

REAL ESTATE REGULATORY AUTHORITY, BIHAR
2nd Floor, BSNL Telephone Exchange, North Patel Nagar, Road No. 10,
Patna -800023

**Before the Double Bench of Mr. Naveen Verma, Chairman
& Mrs. Nupur Banerjee, Members**

Complaint Case No.: CC/247/2021

Anand Prakash Singh and Ors.Complainant

Vs.

M/s Kanishka Buildcon Pvt. Ltd.....Respondent

Project: Vidyanand Maheshwari

INTERIM ORDER

23-11-2021

The matter was last heard before the double bench on 26.10.2021.

The case of the complainant is that he had entered into a registered agreement for sale on 15.06.2013 with the respondent company for purchasing Flat No.301, measuring 1495sq.ft. along with parking space and other amenities in Vidyanand Maheshwari Project for a total consideration amount of Rs.37,18,500/- lakh (Thirty-Seven Lakh Eighteen Thousand Five Hundred). It was also agreed that for availing extra facilities, the complainant have to pay Rs.2,80,000/- He further stated that it was assured by the respondent that by December, 2014 with a grace period of 6 months, the construction would be completed but the same has not done as per stipulated time. He also stated that, respondent had also assured that before taking possession of the flat, sale deed will be executed and had taken Rs.3,61,000/- for the same but till now, neither the registration has been done nor the possession of the flat has been handed over.

The respondent company has filed its reply denying the allegations levelled against the company. It has been stated that, the total consideration amount of flat was Rs.39,98,500/- as per sale

agreement which includes Rs.37,18,500/- as cost of flat and Rs.2,80,000/- under the heading "other Expenditure". The respondent company further submitted that vide letter dated 27-07-2015, they had informed the complainant that registration of apartments were underway in respect of those allottees who had made the payment of entire consideration amount and accordingly, asked the complainant to make payment of remaining amount.

It was submitted by the learned counsel for the respondent that as per the Part II of the Schedule B of the agreement for sale dt.15.06.2013, the complainant had to make payment of Rs.39,98,500/- but he had made payment of Rs.37,45,454/- only and liable to pay Rs.2,53,046/- and requested to direct the complainant to pay the remaining amount along with 12% interest.

The complainant has filed a rejoinder and written arguments to the reply. The complainant has referred to letter dt.05-09-2021 of the respondent company wherein they have tendered apology for the delay in executing the deed of conveyance of the flat and had stated that delay was due to certain technical difficulties. It is further also stated that, on 19.09.2021 the respondent sent a letter stating therein that as per the verification of its account team, the Complainant is still liable to pay Rs.9,53,046 with interest and failing which action shall be initiated as per the agreement to sale. It is further stated that the respondent is shifting its stand after the complainant sent a clarification on 25-09-2021 and now in their reply filed on 1.10.2021 they have stated Rs.2,53,046 is only due. It is also submitted by the complainant while referring to Annexure-4 of rejoinder that the respondent had issued receipt No. 520 dt.24-12-2015 with the remark 'full and final payment'.

The Complainant has placed money receipts on record dt.25-05-2013 for Rs.50,000/-, dt.11-06-2013 for Rs.4,81,713/-, dt.14-06-2013 for Rs.43,298, dt.24-07-2013 for Rs.6,27,500/-, dt.31-07-2013 for Rs.6,50,000/-, dt.03-08-2013 for Rs.7,10,000/-, dt.06-08-2013 for Rs.4,00,000/-, dt.24-12-2015 for Rs.82,943/- & Demand Draft dt.10-08-2013 for Rs.5,00,000/- & account statement dt.16-08-2013 for

Rs.2,00,000/- totaling to Rs.37,45,454/- in respect to payments made to the Respondent Company.

During the last hearing on 26-10-2021, the learned counsel for the complainant had submitted that he had paid the entire consideration amount and on the basis of that, full and final receipt has been issued to him but till now sale deed has not been executed by the respondent.

The learned counsel for the Respondent submits that as per sale agreement dt.15-06-2013, the complainant had to make payment of Rs.39,98,500/- but, he had made payment of Rs.37,45,454/- only and thus liable to pay Rs.2,53,046/- with interest then only respondent can execute the deed.

The Bench observes that the complainant had filed the money receipts and other relevant documents on 18-11-2021. No documents have been filed by the respondent. The complainant has also filed his written argument reiterating the above facts.

The Bench notes that the complainant had not brought any letter or document issued by the respondent company in respect to the waiver of other expenditure as per the agreement. The respondent company has also not been able to clarify under what circumstances such a receipt was issued stating that full and final payment has been received.

The Bench is of the opinion that an opportunity may be given to both the parties to file their submission clarifying the above. If no clarification is received within a week, final orders would be passed on the basis of available documents.

Put up for final orders on 2.12. 2021.

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman