REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF SPECIAL PRESIDINGOFFICER, RERA, BIHAR

RERACC/1120/2020
RERA/AO/324/2020
M/S Shanti Heritage Flat Owners Association - Complainants
Vs
Prem Nath Singh ---------- ---------Respondent

PROJECT – Shanti Heritage

26/05/2026 **O R D E R**

The complainants have filed this case: (i)to direct the respondent company to complete the project, (ii) to pay a sum of Rs. 3,00,000/- (Rs. Three lakhs only) for compensation for unfair trade practices, (iii) to pay a sum of Rs. 3,00,000/- as compensation for mental harassment and anxiety, (iv) to pay a sum of Rs. 1,00,000/- as legal expenses and (v) any such other relief/s which deem fit and proper in the interest of justice.

2. The complainants' case in brief is that the respondent had to complete the project till the year 2012, but till date the respondent has not completed the work in the concerned apartment as stipulated in the development agreement and no completion certificate was issued by the concerned Authority and has not been given to any flat owners. As per sanctioned map provided by the respondent, there was seven parking space inside the apartment and the remaining five numbers of parking were in open space, but recently all the twelve number of parking have been adjusted in the inside parking, which was earlier seven in number by decreasing the area of existing parking. As per approved map additional area which is facing road side and which has been shown as parking area no. 8,9 and 10 has not been constructed as per approved map and it has not been handed over to concern flat owners till date. The fire-fighting equipment has also been not installed in the said apartment. The Generator set has been installed by the respondent on much persuasion, but the same is also not affixed to a permanent place by making a platform and a shed. The respondent has also not completed the top

floor of the apartment and the same is still incomplete. After more than 7 years of booking, there is no possibility of completion of the project.

3. A maintainability application on behalf of the respondent is filed stating therein that the allegations made in the complaint petition are false and fabricated and has no legal backing in the eyes of law or on fact and the Authority has no jurisdiction to look into the dispute related to encroachment. The present case is not maintainable due to misjoinder and non-joinder of necessary party i.e. landowners and it is also barred by law of limitation as the case has been filed after lapse of five years since possession of parking space in the year 2014. The project in question is not registered with the RERA and the project was completed much before 2016 and the first sale deed was executed in the year 2014. A technical team of the Authority has submitted his report on 08.08.2025 and has reported that the possession of the allottee has already been provided before 2016 and the project is also completed and the dispute is only related to encroachment of parking by the landowners of the project and in view of Technical report, the present case is not maintainable.

4. A reply on behalf of the complainant to respondent maintainability application is filed stating therein that the complaint petition is based on document facts, agreements and the rights conferred under the Real Estate (Regulation and Development) Act, 2016. The Authority has to adjudicate disputes between allottees and promoters. The dispute pertains to the non-providing of promised/ common amenities (parking spaces) as per the Agreement for Sale/ Builder-Buyer Agreement, which is a clear deficiency in services and a violation of the terms of the contract by the promoter. This falls squarely within the jurisdiction of the Authority. The landowner is not a necessary party to this complaint. The grievance is not about the possession of flats in 2014 but amount the continuous denial and non-provision of the earmarked parking spaces, which is an integral part of the common areas promised. Therefore, the complaint is well within limitation. The Technical team of the Authority fully supports the complainant's case and confirms the maintainability of this complaint. Hence, the maintainability petition is to be dismissed.

5. Heard Shri Piyush Tiwari, learned counsel for the complainant and Shri Sumit Kumar, learned counsel for the respondent. It is admitted fact that

the agreement between the complainant and the respondent was made much before the RERA Act came in force and as per complainant itself, the flat was to be handed over till the year 2012.It is also admitted fact that the project was not registered with RERA and the project was completed much before the year 2016 i.e. much before enactment of the RERA Act and also it is admitted fact that the first sale deed was executed in the year 2014. It is also an admitted fact that the complainants are in possession of the concerned flat before the enactment of the RERA Act. Now, the complainants have arisen a question that car parking space, which have been provided to them, are not as per approved map by the competent authority and also not as per agreement and also some part of the car parking space has been encroached by other person.The Technical Report submitted by the Technical Team constituted by the Authority also confirms that the complainants are residing in the concerned flats but the car parking area has been encroached by some other persons.

6. Considering the aforesaid facts and circumstances it is also clear that in view of the judgment in the matter of ***Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. [(2021) 11 SCC 190]***, the present case does not come within the purview of Real Estate (Regulation and Development) Act, 2016 and it should be considered as a complete project and moreover, this project is not registered in the Authority. The dispute which has been made by the complainants does not come within the jurisdiction of the RERA Act and as such this case is not maintainable either in the eyes of law or on fact. Hence, it is hereby dismissed.

(Vinod Kumar Tiwari)
Special PresidingOfficer
RERA, Bihar