

**REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF SPECIAL PRESIDING OFFICER, RERA, BIHAR
RERA/CC/ 129/2023**

Radha Rani Construction Buyers Association ---...Complainant

Vs

M/s Radha Rani Construction Pvt. Ltd. -----Respondent

Project: RAMA DEVI KAUSHAL.

15/05/2026

ORDER

The complainant has filed this case to issue a direction to the respondent/ promoter to handover the flats to complete the rest construction work to the respective members of the association.

2. The complainant's case in brief is that vide Development Agreement dated 07.12.2012 Nitish Kumar and Sunil Kumar, both promoters signed a Development Agreement with the landowners, total six persons for multistoried building under the name of M/s Radha Rani Construction Pvt. Ltd. and share of 50% each between the landowner and promoter. The company is registered in RERA. The company has not yet completed his share even after repeated persuasion. There is a dispute between the promoters i.e. Sunil Kumar and Nitish Kumar and due to it the construction of the work has been stopped. The complainant undertakes to constitute Association of allottees and his ready to complete the structure of his share.

3. The respondent no.2 appeared and filed a reply stating therein that the complaint petition is false and fabricated having no legal backing in the eye of law and promoter has no liability towards the project in question. The respondent has neither executed any agreement for sale in favour of any allottee nor has accepted any money from the allottee with respect to the project in question as he is not authorized signatory of the respondent company and further all the rights pertaining to the project in question is vested in the respondent no.3 namely Sri Nitish Kumar, who is Director of the respondent company. The present answering respondent has no financial right to withdraw money from ESCROW account of the project or company or to manage and finance the project in question. A case has been preferred between respondent no. 2 and 3 and the matter is pending before the Real Estate

Appellate Tribunal. This respondent has no liability to complete the project and as such the present case is not maintainable. This case has been preferred through Secretary Ms. Juli, which is neither a registered association nor firm under the format prescribed by RERA Office and as such no project can be transferred to unregistered allottees association.

4. The respondent no. 3 has failed to construct the project in question and now the project falls under the lapsed project category. The Registration Cell of the Authority has failed to enforce section 4 clause 2d of the RERA Act, 2016, which mandates opening of ESCROW Account in the name of the project by all the directors of the respondent company. Further the respondent no.3 has violated compulsory obligation on the respondent no.3 to disclose the name and details of all the partners and directors of the promoter company and in the present case the respondent no.3 has not inculcated and disclosed the name of other directors and partners of the respondent company. Under such circumstances, the answering respondent prays to direct the respondent no. 3 to open an Escrow account of the project jointly including the name of answering respondent, with signatory power and full access of login id and password of the Project/ Escrow account to the present answering respondent, to update Quarterly Progress Report of the project on the RERA Web Portal and to direct the respondent no. 3 to make the present answering respondent as party, while executing absolute sale deed in favour of allottees, the Escrow Account of the project in question may be frozen and to direct the respondent no. 3 not to execute any sale deed without obtaining OC/CC from competent person and proceedings under section 7 or 8 of the RERA Act, 2016 may be initiated until and unless the respondent no. 3 rectifies the defect enumerated above and further heavy penalty may be imposed on him for violation of provisions of RERA Act .

Heard Shri Apurv Harsh, learned counsel for the complainant and Shri Sumit Kumar, learned counsel for the respondent. Perused the case record. Respondent no.2 in reply has admitted the fact that the construction work of the concerned project is not completed yet and the project is a lapsed project. He has further stated that he has no liability against the complainant as there is neither any agreement by virtue of his signature nor any work has been developed as respondent no. 3 is totally liable for this purpose. It is also

admitted fact that there is difference between respondent no. 2 and 3 and the matter is pending before the Appellate Authority in other case. So far relief sought for by the respondent no.2 in his reply is concerned that cannot be made in the reply and this Court has right only to decide on the relief mentioned by the complainant. Moreover, the relief sought for by the respondent no.2 is not against the complainant rather that is against other respondent. There is no doubt, respondent no. 2 is also a director of the company and he cannot deny his liability. Even though the complainant has not prayed to complete the work as it is a lapsed project and he has demanded to complete the construction work by forming association of allottees.

After hearing and considering the aforesaid facts and circumstances, it appears that there is no any option before this Court to give liberty to the complainant to form association of allottees and complete the construction work and the Association of Allottees are also at liberty to claim for expenses, losses and compensation in accordance with law.

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

Sd/-

(Vinod Kumar Tiwari)
Special Presiding Officer
RERA, Bihar