

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of

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

RERA/CC/538/2023

Narendra Kumar Singh Complainant

Vs.

M/s Agrani Infra Developers Pvt. Ltd. Respondent

For the complainant: Mr. Manoj Kumar Sinha, Advocate

For the Respondent: Mr. Aryan Yashraj, Advocate

Project:– AGRANI WOODS

ORDER

08.10.2024 Hearing taken up. Mr. Manoj Kumar Sinha, Advocate, appears and defended the case of the complainant. Mr. Aryan Yashraj, Advocate, appears and defended the case of the respondent. However, he requests for further time, which is rejected in view of the fact that vide proceeding dated 05.09.2024 the respondent's counsel was granted two weeks' time to file reply to the rejoinder dated 17.09.2024, which was served upon him on 24.09.2024 by the complainant. While granting time to the respondent, it was directed that in case of non-compliance, an order would be passed on the basis of material available on the record and no further adjournment would be given in this case.

2. Learned counsel for the complainant submits that the complainant purchased plot no.D-28 having an area of 27225 sq. ft. in the project "Agrani Woods" situated at Akhtiyarpur, Bihta, Patna, vide Absolute Sale Deed dated 23.3.2012 and got his name mutated in the mutation register of the Block. He also paid rents of plot/land upto year, 2023-2024 and the Block issued rent receipts, which are kept on the record, but till date possession of plot has not been delivered in spite of requests made by the complainant. Hence, the complainant has filed this case for delivery of possession of the plot.

3(i) Learned counsel for the respondent by filing counter reply dated 24.06.2024 submits that the respondent had made a plan to start project in 2010 in Bihta in anticipating that

very soon the entire vicinity would be developed but the plan did not materialize and further that proposed project is still beyond the planning area. He also submits that the proposed project was as per the plan prepared but work of demarcation, internal road, plotting etc. could not begin. The customers including the complainant got the Sale Deed executed having knowledge that the land of the project did not have demarcation, plotting, road etc. He also submits that when the Sale Deed was executed, the land was totally barren and had no demarcation. Therefore, several plot numbers were mentioned in the Sale Deed and no specific khata, survey plot number and area was mentioned in the Sale Deed. He also submits that the said case has been filed in 2023 for possession of plot after 11 years of execution of Sale Deed dated 23.03.2012 and, therefore, this complaint is barred by limitation. He further submits that the project is beyond the Municipal Corporation Area and beyond planning area which is about 45 Kms. away from Patna. He also submits that some of the raiyats did not provide the land which they agreed to sell which resulted in not providing land as per the previous plan. Hence, the company was forced to provide alternative plots as per availability.

(ii) He also submits that the respondent has always tried to complete the project and provide plot to those persons whose Sale Deeds have been executed. The respondent in several cases has delivered possession of plots to the allottees where plots were available but in cases where the land could not be provided due to shortage of land the respondent is ready to refund the money. He also submits that mere registration of Sale Deed does not pass title unless delivery of possession is given and in this case the possession was not delivered to the complainant. The complainant has filed a case before the Hon'ble High Court seeking the same relief as sought in this matter, to which the complainant's counsel submits that that case has not been filed for possession. That has been filed for measurement of plot and, therefore, no question of overlapping arises in the

instant case and this case is within the jurisdiction of the Authority.

4. Learned counsel for the complainant by filing rejoinder dated 17.09.2024 submits that after execution of Sale Deed the complainant requested for possession of land as mentioned in the Sale Deed but the respondent always made lame excuses and assured to deliver possession very soon but failed. Thereafter, the complainant served a legal notice upon the respondent on 06.10.2023. He further submits that the Sale Deed specifically mentions khata number and plot number and boundary of plot. He also submits that it is concocted story that the raiyats did not provide the land and due to that reason they were unable to deliver possession of land. In this connection he also submits that execution of Sale Deed without obtaining land from raiyats is violation of Section 52 of Registration Act which attracts initiation of a criminal proceeding against the respondent. He also submits that the complainant has filed writ application in the Hon'ble High court only for measurement and demarcation of land and that has not been filed for delivery of possession of land. Lastly, he submits that the complainant is ready to sit with the respondent in connection with handing over the plot for which absolute Sale Deed has been executed on 23.03.2012.

5. Perused the record. The Authority observes that there is no dispute regarding execution of registered Sale Deed on 23.03.2012 by the respondent in favor of the complainant after receiving consideration amount. The Authority fails to understand as to how a huge amount was taken long back from the complainant and registered Sale Deed was executed in his favour when the respondent - promoter did not have land, as claimed. In this case on going through the record the Authority observes that the respondent had acquired land for the project and they delivered possession of plots and got the Conveyance Deeds executed to several allottees but in the case of the complainant even after execution of Conveyance Deed they did not deliver possession, for which he is running from pillar to

post for possession of the plot in spite of making total payment to the respondent long back. Hence, for equity and justice, the Authority is compelled to pass an order for handing over possession of the plot to the complainant or an alternative plot.

6. Accordingly, respondent – company and its Director Mr. Shiv Kumar is directed to hand over physical possession of plot no.D-28 having an area of 27225 sq. ft. in the project “Agrani Woods” to the complainant or to deliver physical possession of alternative plot of the same dimension in the same vicinity of the project with execution of fresh Conveyance Deed in favour of the complainant within two months from the date of issue of this order and the expenditure thereof would be borne by the respondent as it was they who are at fault in not handing over possession of the plot in question as per Agreement For Sale.

With the aforesaid observations and directions, this case is disposed of.

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