

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mrs. Nupur Banerjee, Member

Case No. RERA/CC/1035/2021

Niharika Rani

.....Complainant

Vs.

M/s Ghar Laxmi Buildcon Pvt. Ltd.

....Respondent

Project: Income Tax Residency

For Complainant: Mr. Rai Saurav Nath, Advocate

For Respondent: None

INTERIM ORDER

6.9.2022

This matter was last heard on 03.8.2022.

This matter has been filed for the possession of flat. The case of the complainant is that she had booked 3 BHK flat, bearing flat no. 502, In Block-A of Income Tax Residency earlier named as Aayekaar Vihar in 2015 and has paid Rs.4,62,500/- as total booking amount as demanded by respondent on different dates. He further submitted that subsequently, both the parties has entered into M.O.U. dated 08-04-2015 and further submitted that even after booking in

2015, the respondent on various occasions has demanded through letter to committee for payment from the allottees and also shown schedule of completion of work by Sep, 2019 but till date, the builder has not handed over the flat by completing it in all aspect. Hence, this complaint.

The complainant has placed on record the money receipts and account statement showing the amount paid to respondent as alleged in complaint petition. The complainant has also placed on record Agreement for Sale dated 10-02-2018, executed between both the parties.

Perused the case record. The respondent has filed written statement denying the averments made in complaint petition and submits that complainant had paid Rs.4,62,000/- in three installments and thereafter failed to pay the further amount as per the installment in consonance to MOU and agreement and respondent has issued demand letter vide dated 20-07-2019 and 09-08-2019 for amicable settlement but despite of all efforts made by respondent went vain on 05-09-2019, at last served notice dated 05-09-2019 for cancellation and further submitted respondent unwillingly due to default in payment by complainant, cancelled the

booking and ready to refund the amount within three months.

On 13-06-2022, complainant has filed Rejoinder denying the averment of respondent made in written statement stating therein that complainant respondent has taken the booking of amount of Rs.4,62,500/- in lieu of the flat booked and accordingly Agreement dated 10-12-2018, has been executed and all the communications brought on record by the respondent was made with the federation/welfare committee and no communication was made to complainant individually and further prayed for the possession of the flat.

On the last date of hearing, learned counsel for the complainant has submitted that the complainant want that amount paid in lieu of booked flat should be refunded by the promoter. On 11.02.2022, the Bench has observed that the respondent has not complied with the earlier order of the Bench, hence penalty of Rs.25,000/- was imposed upon them. Now, the complainants want refund of the money with interest.

The Bench observes that though the respondent has filed reply and their learned counsel used to appear during the previous hearing but from the last few hearings, no one appeared on the behalf of respondent despite issued of summon, hence, order is being pronounced on the basis of submissions and documents placed on record.

The Bench levied a penalty of Rs.25,000/- upon the respondent for non appearance despite issue of summon and directs to deposit the levied penalty amount immediately, failing which, it can be recovered as per section 40(2) of the Real Estate (Regulation & Development) Act, 2016, read with Order 21, Rule 30 of the Code of Civil Procedure, 1908.

In the light of submissions made and documents placed and considering that complainant has prayed for possession but during last hearing, the learned counsel for complainant has submitted that now the complainant wants refund of the money paid but the Bench finds that no affidavit has been placed on record by complainant amending his prayer, hence, Bench directs complainant to file the same within two weeks. The Bench also directs complainant as well as respondent

giving once more opportunity to respondent to appear and to submit the status of the project.

List the matter again for hearing on 14-10-2022. Inform both the parties accordingly.

Sd/-

**Nupur Banerjee
(Member)**