

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Double Bench of Mr. Naveen Verma, Chairman &
Mrs. Nupur Banerjee, Member.**

Case No. RERA/CC/1351/2020

Sachidanand Jha

.....Complainant

Vs

M/s Nesh India Infrastructure Pvt. Ltd.

.....Respondent

Project: Tiruvantpuram City.

ORDER

30.8.2022: This matter was last heard on 27.10.2021 and detailed proceedings have been drawn out. The matter was fixed for order on 23.11.2021 but the record was advertently misplaced in the office and the order could not be pronounced which is regretted.

On the last date of hearing question of maintainability of the petition was raised as the complainant has sought refund of equivalent to the price of land which was given in the development agreement.

The complainant was allotted 2700 sq. ft. by Vidyut Nagar Sahkari Grih Nirman Society, Bihar, Patna in Mahamaya Sector. The society entered into a development agreement with the respondent on 01.7.2011 to develop a modern township complex in Tiruvantpuram City, Vidyut Nagar. The respondent had entered into a separate development agreement with the complainant on 20.6.2012 wherein he was assured for 3 flats of 993 sq. ft. would be allotted to him. Since the construction has been delayed, the matter was filed for refund of the amount of rent, compensation and rent.

The respondent, in their reply, have raised the issue of law that whether land owner is a promoter or developer and was referred to previous order in this regard. It is submitted that the land owner and builders both are promoter and therefore, this matter has to be heard by a civil court of competent jurisdiction. They have also mentioned that they are willing to give 3 flats each of 993 sq. ft. to the complainant.

The Authority observes that as per Bihar RERA Regulation land owner is treated as allottee if they do not take part in the project in this matter. The land owner admittedly entered into a development agreement and has been assured for 3 flats. In terms of the law as settled by the Hon'ble Supreme Court of India the Authority can entertain the cases for possession of flats. The refund sought in this matter is not for possession but for refund of equivalent price of the land. Claims falling in the nature of compensation under the RERA Act, 2016 has to be pressed before the Adjudicating Officer (AO).

The Authority observes that the RERA Act does not envisage the cases where refund of amount and value of land in a development agreement will be adjudicated by it. The complainant ought to raise such claims before the court of competent civil jurisdiction.

In so far as the claim for compensation and rent for delay in possession is concerned, the complainant is at liberty to approach the Adjudicating Officer (AO).

With this observation the matter is disposed of.
Copy of this order may be sent to both the parties.

Sd/-

Nupur Banerjee
Member

Sd/-

Naveen Verma
Chairman