

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Telephone Bhavan, Patel Nagar, Patna-800023.

Before the Bench of Mrs. Nupur Banerjee, Member

Complaint Case Nos. CC/103/2018

Anand Kumar.....Complainant

Vs

M/s Rabloon Construction.....Respondent

Project: REBLOON REGENCY

For Complainant: Mr. Mahesh Prasad, Advocate

For Respondent: Mr. Punit Kumar, Advocate

30/06/2022

ORDER

The present complainant had been filed under section 31 of the Real Estate (Regulation and Development) Act, 2016 by the complainant Anand Kumar seeking relief to direct the respondent to complete the project and reimbursement of amount paid for rent till completion of project.

The matter was last heard on 11-04-2022 and after hearing on length both the parties, the order was kept reserved.

The complainant in his complaint petitions dated 18-10-2018 has stated that complainant had entered into Agreement for Sale dated 26-07-2013 with the respondent company for the booking of flat bearing flat no. G-109, measuring 1075 sq.ft. in Rebloon Regency project and paid total amount of Rs.16,50,000/- out of

total consideration amount of Rs.19,35,000/- which includes the amount of parking space at ground floor. He further stated that as per the development agreement dated 17-11-2009 between land owner and respondent, the project has to be completed within three years from the date of approval of design of the project. He further stated that more than 85% of amount pertaining to the flat has been paid by the complainant and respondent was suppose to hand over the flat by the end of 2014 but till date, it has not been handed over, hence, filed present case seeking relief to direct the respondent to complete the project and reimbursement of amount paid for rent till completion of the project. It has also been stated that project is not registered with RERA.

Accordingly, a notice dated 31-10-2018 was sent to the respondent company through under Section 31 of the RERA Act and Rule 36 of the RERA Rules 2017 to appear and file their reply.

The respondent company, in its reply dated 27-03-2019 has submitted that an agreement between the land owner and respondent was taken executed on 17-11-2009 to construct multi story apartment over the land within 3 years plus grace period of 6 months after approval of map by the competent authority. It has been further submitted that Agreement with complainant was executed on 26-07-2013 for Flat No. G-109 and though the time of completion was not mentioned in the Agreement but respondent has promised to deliver the possession of the flat within 4 years plus grace period of 6 years with clear provision of payment of the cost in 4 equal yearly installments. It has been further submitted that respondent admits the payment made of Rs. 11.50 lakh stated in compliant petition and further denies as stated in complainant petition for the payment of Rs.5 lakh made in cash. It has also been further submitted

that complainant had demanded for 5 specific modifications in the flat and when the amount of Rs.55,000/- has been demanded for the alteration and modification made in flat, the complainant has arosed the dispute and complainant has accepted to pay the rest amount except the extra amount as stated above. It has also been submitted that the project has got delayed due to water logging for 5 months, shortage of sand due to government policy and certain disputes arising with land owners. It has also been submitted that respondent is ready to hand over the flat within 3-4 months subject to rest amount paid by complainant as per the Agreement.

The Respondent has filed another reply on 17-03-2021, stating therein that complainant had paid Rs.16,50,000/- and the amount of Rs.5 lakh whose receipt was not produced by the complainant is admitted by the respondent and the receipt of the same is enclosed as Annexure-1 with this reply. It has also been further submitted that project is registered with RERA having its registration number as RERAP01302019214434-1. It has been further submitted that possession of flat has been handed over to complainant in 2020 and after full inspection and verification, the complainant has taken the possession of flat then saying that project is not completed is unreasonable. It has also been submitted that amount of Rs.1,50,000/- for extra work done and Rs.2,85,000/- towards flat consideration amount is still due with complainant.

The complainant has placed on record money receipts of Rs.16,50,000/- duly issued and acknowledged by the respondent company. Further, the complainant has placed on record Agreement for sale dated 26-07-2013.

On the other hand the respondent has placed on record Bills for the extra works done in the flat.

A report dated 25-03-2021 was also placed on record.

Several hearing has taken place in the present matter.

During the course of hearing on 20-12-2021, the complainant has submitted that the complainant has paid Rs 19 lakh to the respondent. Though the possession of flat has been handed over in 2020 but till now, the respondent has not executed the sale deed and requested to direct the respondent to execute the sale deed.

Learned counsel of the respondent company during the course of hearing on 20-12-2021 has submitted that the complainant has paid Rs 16.50 lakh out of the consideration money of Rs 19.35 lakh and Rs 4.35 is still due with the complainant. He has requested that the complainant may be directed to pay the remaining amount of Rs 4.35 lakh due amount to the respondent, so that, respondent can execute the sale deed.

During the last hearing on 11-04-2022, learned counsel for the complainant has submitted that possession has been given but they have not executed the sale deed. His grievance is for the execution of the sale deed.

Learned counsel for the respondent company has submitted that the complainant has suppressed the fact that he has got the possession in 2020. He admitted in the complaint petition that he has paid token money of Rs.16,50,000/- which they have admitted but rest due amount has not been paid. The complaint is that the complainant has not got the possession of the flat in

time. He is suppressing the fact that he is not getting possession. It has been further submitted that hat they are ready to execute the sale deed, if the complainant will pay the rest due amount.

After going through the records of case and submissions made by both the parties, the Bench observes that possession has been handed over to complainant as admitted by the complainant during the course of hearing stated above but Sale Deed is not executed in the favor of complainant. Upon this issue, the respondent has made submissions during the course of hearing as well as in reply filed that complainant has not paid the remaining due amount as per the Agreement for Sale dated 26-07-2013 and payment schedule - C of page 7 of the Agreement executed between respondent and complainant.

Upon considering the above discussion, the Bench observes that duties cast upon complainant under section 19(6) of the RERA Act, 2016 to make necessary payments in the manner and within the time as specified in the Agreement for Sale. Since, the respondent has delayed in the completion of project and as submitted that possession has been handed over to complainant in 2020 but the Agreement for Sale was executed in 2013, therefore, it is justifiable that payment should be made in context to the stage of development of project. Since, now the possession has been handed over to complainant, hence, the Bench directs the complainant to make the remaining payment due to respondent as per the Agreement for Sale dated 26-07-2013 and further directs the respondent to execute the Sale Deed in favor of the complainant within 15 days from the date of receiving the remaining payment due from complainant as per the Agreement for Sale dated 26-07-2013.

So far the issue of extra work and payment for extra work is concerned, the Bench directs both the party to settle the matter amicably.

The Bench also directs respondent to complete if any work left out to be completed in the project immediately.

So far the issue of reimbursement of amount paid for rent till completion of project is concerned, the complainant is at liberty to press the same before the court of A.O.

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

Sd/-

Nupur Banerjee
Member