

**REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF SPECIAL PRESIDING OFFICER, RERA, BIHAR
RERACC/358/2023**

Sweety ----- Complainant

Vs

M/s Technoculture Building Centre Pvt. Ltd. ----Respondent

PROJECT – VASTU VIHAR PHASE-8

27/05/2026

ORDER

The complainant has filed this case to direct the respondent-company to restore the booking dated 26.09.2017 in favour of the complainant and execute Conveyance Deed of agreement for sale and also to hand over physical possession of the concerned unit, along with all amenities as committed by the respondent and execute Absolute Sale Deed. He has also prayed for appropriate penalty against the respondent for unilaterally cancelling the aforesaid allotment and also to give liberty to file complaint before the court of Adjudicating Officer for compensation.

2. The complainant's case in brief is that the complainant along with her husband Shri Manish Kumar had entered into booking of application for purchase of bungalow with the respondent/ promoter for which she paid Rs. 1,00,000/- inclusive of GST. The complainant requested the respondent-company to enter into a registered Agreement for Sale for the said bungalow, but the respondent company had stated that the application for project registration is under process and showed the copy of the application for RERA registration. The project registration was granted on 16.11.2019 bearing BRERAP00015-12/368/R-866/2019. The respondent Company requested for the further payment against 30% of the unit cost and on the same date i.e. 12.05.2022 the present complainant

had paid Rs. 2,50,000/-. Till 12.05.2022 the complainant had paid Rs. 7,39,440/- inclusive GST out of total consideration amount of Rs. 48,00,000/- inclusive GST. After the aforesaid payment, the respondent company without any intimation to the complainant, unilaterally cancelled the aforesaid booking dated 26.09.2017 and further without any request from the complainant refunded the booking amount of Rs. 7,39,440/- on dated 10.11.2022 to the complainant's S.B.I. Bank account. Later on, the present complainant approached the respondent for the restoration of aforesaid booking, but the respondent refused to do so. The complainant is the wife of a Para Military Officer and her husband is often posted in hardship area of Indian Borders, cannot always take leave to visit the office of the respondent company. So far this reason also, the promoter had taken advantage to exploit this feeble complainant. The complainant was always willing and ready to pay the remaining consideration amount of the aforesaid booking and she is still now ready and willing to pay the entire consideration amount of the booked unit. Hence, this case.

3. The respondent appeared and filed a written statement stating therein that this case is fit to be dismissed as the complainant has booked a bungalow and consideration for the same was Rs. 48,00,000/- plus other expenses, tax on 26.09.2017 and as per the agreed terms and condition of the booking, the complainant has to make payment of 25% of agreed consideration which comes to the tune of Rs. 12,00,000/-, at the time of agreement for sale but he was not in condition to make the payment and always requesting for time and failed to keep his promise. At the time of booking itself, the structure of the building was completed and hence, the complainant has to enter into an agreement for sale after booking and has to make 25% of the total agreed consideration but she did not turn up

despite of several reminders from the company, hence the company has cancelled her booking and refunded her entire amount. After refund of the entire amount to the complainant, the complainant did not raise any objection, which shows that she was not having objection. After cancellation of booking and refund of the booking amount, the respondent company sold out the said building in favour of one Mrs. Pranita Devi and as such the same is not available with the respondent company, hence it is not possible to restore the same in favour of the complainant. It is relevant to mention here that the project is a lapsed project.

4. Heard Shri Sumit Kumar, learned counsel for the complainant and Shri Hemant Kumar, learned counsel for the Respondent. Perused the case record. The complainant herself admitted the fact that the booking amount of Rs. 7, 39, 440/- has been refunded on 10.11.2022 in her Bank account, whereas this case has been filed on 21.07.2023. As per terms and conditions, the complainant had to pay 25% of agreed consideration for preparation of the agreement for sale, but the complainant had paid Rs. 7,39,440/- which is much less of 25% of the total consideration amount i.e. of Rs. 48,00,000/-. As per terms and conditions filed by the respondent it appears that if the 25% of booking amount are not deposited, no agreement for sale will be executed and the complainant has not complied the same till cancellation of the booking. The complainant has not even given any reason why he has not paid 25% of the total consideration amount, even on or before 10.11.2022 i.e. after more than five years. Moreover, the amount was refunded on 10.11.2022 after that she filed the case much after i.e. on 21.07.2023 and he has not given any reason why the delay has caused. However, the respondent has stated that he has sold the said building in favour of one Mrs. Pranita Devi. In such a situation, the respondent has no right to cancel which is

not in his hand. Moreover, there is no any agreement between parties which is to be compelled rather transaction is only before agreement on the basis of terms and conditions as made available. Terms and conditions has not been followed by the complainant as such respondent cannot be compelled for execution of any agreement of sale or absolute sale deed.

5. Considering the aforesaid facts and circumstances of the case, this case is liable to be dismissed.

6. Accordingly, this case is hereby dismissed.

Sd/-

(Vinod Kumar Tiwari)
Special Presiding Officer
RERA, Bihar