

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mrs. Nupur Banerjee

Complaint Case No. RERA/CC/1679/2020

Mr. Rakesh Kumar.....Complainant

M/s DDL Infratech Pvt. Ltd.....Respondent

Project: Agrani Woods

**For Complainant: Mr. Indradev Narain Singh, Advocate
Mrs. Archana Prasad, Advocate**

**For Respondent: Mr. Rabindra Kumar, Advocate
Mr. Shiv Kumar, Advocate**

01/09/2022

ORDER

The matter was last heard on 19-07-2022.

1. This complainant petition has been filed seeking relief to direct the respondent to handover the developed plot along with interest at the rate of 10% from the date till its acquisition. Further the complainant also seeks to direct the respondent to pay 10lakh as compensation on account of harassment.
2. In short, the case of the complainant is that the complainant had purchased lands bearing plot nos. D25 & D27, admeasuring 4083 sq.ft & 2722 sq.ft respectively in the respondent's project. It has been further submitted that after the full payment of the consideration amount, the same purchased lands were registered in the name of complainant vide deed nos. 13261, dated 09/04/2012 & 18192, dated 18-06-2012 respectively. It has been further submitted that complainant had made payment of full consideration amount of Rs. 3 lakh and 3.14 lakh respectively in respect to both the plots. It has been further submitted that after lapse of more than 8 years and several meetings and requests for development and handing over of developed plot and several commitment made by the respondent company (last commitment made on

22nd Dec 2019 to handover the plot on 10th Jan 2020), the possession of the developed land is not handed over to him till date. Hence, this complaint.

3. The complainant has filed an affidavit dated 19-07-2022, praying to direct the respondent to hand over duly authenticated copy of the approved of map the whole project namely “Agrani Woods” or copy of the map submitted by them for approval before the competent authority.
4. The complainant on 12-08-2022 has filed detailed Written Argument stating therein that the Hon'ble full bench on 21st June 2021 on complaints of the complainants have directed the respondent u/s 37 of the Act as follows:-
 1. To Handover possession of the plot/land to complainants.
 2. To execute the rectification deeds in favor of complainants.
 3. To submit the revised plan/map before competent Authority.
 4. To schedule for execution and completion of the development work.

It has been further submitted that the respondent, to show that they have given possession letter to the complainant to save themselves for any penalty from Hon'ble Authority, gave sale certificate instead of possession letter without showing any boundary and demarcation of the plot and as such has not complied the direction of the Hon'ble Authority. It has been further submitted that on 16th June ,2022, this Hon'ble Bench has directed the responded to submit a copy of the map of the whole project namely “Agrani Woods” containing position and details of all the intenal roads, server, water and electricity supply arrangement, other facilities as well as the sub plots carve out there in detailed with its subplot number, area ,Survey Plot no., khata number, name of allottees etc. and also with the highlighted sub plot number of the complainant. It has been further submitted that the complainants have received a map after the direction of this Bench and on bare perusal of the same, it is find that the same is neither in accordance with direction dated 16th June 2022 nor even contain any feature of map and it is neither map of whole project “Agrani Woods” or even part thereof not contained the signature of either any authorized person of the respondent nor shown it survey plot number, khata number, etc. nor schedule of the name of allottees with their respective subplot number, nor its boundary or demarcation. It has been further submitted that the some development work has been done by the respondent as directed by this Hon'ble Authority by making road, electric line up to plot, sewerage pipe has been put in but till date no actual physical possession have been given to the allottees with demarcation, with four pillars at project site. It has been further submitted that rectification being done where required at the cost of the respondent and the Bench of Hon'ble Chairman has passed the same direction in RERA/CC/874/2021 vide order dated 1st December, 2021. Further the complainant in their written submissions made

following prayer:-

(i) To direct the respondent to supply the copy of map which they admit to have submitted before "Patna metropolitan area authority" (PMAA) which in competent authority for approving maps of real estate projects whether it may be approved or not approved.

(ii) To direct the respondent to physically hand over the possession of plots to the complainants with demarcation with four pillars of their purchased land at the project site within time fixed by this Hon'ble bench.

(iii) To direct the respondent to hand over possession letter in proper form with clearly showing its boundary, company subplot number, khata number, survey plot number, e.t.c. to the respective allottees/ Complainant within time fixed by this Hon'ble bench.

(iv) To direct the respondent to execute Registered deed of rectification, where the boundary, survey plot number and khata number have been changed from registered sale deed and if boundary, survey plot number etc. have not been changed then to sworn affidavit with this respect and to hand over copy of it to complainant. As decided earlier in other cases, the cost of the registered rectification deed is to be borne by the respondent.

5. Perused the record of the case. The respondent has filed its counter affidavit dated 22-08-2022 along possession letter and receipt of map submitted before Patna metropolitan, Patna. It has been further stated in counter affidavit that by filing the affidavit dated 19.07.2022, the complainant has tried to mislead the Court by filing a fictitious and concocted affidavit with mala fide intentions, as there is no iota of truth in the affidavit. It has been further submitted that the respondent has complied with the order dated 21.06.2021 and the respondent has handed over physical possession of the plots, submitted the revised plan before the competent Authority and its receipt has been submitted in RERA and in several cases including this case. It has been further submitted that the plot in question was earmarked as a single plot of 20 kathas (200ft X 136.1ft) as per the Company's plan. The Complainant's bought this single plot of 20 kathas as a group and divided the land among themselves according to their proportionate investment. Therefore, asking the Company for the map of sub plots is meaningless as the division was not as per the provisions of the Company. This is an unnecessary issue that the Company is being embroiled in. it has wrongly been alleged that Rs. 4 lacs have been paid for development by each complainants. It has also been submitted that the complainants have repeatedly been changing their stand .On 16.06.2022 they stated that no

development work what so ever has been done and on 19.07.2022 they acknowledged, before the bench that the development work has been done and that the sewerage pipes have been laid out and that the electrification has been done. It has further submitted that it is abundantly clear from the approach of the complainant's that the intent appears to be, to merely to prolong the Court proceedings with ulterior motives, at the behest of some former employees of the Company, in a bid to harass and humiliate the Respondent. The approach being deployed is to raise imaginary issues that are not in accordance with the terms of the agreement and sale deed signed by them. It has been further submitted that the respondent has complied with all the commitments as per agreements entered into by both the parties. It has also been submitted that respondent, in support of his claims, has already submitted before the Honorable Court relevant current photographs, a fresh possession letter as per the desire of the Complainant

6. During the last hearing, learned counsel for the complainant has submitted that on earlier occasion a direction was given to file an affidavit. In compliance of the said direction, the complainant has filed an affidavit. He further submitted that the respondent company has to file a revised map with a copy to the complainant. They have filed a map, which according to him is not a map showing proper demarcation of plots. They have not filed the map which has been submitted before authority for sanction. There are four directions of the Full Bench; firstly, to handover possession of the plot, secondly to execute the registered rectification deed, thirdly to submit the revised plan before the competent authority and fourthly an undertaking regarding schedule for execution and completion of the development work. The complainant has gone at the spot. Some development work has been done. Sewerage pipe has been put in, electrification has been done but they have not filed the approved map. The respondent is changing their plan. Direction may be issued to give properly approved map by the competent authority.

Learned counsel for the respondent submits that the plot is in 1 bigha. In one plot 4-5 persons have purchased the plot. The complainant has purchased the bifurcated plot. The possession letter has been handed over to all the complainants one year back. They have already taken the possession.

In reply, learned counsel for the complainant has submitted that demarcation has been done till 21.06.2021. Their prayer is that after demarcating the plot, the complainants may be given the possession. The map, which is of the year 2012, is authentic or not that is not known to complaint and now the plots which are demarcated are not as per the previous map given. He further submitted that the complainant want possession according to the map of 2012 which is with the registered deed. He further submitted that

rectification has not been done. The plot number which is mentioned in the possession letter is not matched with the registered deed. The possession letter which has been given by the respondent is not the possession letter but it is a sell certificate. According to the map, they have not given the plot. The land is identified by the boundary. He submitted that the company plot number has been changed. They have not filed the map duly approved by the competent authority. They should have filed an affidavit stating that the map which was earlier according to that only plots are allotted and that map is only existing in today's date.

Learned counsel for the respondent further submitted that demarcation has already been done and the pillar has been made. He further submitted that they have given the company plot number. Company plot number has not been changed. At the cost of repetition, he submitted that the possession letter has already been handed over one year ago. Development work has already been done.

In the light of the submissions, advanced by learned counsel for the parties and documents placed, this Bench deals the issue raised in the present complainant in the following manner:-

As regards the possession of plot, the Bench while taking the notes of submissions of both the parties and considering the possession letter placed by respondent on record by counter affidavit dated 22-08-2022, directs respondent to handover actual possession of plot as per the possession letter issued within 60 days of issue of this order with proper demarcation and further directs complainant to take the same. If the respondent fails to hand over the actual possession within the time frame as directed above then penalty would be levied upon respondent.

As regards issue of map is concerned, the Bench takes the notes of receipt of submission of map submitted for approval before the Competent Authority placed on record by the respondent and directs respondent to provide the copy of map to allottees as well as complainant as soon as it gets approved by the competent Authority. In meanwhile provide a copy of map submitted during taking the registration of the project from the Authority.

As regard Development is concerned, the Bench takes the notes of submission of complainant that the some development work has been done by the respondent and also takes the notes of validity period of registration of the project is from 25-10-2019 to 31-12-2024, hence, Bench considering the validity period of project is still there, observes that if any work in respect to development as per agreement is not completed or required to be completed then

respondent can complete the same in the validity period of project or as soon as possible so that complainant can live there in better environment.

As regard, the execution of rectification deed is concerned, the Bench takes the notes of observation of Full Bench and directs respondent to execute rectification deed on own expense where required.

As regards interest for delay and compensation is concerned, the complainant is at liberty to press the same before the A.O.

With these directions and observations, this complaint petition is disposed of.

Sd/-
Nupur Banerjee
Member