REAL ESTATE REGULATORY AUTHORITY, BIHAR

IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR

RERA/CC/552/2022
RERA/AO/67/2022

Krishna Singh ……... Complainant

Vs

M/s Genx Infra Home Pvt. Ltd. ..…...….Respondent

Project: LANDMARK

Present: For the Complainant: Mr. Tarun Sagar, Advocate
For the Respondent: None

10.02.2026 **O R D E R**

Heard Mr.Tarun Sagar, learned counsel appearing on behalf of the complainant. None appears on behalf of the respondent.

2. Despite issuance of notice to the respondent umpteen times and giving last chance for his appearance, the respondent has chosen not to appear. Hence, this case is being disposed of on the basis of material on record.

3. This case has been filed to direct the respondent to provide possession of the flats and parking as per the direction of Hon'ble Appellate Tribunal and the Hon'ble Authority and also compensation with interest under Section 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016.

4. This complaint case has been filed against the respondent-M/s Genx Infra Home Pvt. Ltd. represented through its Directors Sri Rakesh Ranjan Singh and Sri Anupam Kumar. The complainant is the owner of a piece of land pertaining to Khata No.92, Tauzi No.5519, Survey Plot No.113 (part), Thana No.22 under Mauza-Jalalpur, near Jalalpur Dental College, having an area of 55915 Sq.ft. The respondent offered to construct at its own cost a Multi-storied Building, namely, "Landmark" on the said land of the complainant and give a part in the said building to the extent of which has been agreed. Accordingly,

based on assurance and representation of the respondent to be true, the complainant and the respondent entered into a Development Agreement dated 01.09.2012 in which they agreed unequivocally by the respondent to complete the project within three years and six months with grace period of six months from the date of execution of the said Development Agreement. As per the Flat Partition Agreement dated 05.07.2016, the respondent was liable to hand over 54 flats in total to the complainant. However, the respondent has not provided the possession of any flat to the complainant till date. The respondent has not even after the lapse of more than six years handed over the physical possession of the 54 flats falling in the share of the complainant till date. The respondent has already sold and handed over the physical possession of the flats to the allottees which were falling in the share of the promoter without obtaining completion certificate from the competent authority. The respondent has committed that if the share of the complainant is not given before the other allottees or simultaneously, the respondent shall be liable to compensate the complainant with Rs.1,00,000/- per month. Thus, the compensation calculated till September, 2022 is Rs.46,00,000/-. It was agreed that if the respondent could not complete the project and hand over the physical possession along with all relevant documents to the complainant in the agreed time, then the respondent has to pay Rs.25,000/- per month whereas the total delay period is of more than six years, thus from September, 2016 to September, 2022 the respondent is liable to pay Rs.18,00,000/-. The market value of the land as on date of execution of the registered development agreement was Rs.7,44,02,000/-. Thus, the respondent is liable to pay interest on the same as per Section 18 of the RERA Act, 2016. The complainant has preferred RERA/CC/923/2021 before the Real Estate Regulatory Authority, Bihar against the respondent, whereby and whereunder the Authority, vide order dated 21.01.2022, has directed to hand over the share of the complainant within sixty days, but the same has not been done by the respondent till date.

5. The respondent has filed a reply, stating therein that this case is not maintainable as two final orders in the same case i.e., RERA/CC/923/2021 are

running parallel. It is further stated that the present complainant is relying upon both the orders; one order is of 21.01.2022 and the other order is of 16.01.2023. The complainant before the Authority has filed execution case, vide Execution Case No.134 of 2023, relying upon the order dated 16.01.2023. Hence, it is necessary, in the interest of justice, that the complainant has to rely upon either the final order dated 21.01.2022 or the final order dated 16.01.2023. The complainant in order to fulfil his illegal demand i.e., extra car parking, filed several cases against the respondent and served legal notice and he is continuously litigating the matter. The complainant has misled the court of Hon'ble Division Bench of the Authority in Case No.RERA/CC/923/2021, which has passed a fresh order on 16.01.2023 which had already been decided on merit on 21.01.2022. While passing order in rectification case, the Hon'ble Division Bench of the Authority has stated the same. This conduct itself shows the dubious character of the complainant. The respondent never delayed the project deliberately after 2012 as the delay occurred due to Government policy (including prevention of sanctioned map for long years). When the Government started to sanction the map, the respondent obtained sanctioned letter in respect of the same immediately. The complainant before entering into the development agreement assured orally that he will co-operate in all situations and unforeseen circumstances. Even in token of the same, the complainant has taken about Rs.1,60,00,000/- non-refundable amount on 25.08.2012 through his account. The complainant has failed to disclose about the same before the learned court for the reason best known to him. The complainant has not mentioned in the petition about all the conditions mentioned in the Development Agreement dated 01.09.2012. The RERA has settled norms to give permission only after allotment of proportionate share as per the Development Agreement and after completion of the building, no dispute prevails. All construction work has been completed but due to greedy intention, the complainant built undue pressure upon the respondent. The complainant has to pay service tax of his proportionate share. It is admitted between the parties that any dispute, if occurred, then its jurisdiction will be of Civil Court, Patna. The respondent has highest regard and respect for

the order and direction of the Hon'ble Tribunal. Hence, there is no need to comment. The complainant has no right to introduce new facts. Thus, this case is to be dismissed with costs.

6. After perusal of the record and hearing the learned counsel for the complainant, it appears that the complainant has already filed a case before the RERA i.e., RERA/CC/923/2021 and in that case, the RERA Authority has already passed the order dated 21.01.2022 and a rectification order has also been passed on 16.01.2023. When an order is passed by the Authority and unless and until it is challenged before any competent authority, that order is binding upon both the parties. When the order is passed finally by the Authority, that should be complied and if the respondent does no comply, there is only one remedy i.e., to file execution case for the same. As per the respondent, the execution case has already been filed. So there is no need to interfere either with the order of the Authority or with the execution case. The Court of Adjudicating Officer is concerned with only compensation.

7. The complainant has demanded penalty for the delayed period as per the Development Agreement, but penalty is to be given by the Real Estate Regulatory Authority and not by the Adjudicating Officer.

8. The project was to be completed and handed over on or before 01.09.2016. So interest on total delayed period till date is to be given.

9. The respondent is thus directed to pay interest on total delayed period till date calculated at the rate of marginal cost of fund-based lending rates (MCLR) of the State Bank of India as applicable for three years plus 2% from the date of booking till the date of handing over possession. The complainant is also entitled for compensation for mental agony and harassment caused to him for which Rs.1,00,000/- (One Lakh only) is awarded and he is also entitled for litigation expenses of Rs.1,00,000/- (One Lakh only), which is also awarded. The respondent is directed to pay the aforesaid amounts to the complainant within 60 (sixty) days from the date of issue of this order.

10. With the aforesaid observations and directions, the case is disposed of.

Sd/-

(Vinod Kumar Tiwari)
Adjudicating Officer
RERA, Bihar