

REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF SPECIAL PRESIDING OFFICER, RERA, BIHAR

RERA/CC/553/2023

Arvind Kumar

....Complainant

Vs.

M/s Aastik Smart City Pvt. Ltd. & Ors.

.....Respondents

Project: SAI SHYAM SMART CITY

Present: For the Complainant: Mr. Sahil Kumar, Advocate
For the Respondent: Mr. Rakesh Ranjan, Advocate

26.02.2026

ORDER

Heard Mr. Sahil Kumar, learned counsel appearing for the complainant and Mr. Rakesh Ranjan, learned counsel appearing for the respondents.

2. The complainant has filed the present case seeking physical possession, compensation and suitable penal action against the developer and such other relief or reliefs as this court may deem fit and proper in the facts and circumstances of the case.

3. The facts of the case, in brief, are that the complainant had booked a flat in the project "Sai Shyam Smart City", which is a RERA-registered project, for a consideration amount of Rs.44,00,000/- and it was to be physically handed over by March, 2022. The complainant had paid a total amount of Rs.35,63,405/- within the stipulated time-frame, as agreed between both the parties. The complainant is willing and ready to pay the rest amount at the time of physical possession. The complainant has observed that even

the superstructure of Block-A of the project remains incomplete and in such circumstances, the handing over of physical possession within the stipulated upcoming six months appears highly improbable. Time is the essence of the contract. The complainant is living in a rental house and is paying Rs.15,000/- approximately per month as rent. He has taken loan and is paying EMI for the same. Bank has sent intimation to the respondent that if the sale deed is not submitted in agreed time period, the Bank will impose penalty of 2% for non-compliance of the terms. Despite that, the respondents have not taken any step for construction of the project till date.

4. The respondents have filed reply, stating therein that the complaint case is vague, unjust, improper, incorrect and malicious. As per Agreement for Sale, the complainant had to pay 95% of the total amount, but at present outstanding/overdue amount with GST is now Rs.2,33,287/- till date. Two Directors of the Builder (Aastik Groups) passed away earlier which did not help matter. One of the Directors, namely, Ajay Kumar, passed away on 26.08.2019 and other Jitendra Kumar on 12.11.2024. The builder was already grappling with the inherent delays that had crept in to the constructions schedule on account of all pervasive and detrimental ramifications of the COVID-19 pandemic. The builder has tried his level best to balance out the issues in order to construct the building and hand over possession at the earliest possible. The construction work in the subject project is complete and the finishing work would be completed in all respects before 31.12.2026. Therefore, it does not stand to reason that the subject complaint continues to be maintainable before this Authority.

The builder is not in a position to pay any penalty (compensation and rent etc.) due to his grim financial situation which has occasioned by the death of its two Directors, COVID-19 disruption and escalation in price of building material. The builder has the *bona fide* intention to complete the flat and hand over the same to the complainant. In the subject project, the allottees have refrained from making payment of their deposits and the total outstanding amount comes to Rs.3 to 4 crores. It is thus imperative that the allottees also make payment of their respective outstanding amount so that the builder is able to complete the work smoothly. If the complainant is still insistent on payment of penalty (compensation and rent etc.), then if the learned Authority approves and accordingly directs, the Builder may be permitted to sell of the complainant's allotted flat to a third-party in order to enable the builder to make payment of the penalty (compensation and rent etc.) to the complainant. The builder craves leave to file additional/supplementary reply. The learned counsel for the respondent submits that in view of the above facts and circumstances, the case is fit to be dismissed..

5. After hearing learned counsel for the parties and perusal of the records, it appears that the learned counsel for the respondent has filed this reply after a lapse of more than two years giving no reason why he did not file the reply and even though by filing this reply he has again demanded to file a separate reply, if required. Such conduct of the respondent appears to reflect a lingering attitude aimed at harassing the complainant. As per the Agreement for Sale, the respondent was liable to hand over the concerned flat by March, 2022,

but it was not done by the respondent, stating therein that the total amount was not paid by the complainant within time and still Rs.2,33,287/- is overdue along with GST against the complainant but the respondent has neither filed any document nor stated when he demanded rest of the amount which was due against the complainant.

6. So far argument that two of the Directors are no more is concerned, the liability of the rest respondent i.e., the present respondent cannot destroy the legal binding of the Agreement for Sale. It appears more surprisingly that even till today, the respondent has an attitude to linger on the matter and also demanded time to complete the construction work till 31st December, 2026. The respondent has neither stated nor has filed any document to show that what amount of work has been completed and why he is demanding about one year's time to complete it.

7. So far non-payment of rest of the amount by the complainant is concerned, the respondent has not given any notice to the complainant stating therein that how much work has been completed and how much amount is to be given to the respondent.

8. Considering the aforesaid facts and circumstances, the respondent appears to be liable for non-completion of the construction work of the concerned flat and as such, the complainant is liable to get relief.

9. Accordingly, the respondent is directed to complete the project and hand over the physical possession to the complainant within 60 (sixty) days. The respondent is also directed to demand

from the complainant rest of the amounts on completion of percentage of the project work as per schedule of payment mentioned in the Agreement for Sale and the complainant is also liable to pay the amount as per Schedule mentioned in the Agreement for Sale and it should be complied by the complainant on demand being raised by the respondent as per the Agreement for Sale.

10. If this order is not complied, the Authority may impose penalty as per the RERA Act.

11. So far as compensation is concerned, that is the matter of Adjudicating Officer and the complainant is at liberty to approach the Adjudicating Officer for the same.

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

Sd/-

(Vinod Kumar Tiwari)
Special Presiding Officer,
RERA, Bihar