

REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF SPECIAL PRESIDING OFFICER, RERA, BIHAR
RERA/CC/ 44/2024

Nishant Nayan

.....Complainant

Vs

M/s Nesh India Infrastructure Pvt. Ltd. -----

Respondent

Project: Tiruvantpuram City Vidyut

21/01/2026

ORDER

Heard Shri Umesh Kumar Singh, learned counsel for the complainant, assisted by Shri Mukesh Kumar, Advocate and Shri Raushan, learned counsel for the Respondent, assisted by Shri Sahil Kumar, Advocate.

2. This case is filed to direct the respondent to execute the Deed of Absolute sale for the Flat No. 504, Block-A on 5th Floor (3 Bed Room) in the project namely Tiruvantpuram City Vidyut at Khagaul, Danapur, Patna and also to pay the interest and litigation cost and also be directed to pay penalty on account of having committed breach of the statutory provisions and also to take step to institute criminal prosecution against the respondents. It is also prayed for any other relief/s which may be deemed fit in the facts and circumstances of the case.

3. The complainant's case in brief is that the complainant's father (now deceased) is one of the allottee of flat/ apartment in the multi-storied building complex namely Tiruvantpuram City Vidyut, at Khagaul, Danapur, Patna but due to non-execution of the absolute deed of sale of the flat till date by the respondents the complainant is presently residing at Flat No. -A/503, Athena Wadgaonsheri, Pune-411014, Maharashtra and is being represented through its power of attorney holder namely Mrs. Tulika Agrawal female aged about 40 years w/o Rahul Agrawal, D/o Late Bijoy Kumar Agrawal resident of M.P. Regency, 403/B- Block, wife of Rahul Agrawal, as the physical possession of the said flat of the complainant has not been handed over by the respondents to the complaint's father (now deceased). The

respondent no.1, namely Nesh India Infrastructure Pvt. Ltd. is a Civil Construction Service company involved in the development and construction of homes/ flats and is the developer constructor of the aforesaid multi-storied complex. The respondent no. 2 is the Managing Director of the aforesaid respondent company and is responsible for all the policy decisions related to finance, management and other important affairs of the respondent company. The said respondent no. 2 is also responsible for the day to day business activities of the respondent company and is liable to account for breach of any obligation and violation of the provisions of law and activities along with commitments contractual/ promises made by the respondent company with any person or organization. The respondent no. 2 is jointly and severally liable in addition to other directors on board of the respondent company, employees and representative of the said company for offences committed against the complainant and other persons in terms of the provisions of The Real Estate (Regulation and Development) Act, 2016. The complainant's father was desirous of investing in a property approached the respondent no. 1 in the mid of the year 2012 and upon showing the brochures and specification and quality of construction and variety of amenities impressed by the description of the specifications, amenities and other aspect of the project as was described by the representative of the respondent no.2. The complainant's father being prima facie satisfied with the description of the project decided to purchase a flat in the aforesaid multistoried complex. After round of negotiations with the respondent no. 2 and its representative, complainant's father (who was alive at that period) on dated 23.09.2012 vide letter no. 11/V.T.C./2012 was provided with a letter of allotment by the respondents for the Flat No. 504, Block-A on 5th Floor (3 Bed Room) in the project namely Tiruvantpuram City vidyut at Khagaul, Danapur, Patna measuring 1268 sq. feet super built up area. Prior of execution of agreement for sale, the total sale consideration amount finalized between the respondents and the complaint's father was Rs.

22,25,200/- including one time maintenance out of which an advance of Rs. 7,00,000/- was paid by the Complainant through various cheques. At the time of negotiations between both parties it was finalized that if any amount would remain it will be given at the time of execution of absolute deed of sale which is yet to be done by the respondents and for not doing so the reasons is best known to the respondents itself. The complainant paid Rs. 19,75,200/- out of finalized amount of Rs. 22,25,200/- in which Rs. 7,00,000/- was given as an advance amount and the rest amount was also deposited through various cheques. The respondent no. 2 always used to pressurized telephonically to the complainant's father to transfer the remaining amount in the bank account of the respondent no. 1, but whenever queried about the execution of the agreement for sale of the said flat then the respondent no. 2 always procrastination and ensure that as and when he will receive the amount, which was finalized at the time of negotiation of the said flat then the execution of the absolute deed of sale will be done in favour of the complainant's father and on the false assurance of the respondent no.2 the complainant's father transferred a total amount of Rs. 19,75,200/- against the finalized amount of Rs. 22,25,200/-. On repeated reminders the draft of agreement for sale was also not produced by the respondent no.2 for execution before the complainant's father which shows the ulterior motive of the respondents to cheat, harass and fraud the complainant's father. The construction of the aforesaid multi-storied complex was almost in advanced stage. The complainant has many a times contacted respondent no.2 in person as well as conversed with him telephonically on his mobile, the respondent no. 2 has been dilly dallying the execution on one pretext or another for which the reason is best known to him.

4. In spite of repeated reminders and follow up with the respondent no. 2 for the Deed of Absolute Sale for the said flat which was not executed buy the respondents and for this reason the complainant's father went into depression as it was the hard earned

money due to which the complainant's father started losing his health and in the year 2016 met with a brain stroke which resulted in loss of his life. Due to the onset of COVID-19 pandemic the Complainant could not approach the respondents and inquire about the status of the execution of Deed of Absolute sale of the said flat. After outset of the COVID-19 pandemic the complainant (as his father was not alive) once again in the year 2021 approached the office of the respondents for executing the Flat No. 504, Block-A on 5th Floor however, one again only false commitment was given by the respondent no. 2. The complainant once again approached the respondent no. 2 on his whatsapp to inquire about the execution of the Deed of Absolute sale for the Flat No. 504. A Legal notice dated 17.11.2023 was sent and notice was received by the respondents on 21.11.2023 but he is not furnishing any reply. The respondent did not show any positive approach towards execution of the Deed of Absolute sale for the aforesaid flat. The petitioner has given power of attorney to Mrs. Tulika Agrawal to file the present application before this Bench. The respondents have committed breach of the provisions of the Act. This Court has all jurisdiction in terms of the Act. Therefore, the respondents are made liable to execute absolute sale deed of the concerned flat as also the penalty and interest.

5. The respondent company has filed a reply stating therein that neither any authorized representative of the respondent company visited the complainant's father nor the respondent no.2 in the present complaint petition had ever visited the complainant for any sort of investment in the project of the respondent company and as such, the statement made in paragraph 4 is hereby denied. No allotment letter dated 23.09.2012 was ever executed by the respondent company in favour of the complainant and the allotment letter which is annexed as Annexure-1 is forged because the signature of the Managing Director is superimposed/ wrongly signed on his allotment letter and this was never issued in favour of the complainant's father, as there was no occasion to issue any allotment letter because the map was approved only in the year

2016. Without there being any agreement to sale or any sort of agreement at place the legal heirs in no case can step into the shoes of his father/ mother. The payment which has been deposited/ credited in the account of the respondent company was in relation to investment in future project of the respondent company which never fructified because the complainant never visited to finalize the same and it is very startling to note that all the payments has been shown to be made after issuance of allotment letter which again goes on to establish that the allotment letter is forged and fabricated and any legal notice dated 17.11.2023 at the address mentioned in the postal receipt has not been received as the office of the respondent company has long back shifted to Danapur/ Patna and all the notices, etc. are received at that particular place. The complainant has paid certain amount notwithstanding the fact that no project was ever floated by the respondent company and the map of the project was approved only in the year 2016, so there was no occasion to book or allot any flat to the complainant. An individual can never give any amount without floating of any project and only to show the bonafide the complainant has produced a forged and fabricated allotment letter to make out a case against the respondent company. Right from the year 2012 to 2024 from last 12 years the complainant has not written a single letter claiming that the money was paid for allotment of the flat or anything of that kind rather he was a prospective buyer and no flat was ever finalized by the complainant. The amount was never paid for any booking of flat neither any allotment letter was ever issued by the respondent company because from the last 12 years she has not written a single letter nor any communication has ever been made for claiming any flat. For the sake of argument and not accepting the same even if the allotment was ever made by the respondent company the complainant has never made any communication with regard to execution of the agreement to the sale or the absolute sale deed because no such evidence has been brought on record by the complainant. The Authority must initiate proceedings under section 340 Cr. P.C. against

the complainant for bringing on record forged documents and misleading this Authority. Just because money is paid in the account of the respondent company, it cannot be said that it was paid for the allotment of the flat and as such, the complaint petition is false, fabricated and baseless and it is fit to be dismissed with exemplary cost.

6. After hearing both sides and perusal of the record, it appears that it is admitted fact that some amount was paid by the complainant to the respondent in the year 2012 and also it is an admitted fact that till date, no agreement of sale is executed. As per complaint, the amount was paid for aforesaid flats, whereas as per the respondent it was invested in the project. It is also disputed matter that the allotment letter filed by the complainant is a genuine document or not. This fact is to be decided by the Civil Court not by this Court. It has also been brought before this court that the aforesaid company is not registered in Authority.

7. Considering the aforesaid facts and circumstances, it appears that this Authority has no jurisdiction to hear this complaint case and as such this case is disposed of with liberty to the parties to approach the competent court of adjudication of the matter.

Sd/-

(Vinod Kumar Tiwari)

Special Presiding Officer
RERA, Bihar