

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mr. Naveen Verma, Chairman

Case No. RERA/CC/1043/2021

Nitu Gupta.....Complainant

Vs.

M/s Makan Developers Pvt. Ltd & ors.....Respondent

Project: - Vaishali Park

ORDER

24.08.2022

25.08.2022

The matter was last heard on 28.06.2022.

The case of the complainant is that her husband was working in H.K. Enterprises owned by Mr. Shambhu Jaiswal. In 2016, Mr. Shambhu Jaiswal represented himself as a promoter of the project at that point of time and offered a flat to the complainant and arranged a meeting of the complainant with Mr. Prabhat Kumar Chaudhary another partner at the office of the Vaishali Park Project. Thereafter her husband made a payment of Rs. 1,51,000/- on 25/02/2016 which was encashed on 02/03/2016 and that he had paid Rs. 3,51,000/- for a 2bhk flat. Her husband sent an application for return of money on 17.11.2017 and that he was suffering from mouth cancer. As the respondent failed to handover the flat, the complaint case has been filed for refund with interest and compensation.

The complainant has filed medical report, money receipts issued by the respondent for Rs. 1,51,000/-, account statement indicating the money was transferred to Makan Developers and letter for refund.

Perused the record. The respondent has filed reply stating there in that the transaction was between complainant and respondent no. 3 who were in master and servant relationship

and the transaction is not in the knowledge of the respondent company. He stated that the flat was not booked or allotted by the respondent. He further stated that the complainant has not filed any agreement for sale with respect to the flat.

On the last date of hearing the complainant reiterated the relief filed in the complaint petition and submitted that her husband passed away due to cancer and the respondent reiterated the reply filed.

In the light of submissions made by parties and documents placed, the Bench observes that the issue which was raised during the course of hearing is regarding the booking of flat by complainant as allottee or not. To substantiate the submissions upon this issue, complainant has placed money receipts as well as Account statement showing transaction made in respondent company's Account i.e., M/s Makan Developers Pvt. Ltd., issued by the respondent in the lieu of payment made in the consideration of flat. In view of this the Authority cannot accept the transaction was not in the knowledge of the respondent company and finds no merit in impleading respondent no. 3 separately even if there was a master and servant relationship between them.

The Authority observes that the complainant in this matter is, indeed, an 'allottee' as defined in the Real Estate (Regulation and Development) Act, 2016 as evident from the documents produced. The money receipt issued by respondent and account statement brings out clearly that the respondent has sold the flat. No documents have been placed by respondent to support their contention that this transaction was due to master and servant relationship.

After considering the documents filed and submissions made by both the parties, the Authority hereby directs the respondent and its Directors to refund Rs. 3,51,000/- to the complainant along with interest at the rate of marginal cost of fund-based lending rates (MCLR) of State Bank of India as

applicable for three years plus 2% from the date of taking the booking to the date of refund within sixty days of issue of this order.

The complainant is at liberty to approach the Adjudicating Officer for appropriate compensation as provided in the RERA Act, 2016.

With these directions and observations, the matter stands disposed of.

Sd/-
Naveen Verma
(Chairman)