 12.05.2015 in which in para-3 of page-3 of the agreement it is mentioned that out of total consideration of Rs.6.51 lakh the buyer has already paid an advance of Rs.6.51 lakh to the builder.

In the light of the documents placed on record and submission made by both the parties 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.6.51 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**