

REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR
RERA/CC/ 298/2024
AO/89/2024

Bipul Kumar SinghComplainant

Vs

M/s Patliputra EngineersPvt. Ltd. ----- Respondent

Project: Susheela Enclave

18/03/2026

ORDER

Heard Shri Kishore Kunal, learned counsel for the complainant and Ms. Tanushri, learned counsel for the respondent.

2. This case is filed to issue a mandatory injunction directing the respondent to rectify all the defects mentioned in the petition and to compensate the complainant if the respondent fails to rectify the defects and also compensation for mental, economical and physical harassment of Rs. 5 lakh with Rs. One lakh for litigation cost and also for any other relief/reliefs to which the complainant may be deemed entitled to.

3. The complainant's case in brief is that he took a flat having area 965 sq. ft. flat no. 406 (2BHK), situated at Abhimanyu Nagar, Jalalpur, Patna for the total consideration amount of Rs.42,00,000/-. The respondent has given an allotment letter dated 12.06.2021 in lieu of total consideration amount of Rs. 42 lakh with covered parking area. On 22.06.2021, a registered agreement for sale of agreement was executed and allotment letter was also executed between complainant and the respondent. On 15.12.2023, a registered absolute sale deed was made. There is defect in car parking due to stairs, structural defect in a building, the building materials used throughout the building appear to be of inferior quality, problems of crack arises in a flat or building, CCTV Camera not installed in the basement parking, tiles fittings in a flat is also not up to the mark, water logging problem in the balcony, common room of building is still captured by the respondent, there is no proper sitting space for security guard, Raw material used during Building construction is also kept in a common area, Gym work is still half incomplete,

the respondent has not yet formed the association of Allottee and have not handed over the maintenance of the building. The respondents are fraudulent in nature. The complainant has sent a legal notice which was also served to this respondent. The respondent with malafide intention and ulterior motive took amount of money from the complainant and even after taking the money from the complainant failed to fulfil the promised as per the sale of agreement of the said flat to the complainant.

4. A reply on behalf of the respondent is filed stating therein that this case is filed only with a bad-faith attempt to put pressure on the respondent company, made just to retaliate because the respondent object to the complainant's illegal encroachment and construction in the shared/ common areas of the project. when the objection was raised by the respondent, the complainant started creating ruckus to malign the reputation of the respondent. An agreement for sale dated 22.06.2021 was executed between the respondent and the complainant and thereafter an absolute sale deed dated 15.12.2023 was executed between the parties in respect of Flat No. 406, for a total consideration of Rs. 42 lakhs and the said flat was duly handed over to the complainant along with reserved car parking as per deed. The complainant has unlawfully encroached upon the common area right outside their allotted flat by constructing a permanent structure, specifically a wardrobe. This act constitutes a serious violation of the Deed of Absolute Sale and the rules governing common facilities and areas of the project. The complainant entered the flat and took possession in or around August 2022 on the premises of carrying out their interior works. The complainant subsequently captured the flat and commenced residency without clearing the complete final dues payable to the respondent company at that time. The complainant has carried out interior works without obtaining our consent and has also used heavy tools such as hammer drills, which are prohibited for use on AAC block masonry, where a concrete core drilling machine is required instead. The allotment and boundary of the covered car parking space is well-defined, discussed, and clearly indicated in the Deed of Absolute Sale executed between the parties and the space provided is fully functional including a car parking space. The allegations made by the complainant in the complaint petition is vague, false and denied. The respondent has used high quality raw materials for the

construction and all allegations made in this complaint petition are baseless. The promoter has duly complied with all obligations and conditions set out in the agreement to sale. The respondent has already formed an Association on 20.07.2024. The claim for compensation is denied, as the respondent is ready to rectify defects under the defect liability clause at its own cost, where applicable. Accordingly, this case may be dismissed.

5. Heard both side. Perused the case record. During the argument, the learned counsel for the complainant himself admitted that this case is filed in Form-N and the facts and circumstances mentioned in the petition is regarding defects of the construction works which is jurisdiction of the Authority and that cannot be raised before the Adjudicating Officer. This court has only to decide compensation for the act of the respondent.

6. In such circumstances, the complainant may raise grievances before the Authority regarding alleged defects in the construction work. Learned counsel for the respondent has submitted that there are no defects either in the flat or in the car parking area. The defects of the construction have not been raised before Authority and there is no any such order of the Authority regarding defects in construction work and as it may be said that the complainant has failed to produce any evidence in support of his claims, and therefore, the respondent is not liable to pay any compensation.

7. Considering the aforesaid facts and circumstances, it is evident that the issues relating to the alleged defects, as mentioned in the petition, fall within the jurisdiction of the RERA Authority and are required to be filed in Form M, rather than before the Adjudicating Officer. In view of this, it is held that the complainant has failed to substantiate the allegations. Accordingly, the case is dismissed.

Sd/-

(Vinod Kumar Tiwari)
Adjudicating Officer
RERA, Bihar

