

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of

Hon'ble Member Mr. S.D. Jha, RERA, Bihar,

RERA/CC/344/2023

Girish Kumar Choudhary & Ors Complainants

Vs.

M/s SaiVikash Developers Pvt. Ltd. Respondent

For the Complainants: Mr. Ranjeet Ranjan, Advocate

For the Respondents 1 & 2: Mr. Sanjay Kumar, Advocate

For the Respondents 3 to 6: Mr. Shiwjag Choudhary, Advocate

Project:- SAI SIGNATURE SQUARE

PROCEEDING

23.07.2024 Hearing taken up. Mr. Ranjeet Ranjan, Advocate, appears for the complainants. Mr. Sanjay Kumar, Advocate, appears for the respondent nos. 1 & 2 and Mr. Shiwjag Choudhary, Advocate, appears for the respondent nos. 3 to 6.

Learned counsel for the respondent submits that advertently in 8th line of paragraph -3 of the proceeding dated 06.02.2024 the date of possession certificate has been typed as 29.10.2018 instead of 29.10.2021. The Authority verified the said fact and found correct. Accordingly, the proceeding dated 06.02.2024 is modified to the extent that date of possession certificate mentioned in 8th line of paragraph -3 of the said proceeding should be read as 29.10.2021 instead of 29.10.2018.

Learned counsel for the complainants submits that the main relief sought in this complaint is to direct the respondent nos. 1 & 2 to either ensure transfer of the proportionate share in the super built area to the complainants, as per the Development Agreement dated 09.05.2017, or they adequately compensate them in accordance with the present market value. He further submits that the total built up area of the Apartment is 37,696, out of which the complainants' share in the super built up area comes to 9424 sq. ft. but they have been allotted 9169 sq. ft. and, thus, the complainants have been given 255 sq. ft. less. By referring paragraph -4 of the

Development Agreement dated 08.05.2017, he also submits that it is specifically mentioned therein that the Developer will construct and complete and transfer/deliver 50% super built up area along with the proportionate share in land in the said multistoried building to the landowners. He further submits that unless the proportionate share is transferred to each of the landowners the respondent - promoters cannot absolve themselves from the responsibility till the share is distributed among the landowners and the Share Distribution Agreement dated 10.10.2018 shall not be treated as conclusive document in the present case.

Learned counsel for the respondent nos. 1 & 2 by referring Share Distribution Agreement dated 10.10.2018 submits that after calculation the respondent – promoters had delivered possession half of the total built areas to the respondent – landowners as per the Development Agreement to distribute among themselves. He also submits that in the Share Distribution Agreement it has been specifically mentioned that after final measurement and calculation any difference in area shall be mutually settled among the land owners and the Developers shall have nothing to do with it and, therefore, any further claim made by the complainants does not survive. He also refers the possession certificate dated 29.10.2021 issued in the name of the complainants and submits that in the said certificate it is mentioned that the complainant inspected the flat and found everything in order to their full satisfaction and according to the terms, condition and specifications of the Agreement, to which learned counsel for the complainants submits that he would file written submission on this point and will also file rejoinder to the reply dated 20.07.2024 filed by the respondent nos. 1 & 2.

Learned counsel for the respondent nos. 3 to 6 submits that if the Share Distribution Agreement dated 10.10.2018 has been signed with mutual consent of all the landowners then nothing is left to be decided, to which the Authority makes query whether there was any mutual written consent, upon which the counsel submits that there was no written mutual consent. However,

there was verbal mutual consent and on the basis of which the possession certificate was given to each of the landowners.

Learned counsel for the complainants is directed to file written submission on affidavit within two weeks with a copy to learned counsels appearing for the respondent nos.1 & 2 and the respondent nos. 3 to 6. Learned counsel for respondent nos. 3 to 6 would file rejoinder within two weeks after receiving of the written submission. Learned counsel for the respondent nos. 1 & 2 submits that he has nothing to submit anything more in this case. It is made clear that no further adjournment would be given in this case.

Put up for hearing/order on 03.09.2024.

Sd/-
S.D. Jha,
Member