

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Single Bench of Mrs. Nupur Banerjee**

**Case No. CC/812/2021**

**Krishna Kumar .....Complainant**

**Vs**

**M/s Adharshila Housing Buildcon Pvt. Ltd. ....Respondent**

**Project: Muzaffarpur Phase-1**

**Present: For Complainant: Mr. Shyama Jha, Advocate**

**For Respondent : Mr. Sumit Kumar, Advocate**

**29/08/2022**

**PROCEEDING**

Hearing taken up. Both the parties are present.

Learned counsel for the complainant submits that the complainant booked a bungalow on 19.09.2016 and paid Rs.11,30,725/- but the possession has not been handed over. Even the construction has not started. Seven years have passed. He wants possession.

Learned counsel for the respondent submits that the copy of the complaint petition has not been served on them. The complainant has handed over a copy of the complainant petition. He prays for time to file written reply. He has preliminary objection that this project is not registered with the RERA, So, RERA has no jurisdiction to entertain this application. We have applied for registration but we withdrawn the application for registration. They filed an appeal before the Tribunal in which it is submitted that it is in planning area. The map has not been approved by the competent authority. They are liable to give the flat.

The Bench observed that since the respondent has applied for registration of the project but was not approved as the map was not approved by the competent Authority and liberty was given to apply fresh after getting map approved from the competent Authority. Therefore, this project will be consider as ongoing project and was registrable as per 1st Proviso of Section 3(1) of the Act. The Hon'ble Supreme Court recently in M/s Newtech Promoters & Developers Pvt. Ltd. Vs State of U.P & Ors. [2022] (1) RCR (Civil) 357 has observed that the Act is not retrospective in nature, rather it is retroactive because it affects the existing rights of the persons mentioned in the Act like promoter, allottee etc. The intent of legislature was to include all ongoing projects which commenced prior to the enforcement of the Act.

In Lavasa Corporation Limited v/s Jitendra Jagdish Tulsiani & Others, Second Appeal (Stamp) Nos. 9717 of 2018 & 18465 of 2018, 18467 of 2018 with Civil Application Nos. 683 of 2018, 791 of 2018, 792 of 2018, the Hon'ble Bombay High court has observed that RERA is brought on Statute Book to

ensure greater accountability towards the consumers and significantly reduce frauds and delays, as also the current high transaction costs. It attempts to balance the interests of consumers and promoters, by imposing certain responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions and set minimum standards of accountability and a fast track dispute resolution mechanism. The RERA, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector, thus, paving the way for accelerated growth and investments in the long run.

It has been further observed that as per Clause (2) of Section 3, the RERA is made applicable even to the projects that are on-going on the date of commencement of the RERA and for which; Completion Certificate has not been issued. In respect of such projects also, Promoters are required to register the projects with the Real Estate Regulatory Authority within three months from the commencement of the RERA, with an option that they can register entire real estate project or part of it. The specific 'Explanation' to the Section 3 of the RERA provides that, where the real estate project is to be developed in phases, every such phase shall be considered as a standalone real estate project.

The Hon'ble Bombay High Court also observed that The Real Estate (Regulation and Development) Act, 2016, as its 'Preamble' shows, is enacted by the Legislature, 'To establish the 'Real Estate Regulatory Authority' for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy redressal and also to establish the Real Estate Appellate Tribunal to hear Appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and Adjudicating Officer and for the matters connected therewith or incidental thereto. The 'Statement of Objects and Reasons' of the Act shows that, the necessity of enacting such Act was realized by the Legislature after perceiving that, The real estate sector plays a catalytic role in fulfilling the need and demand for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated, with absence of professionalism and standardization and lack of adequate consumer protection.' It was felt that, 'Though the Consumer Protection Act, 1986 is available as a forum to the buyers in the real estate market, the recourse thereto is only curative and is not adequate to address all the concerns of buyers and promoters in that sector.' The lack of standardization was found to be a constraint to the healthy and orderly growth of real estate industry. In view of the above, it was found necessary to have a Central Legislation, namely, the RERA, in the interests of effective consumer protection, uniformity and standardization of business practices and transactions in the real estate sector. The RERA is, therefore, enacted to provide for establishment of the 'Real Estate Regulation and Development Authority' for regulation and promotion of real estate sector and to ensure sale of plot, apartment or building, as the case may

be, in an efficient and transparent manner. The object of the RERA is stated to be to protect the interests of consumers in the real estate sector, like the Respondents herein.

Thus, the RERA is brought on Statute Book to ensure greater accountability towards the consumers and significantly reduce frauds and delays, as also the current high transaction costs. It attempts to balance the interests of consumers and promoters, by imposing certain responsibilities on both. It seeks to establish symmetry of information between the promoter and purchaser, transparency of contractual conditions and set minimum standards of accountability and a fast track dispute resolution mechanism. The RERA, as stated in its 'Objects and Reasons', was enacted for inducting professionalism and standardization in the sector, thus, paving the way for accelerated growth and investments in the long run.

Hence, the present Complaint Case is maintainable against the Respondents.

The respondent is directed to hand over the bungalow and file their reply with a copy to complainant.

Put up for further hearing on 13.10.2022.

Sd/-

Nupur Banerjee  
Member