

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of

Hon'ble Member Mr. S.D. Jha, RERA, Bihar,

RERA/CC/495/2023

Mahendra Singh & Others Complainants

Vs.

M/s R.D. Eco Developers Pvt. Ltd. Respondent

For the complainants: Mr. R.B. Sah, Advocate

For the Respondent: Mr. Sumit Kumar, Advocate

Project:- RAM SWARUP APARTMENT

ORDER

28.05.2024 This case was last heard on 06.05.2024 and the order was reserved. Mr. R.B. Sah, Advocate, appeared and defended the case of the complainant. Mr. Sumit Kumar, Advocate, appeared and defended the case of the respondent. The complainants were granted three weeks' time to file rejoinder to the objection petition dated 06.05.2024 and the same has been filed on 15.05.2024, which would be dealt with hereinafter. The order is being delivered today i.e. 28.05.2024.

2. Learned counsel for the complainants submitted that the complainants are the landowners of the project " Ram Swarup Apartment". They entered into a Development Agreement on 18.8.2018 with the respondent – builder, wherein, the builder had promised that the complainant would give 50% share of the total developed and constructed area and the period of completion of the project was four years plus grace period of six months. It was also agreed that the respondent – developer shall not sell out his share without segregating the share of landowners but the builder did not honour the commitment and sold several flats without segregation of share. He also submitted that stipulated period of completion of the project has already expired on 18th February, 2023, but the project has not been completed so far. Hence, the complainants

have filed this complaint for directions to the respondent - builder to execute Deed of Share Agreement specifying share of landowners in all types of flats, stop the builder from selling of flats, handover possession of flats and provide copy of Completion Certificate and Occupancy Certificates. He also submitted that the respondent has wrongly stated at page -45 of the Annexures about handing over seven flats to the complainants.

3. Learned counsel for the respondent by filing objection petition dated 06.05.2024 submitted that this complaint is not maintainable on the ground that this case is covered by the Full Bench decision dated 10.01.2024 passed in RERA/CC/518/2022, which was filed by other landowners, who are also parties in the Development Agreement dated 18.08.2018, and the said order was challenged in BREAT, Reat/Appeal nos. 16 & 17 of 2021, which were dismissed by the Hon'ble Tribunal vide its order dated 20.07.2021, against which the complainants have filed a writ petition (CWJC.no.2893 of 2024), wherein, an interim order has been passed and the matter has been pending before the Hon'ble High Court. Therefore, it would not be feasible to proceed with the instant case. Further, he stated that the complainants of RERA/CC/518/2022 have also filed Title Suit no.455/2023, which has been pending before the Sub Judge, Danapur.

4. Learned counsel for the complainant by filing rejoinder dated 15.5.2024 submitted that as per Regulation -6 of the Bihar Real Estate Regulatory Authority (General) Regulations, 2021, landowners of the instant case are allottees because as per Development Agreement, landowners have not participate actively or passively in construction or development of the project as that of the promoter and also there is no provision in the Agreement which states distribution of share of profit and revenues in addition to their share. When the land owners have

not yet been allotted their share of flats by executing supplementary agreement, the question of marketing, advertising and selling of flats of their share does not arise. He also stated that in para -9 of the objection petition it has been stated that Share Distribution Agreement has already been executed but the fact remains that no Share Distribution Agreement has been executed by the respondent- promoter. If the same has been executed the respondent may be directed to make him available copy of that agreement. Lastly, he submits that since the validity of Full Bench order dated 10.1.2024 passed in RERA/CC/518/2022 has been challenged in the Hon'ble Patna High Court and is pending, this complaint may be kept pending till disposed of CWJC. No.2893 of 2024.

5. Perused the record including the order dated 10.01.2024 passed in RERA/CC/518/2022. The Authority notes that earlier other landowners of the same Development Agreement dated 18.08.2024 of the project "RAM SWARUP APARTMENT" moved the Authority in RERA/CC/518/2022, wherein the Authority passed the order dated 10.01.2024, against which the complainants had filed Appeals (BREAT, Reat/Appeal nos. 16 & 17 of 2021) which were dismissed on 20.07.2021. Against the said order dated 20.07.2021, a writ (CWJC.no.2893 of 2024) has been filed, in which an interim stay has been granted and the matter is pending before the Hon'ble Patna High Court. The Authority also notes that a Title Suit has also been filed by the other landowners of the same Agreement dated 18.8.2024 in which the complainants of this case are also party. Taking into consideration of these facts, the Authority holds that it would not be appropriate to pass any order in this case till disposal of Civil Writ Jurisdiction Case no. 2893 of 2024 by the Hon'ble Patna High Court.

With the aforesaid observation, this case is disposed of.

**Sd/-
S.D. Jha,
Member**