



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

RERA/CC/515/2025

Vijay Nath Gupta

... Complainant

Versus

M/s. Anchita Developers Pvt. Ltd.

... Respondent

Project: Ram Enclave
Present: For Complainant: Adv. Mohit Raj
For Respondent: Adv. Sumit Kumar

ORDER

09.09.2026

1. Hearing taken up. Adv. Mohit Raj was present on behalf of the Complainant. Adv. Sumit Kumar was present on behalf of the respondent company.
2. The present matter was last heard on 01.07.2026 and the order was reserved and is being pronounced today.
3. The complainant is the landowner of the property bearing Thana No. 21, Khata No. 211, Plot No. 1163, measuring approximately 9 Kattha/12,249 sq. ft. The complainant entered into a Development Agreement dated 07.12.2011, registered as Deed No. 28909, Serial No. 35270, with the respondent developer for construction of a multistoried residential complex on the said land.
4. Under the terms of the Development Agreement, the built-up area was to be distributed between the parties, with the landowner entitled to 45% of the total super built-up area and the developer entitled to the remaining 55%. The developer undertook to construct the residential

complex and thereafter hand over the complainant's allocated flats/share in accordance with the agreed distribution.

5. The project was subsequently registered with RERA as "Ram Enclave", bearing RERA Registration No. BRERAP0005402-1/1096/R-975/2020. The sanctioned map was approved by Danapur Nizamat on 03.04.2019. Despite the approval and the passage of substantial time, the developer failed to complete the construction and failed to allot or hand over the complainant's agreed share/possession.
6. The complainant repeatedly requested the developer to complete the construction and hand over possession of his share, but the developer allegedly continued to give assurances and excuses without actually delivering the complainant's flats/share. The complainant further alleges that the developer failed to provide the relevant approvals and documents concerning the construction, including the sanctioned map and fire-related certificates.
7. The complainant had earlier approached the Real Estate Regulatory Authority, Patna in RERA/CC/527/2021, wherein an order dated 19.07.2023 was passed directing the parties to comply with the Development Agreement and permitting continuation of construction in accordance with the sanctioned plan and the applicable RERA requirements.
8. Thereafter, in Request Case No. 10/2022 under Section 34 of the Arbitration and Conciliation Act, 1996, an award was passed declaring the cancellation of the Development Agreement and Power of Attorney dated 07.12.2011 by the respondents to be illegal. The award further directed the parties to abide by the terms of the Development Agreement and directed completion of the construction and delivery of the respective built-up areas in accordance with the agreement.

9. Despite the aforesaid proceedings and directions, the complainant states that his share of the constructed flats has still not been handed over. The complainant therefore issued a legal notice dated 12.09.2025 demanding possession of his share. Although the respondent replied on 13.10.2025, the complainant alleges that the reply was vague and that possession of his agreed share was still not delivered.
10. The complainant also alleges that the respondent has executed sale deeds in respect of the project without obtaining the requisite occupancy certificate and that the RERA registration of the project has lapsed. According to the complainant, the continued failure to hand over his agreed share/possession amounts to a violation of the Development Agreement and has caused him financial loss and mental harassment.
11. Thus, the principal grievance of the complainant is that, despite the Development Agreement, sanctioned plan, RERA proceedings and the subsequent arbitral award, the respondent has failed to complete the construction and deliver the complainant's agreed share of the super built-up area/flats, which the complainant claims is due to him under the Development Agreement.
12. The respondent submitted a counter affidavit on his behalf, which has been filed on 18.03.2026. In the counter affidavit, the respondent has raised objections, contending, inter alia, that the complainant has not approached this Hon'ble Court with clean hands and has suppressed material facts and documents with an intent to mislead the Court. It has been stated that the respondent is a registered firm engaged in development and construction of multi-storied buildings and that the complainant is one of the landowners in respect of the project namely "Ram Enclave", bearing RERA Registration No. BRERAP0005402-1/1096/R-975/2020.

13. The respondent has further stated that under the Development Agreement dated 07.12.2011, the complainant's share related to land comprised in Khata No. 211, Tauzi No. 5399, Thana No. 21, Plot No. 1163, situated at Mauza Danapur Sainik Colony. It has been alleged that although the land was represented as measuring 6 kattha, upon actual measurement the complainant's share was found to be approximately 5.5 kattha. It has also been stated that about 3.5 kattha out of the total 9 kattha was included in the Master Plan for road widening, of which the complainant was allegedly aware prior to execution of the Development Agreement, and that the said portion was consequently kept vacant.
14. The respondent has explained the delay in commencement of construction by referring to the non-approval of the building plan by the Danapur Nagar Parishad and the subsequent requirement of registration of the project under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the Act). It has been stated that the building plan was approved on 03.04.2019 and the project was registered with RERA on 08.05.2020. According to the respondent, construction was completed within the stipulated period, taking into account the applicable contractual grace period and the circumstances arising during the COVID-19 pandemic, and the residential society has been functional since August, 2024.
15. The respondent has further alleged that the complainant repeatedly obstructed and caused hindrance in the construction work, compelling the respondent to institute RERA/CC/527/2021, in which this Hon'ble Court, by order dated 19.07.2023, directed the complainant to cooperate in the construction work and not to create any hindrance at the project site. It has also been stated that the complainant had unilaterally cancelled the Power of Attorney and Development

Agreement, which was subsequently dealt with in the arbitral proceedings.

16. It is further stated that after completion of construction, the respondent repeatedly requested the complainant to take possession of the flats falling in his share, but the communications were allegedly returned undelivered/unreceived. According to the respondent, instead of taking possession, the complainant issued legal notices, to which appropriate replies were given. The respondent has relied upon the terms of the Development Agreement and the arbitral proceedings and has contended that the disputes ought to have been raised in accordance with the arbitration mechanism provided therein.

17. The respondent has also relied upon the Arbitral Award dated 28.11.2023 passed by the learned Sole Arbitrator, Justice (Retd.) S. N. Jha, wherein, according to the respondent, the objections and counter-claims raised by the complainant were rejected. Reliance has also been placed upon Office Order No. 108 dated 13.12.2021 issued by RERA, Bihar, relating to the protection granted in view of the COVID-19 pandemic.

18. The respondent has specifically denied the complainant's assertions regarding the respective shares under the Development Agreement and has stated that, in terms of paragraph 3 thereof, that the landowners were entitled to 45% of the super built-up area, whereas the developer was entitled to 55%. The respondent has further alleged that the complainant, in collusion with another landowner, namely Pramila Devi, and her son Arvind Kumar, instituted Title Suit No. 133/2022 questioning the binding nature of the Development Agreement and Power of Attorney.

19. It has also been stated that the complainant challenged the Arbitral Award dated 28.11.2023 before the learned District Judge, Patna in Arbitration Case No. 10/2024. The respondent has alleged that certain

flats falling in the complainant's share remained locked and has further alleged that there was a huge amount outstanding against the complainant, including a sum of Rs.18,87,974/- towards GST payable in respect of his share and Rs.4,20,000/- towards the price of 280 sq. ft. of additional area calculated at the rate of Rs.1,500/- per sq. ft.

20. On the aforesaid grounds, the respondent has prayed for dismissal/rejection of the complaint petition and has denied all averments contrary to the record or prejudicial to its interest, save and except those specifically admitted.

21. The complainant, by way of supplementary affidavit dated 20.06.2026, has submitted that, pursuant to the direction of this Court, the respondent handed over the possession of four flats, namely Flat Nos. 201, 202, 402 and 403, out of a total of five flats on 01.05.2026, while possession of the remaining flat has not yet been handed over.

22. The complainant has further submitted that, under the Joint Development Agreement, the respective GST liabilities of the builder and landowner are separately defined. It has been contended that the builder is liable to discharge GST under the Reverse Charge Mechanism in respect of the constructed apartments handed over to the landowner, whereas the transfer of development rights to the extent relating to residential apartments intended for sale is exempt, subject to the applicable statutory conditions. The complainant has further relied upon the provisions of the CGST Act, 2017, particularly Sections 7(1) and 7(2), read with Paragraph 5 of Schedule III and Paragraph 5(b) of Schedule II, and has contended that sale of a completed flat after issuance of the Completion Certificate or first occupation, as the case may be, is outside the scope of GST. Reliance has also been placed upon certain judicial precedents and advance rulings in support of the said contention. The complainant has stated that, in the event any GST liability is determined by the competent State Tax Authority against the

landowner/complainant, he is ready and willing to discharge the same in accordance with law.

23. The complainant has also alleged that the respondent has made an unauthorised encroachment directly in front of the building premises, affecting the common areas and allegedly violating the sanctioned building plan. In support thereof, a typed/photo copy of an application dated 18.01.2026, along with photographs, has been annexed as Annexure-2 to the supplementary affidavit.
24. It has further been submitted that the “Ram Enclave” project lapsed in November 2023 and that, as per the Development Agreement, the respondent was required to pay monthly rent of Rs. 5,000/- per flat in case the project was not completed and possession was not handed over within the stipulated period. According to the complainant, the rent liability for the period from 01.04.2024 to 30.04.2026 amounts to Rs. 7,25,000/-.
25. The complainant has accordingly prayed for grant of interest for the delay in handing over possession and has sought liberty to file a claim for compensation before the Authority, in accordance with law.
26. The respondent, in its written submission dated 16.07.2026, has opposed the claims of the complainant and submitted that the complainant has approached the Court seeking possession of the flats falling in his share and compensation on account of alleged delay in completion of the project, while suppressing and concealing material facts with an intention to mislead the Court.
27. The respondent has submitted that the complainant has already challenged the arbitral award concerning construction and completion of the project before the Principal District Judge, Patna in Arbitration Case No. 10/2024, filed on 17.02.2024, which is still pending, besides other civil proceedings before the Civil Court, Danapur. It has, therefore, been contended that the complainant ought not to

simultaneously seek possession before this Court and has prayed that the pending civil proceedings relating to the project be withdrawn.

28. It has further been alleged that the complainant had represented that the entire land covered by the Development Agreement was available for construction, whereas a substantial portion was earmarked for road widening under the Master Plan, thereby restricting the area available for construction. The respondent has also alleged that the complainant had created obstruction in the construction of the project, in respect of which the respondent had earlier filed CC/527/2021, disposed of by order dated 19.07.2023, whereby the landowner was directed not to create hindrance in the construction. The respondent has further stated that the complainant had unilaterally cancelled the Development Agreement on 28.12.2021, which was challenged through arbitration, and the arbitral award was passed in favour of the respondent by setting aside the cancellation.

29. With regard to the possession of the flats, the respondent has submitted that it had requested the complainant to pay GST amounting to Rs. 18,87,974/- in respect of the landowner's share of flats. It has relied upon the order dated 18.03.2026, whereby, according to the respondent, one flat was directed to remain in its possession until payment of the GST dues by the complainant. The respondent has accordingly prayed that it be permitted to retain the fifth flat until the said GST amount is paid.

30. The respondent has also claimed Rs. 4,17,000/- towards the alleged excess built-up area of 278 sq. ft., calculated at the rate of Rs. 1,500/- per sq. ft., stated to be payable under Clause 3 of the Development Agreement. Further, the respondent has submitted that it repeatedly requested the complainant to take possession of the flats and commence payment of maintenance charges from April 2024, but the complainant allegedly failed to take possession. It has claimed reimbursement of Rs.

1,57,500/- allegedly incurred towards maintenance of the flats falling to the complainant's share.

31. The respondent has disputed the judicial precedents relied upon by the complainant regarding GST, stating that the judgments have not been properly cited and that the complainant has attempted to mislead the Court. On the basis of the aforesaid submissions, the respondent has prayed for dismissal of the present case.
32. Having considered the pleadings, documents available on record, the Development Agreement dated 07.12.2011, the previous orders passed by the Authority, the arbitral proceedings, the supplementary affidavit dated 20.06.2026 and the written submission dated 16.07.2026, it is evident that the dispute principally concerns the handing over of the flats falling in the share of the complainant as per the terms of the Development Agreement and the compliance of the respondent-promoter with its obligations in respect of the registered project.
33. It is an admitted position emerging from the subsequent pleadings that, pursuant to the directions passed in the present proceedings, possession of four flats, namely Flat Nos. 201, 202, 402 and 403, has been handed over to the complainant on 01.05.2026. The dispute, therefore, presently survives primarily with respect to the remaining one flat and the consequential obligations, if any, of the respondent in relation to completion, possession and compliance with the provisions of the Act, Rules and applicable Regulations.
34. The respondent has sought to retain the remaining flat on the ground of alleged outstanding GST amount of Rs.18,87,974/-, besides raising claims towards excess built-up area and maintenance charges. However, the question as to the ultimate liability of the parties towards GST, the contractual liability towards excess built-up area, and the alleged maintenance dues involves determination of the respective contractual and statutory liabilities of the parties. Such disputed

monetary claims cannot, merely on the basis of the assertions made in the pleadings, be treated as a ground for indefinitely withholding possession of the complainant's allotted flat, particularly when the entitlement of the complainant to the agreed share is otherwise governed by the Development Agreement and the subsequent proceedings between the parties.

35. In view of the mandate of the Act to protect the interest of allottees and in ensure timely completion of real estate projects and delivery of possession in accordance with the sanctioned plan and the obligations undertaken by the promoter, the respondent is directed to hand over peaceful, vacant and physical possession of the remaining flat falling to the complainant's share, complete in all respects and in accordance with the sanctioned plan, Development Agreement and applicable provisions of the RERA Act, Rules and Regulations, within 60 days from the date of this order, subject to compliance with such lawful and duly established statutory requirements as may be applicable.
36. Before handing over possession of the remaining flat, the respondent shall ensure that all works required for making the said flat fit for occupation and use, including the works forming part of the sanctioned plan and the amenities/common facilities attributable to the said flat, have been completed in accordance with the applicable norms. The respondent shall also furnish to the complainant copies of the relevant completion/occupancy-related approval or certificate, as applicable, and other documents required to establish lawful completion and possession of the flat.
37. With regard to the allegation of unauthorised encroachment in front of the building and alleged deviation from the sanctioned building plan, the respondent is directed to remove any unauthorised construction/encroachment, if found to exist, and to ensure that the common areas and access to the building remain free from obstruction

and are maintained in accordance with the sanctioned plan and applicable law. The respondent shall not make or continue any construction or alteration contrary to the sanctioned plan.

38. The respondent shall also ensure compliance with its continuing obligations under the Act, including maintenance of the project and provision of the documents and information required to be furnished to the complainant in relation to the project. The respondent shall not deny the complainant access to the common areas and facilities forming part of the project on the ground of pendency of any inter se monetary or contractual dispute.

39. So far as the rival claims regarding GST of Rs.18,87,974/-, alleged excess built-up area of 278 sq. ft./280 sq. ft., and maintenance charges of Rs.1,57,500/- are concerned, this Authority does not, in the present proceedings, express any final opinion regarding the ultimate contractual or fiscal liability of either party. The parties shall be at liberty to pursue the said claims before the competent forum/authority in accordance with law. The respondent shall, however, not use such disputed claims as a means to defeat or indefinitely postpone compliance with the direction regarding delivery of possession, unless otherwise specifically restrained by a competent court or authority.

40. The complainant has sought interest for delay in possession and has also sought liberty to claim compensation. In this regard, it is clarified that any claim for compensation shall be dealt with by the Adjudicating Officer in accordance with the provisions of the Act. The complainant shall be at liberty to avail the appropriate statutory remedy for such compensation, if so advised. The Authority shall consider any claim falling within its jurisdiction for interest or other relief in accordance with the applicable provisions of the Act and Rules. The statutory scheme distinguishes complaints before the Authority from compensation claims before the Adjudicating Officer.

41. The rival contentions relating to the arbitral award dated 28.11.2023 and the pending Arbitration Case No. 10/2024 before the learned Principal District Judge, Patna have been taken note of. This Authority shall not adjudicate upon the validity or correctness of the arbitral award or any issue which is exclusively within the jurisdiction of the competent court seized of the said proceedings. However, pendency of such proceedings shall not, by itself, absolve the respondent from complying with the obligations imposed upon it under the Act in respect of the registered real estate project, to the extent such compliance does not conflict with any subsisting order of a competent court.
42. It is further clarified that the present order shall not be construed as determination of title or adjudication upon the validity, interpretation or enforceability of the Development Agreement beyond the extent necessary for enforcement of the obligations falling within the jurisdiction of this Authority under the Act. The parties shall remain bound by the orders of any competent court/tribunal having jurisdiction over the contractual or arbitral disputes between them.
43. In case the respondent fails to comply with the aforesaid directions within the stipulated period, the complainant shall be at liberty to approach the Authority by way of appropriate execution/compliance proceedings in accordance with law.

The present case stands disposed of accordingly with the above directions.

Sd/-
Sanjaya Kumar Singh
Inquiry Commissioner
RERA Bihar