

REAL ESTATE REGULATORY AUTHORITY, BIHAR
2nd Floor, BSNL Telephone Exchange, North Patel Nagar, Road No. 10,
Patna -800023
Before the Single Bench of Mrs. Nupur Banerjee, Member

Complaint Case No.: CC/790/2021

Birendra Prasad Singh.....Complainant

Vs.

M/s Medhatiya Construction Company Pvt. Ltd....Respondent

Project: Dream City at Mainpura

ORDER

13-01-2022

The matter was last heard on 06.12.2021. The complaint was filed on 28-07-2021.

The case of the complainant is that he is the owner of land bearing Khata No.-428, Tauzi No.-5236, Thana No.-02, Mauza- Mainpura, Anchal- Patna Sadar, Police Station- Patliputra, District- Patna, Rakba- One Katha Sixteen Dhur, situated at Patna. He further submitted that he had entered into development agreement dt.19-01-2013 for the construction of a multi- storied residential building with the respondent company upon his land. It has been further submitted by the complainant that as per agreement, the respondent in lieu of the value of same land, shall handover 5200 sq.ft built up area in four super deluxe flats along with four parking space and its area, seize and boundary would be decided by partition by the consent of both the parties as per the approved map by the PRDA. Further, the complainant submitted that as per development agreement, the project has to be completed in four years, failing which, the respondent shall pay Rs.15,000/- per

month rent allowance till the allotment of all the flats and parking space. The complainant also states that besides built-up area of 5200 sq.ft., the respondent has also agreed to give some initial money . It was also submitted by the complainant further that respondent said to add his land in another parts of land and will construct a complex known as 'Dream City'. He further submitted that the respondent took the responsibility to shift the complainant on rent house and has agreed to pay the entire rent of the house at the rate Rs.15,000/- per month along with the enhancement amount if any in monthly rent. It is also submitted by the complainant further that they had enter into supplementary agreement on 13-04-2015 where it was agreed between both the parties that now, the respondent will give 750.5 sq.ft. extra to complainant in the share of complainant i.e. total 5950.sq.ft. built up area in seven flats along with four parking space within 4 years and will pay entire house rent till the handover of all flats but till now, only 2174 sq.ft built up area in two flats has been handed over and remaining has not been handed over as yet even after several requests and approaches. He further requested to direct the respondent to hand over the remaining flat and rent arrear as per agreement.

The Complainant has placed on record development agreement dt.19-01-2013 and supplementary agreement dt.13-04-2015.

On 06-12-2021, the respondent had filed objection petition stating therein that present complaint case is not maintainable due to lack of jurisdiction of the present court to decide the dispute arose out of development agreement dt.19-01-2013. He further submitted that complainant is landowner and any dispute arises out of non-performance of development agreement or rent arrear is governed by the law of specific relief and complainant can file

claim before the court of competent jurisdiction under CPC and SRA. It has been submitted in para – 9 of the objection petition that the respondent had handed over entire physical possession of entire share of 7 flat along with respective parking spaces way back in November, 2019. Further, Respondent had brought on record letter dt.05-11-2019, in way of Annexure-4, stating therein that respondent has sent the letter to complainant to take the possession letters of the remaining flats but the letter was not delivered.

On 15-01-2022, the complainant had filed petition stating therein that the complainant is not promoter as per section 2(zk) of the RERA Act,2016. He further submitted that the complainant has filed his complaint petition as allottee to redress his grievances like allotment parking place and payment of arrear of rent. He further submits that complainant wants his flat for his personal use and for his joint family members.

On 24-01-2020, the respondent has filed final argument denying the contents of petition filed by complaint on 15-01-2021 and further submitted that development agreement was executed by land owner as the sole proprietor of the land and not as HUF.

The bench notes the submissions of both the parties and directs the respondent to hand over the possession of remaining flats and rent arrear as per development agreement dt.19-01-2013 and supplementary agreement dt.13-04-2015 within 60 days from the issuance of this Order.

Sd/-
Nupur Banerjee
Member