

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Full Bench of Mr Naveen Verma, Chairman,
Mr R.B. Sinha & Mrs Nupur Banjerjee, Members**

CC/881/2020, CC/889/2020, CC/890/2020, CC/891/2020, CC/892/2020, CC/925/2020,
CC/994/2020, CC/1790/2020, CC/308/2021, CC/543/2021 & CC/544/2021

Sourabh/Mukesh Kumar/Sanjeev Kumar/Rajeev Kumar/Anjeev Kumar Srivastava/
Ruby Kumari/Anjana Singh/Mithlesh Kumar/Brajesh Kumar/Aslam Imam/
Md Naiyyar Alam.....Complainant

Vs

M/s Realize Realcon Pvt Ltd.....Respondent

Project: Realize Green Exotica

Present : For Complainants : Mr Bipin Chandra, Advocate
Mr Apurv Harsh, Advocate
For Respondent : None

HEARING THROUGH VIDEO CONFERENCING

09/08/2021

06/09/2021

PROCEEDING

Hearing taken up. Mr Bipin Chandra and Mr Apurv Harsh, learned counsel of the complainants are present. No one has turned up on behalf of the respondent company.

The complainants Sourabh, Sanjeev Kumar, Rajeev Kumar, Anjeev Kumar Srivastava and Mithilesh Kumar state that they want refund of the deposited money as the project has not taken off. They state that they had deposited their funds in 2016-17 and the project was scheduled to be completed by December 2018 but only a floor out of 12 storied project has been completed till date. There is no progress in the project in last two years.

Mr Bipin Chandra, learned counsel of the complainants Ruby Kumari and Anjana Singh also submits that they want refund of the deposited money.

Mr Apurv Harsh, learned counsel of the complainant Brajesh Kumar submits that they have formed an association consisting of 20 allottees who have filed their complaint petition and about 10 more allottees are going to join. He further submits that there are 96 flats in the two towers and as per development agreement, 51 flats go to the share of the developer and 45 flats to the land owner. The project is stalled for 3-4 years and the respondent company has even sold a few flats from the share of land owner and collected around Rs 14 crores. They arranged a meeting with the promoter and came to know that 80-90 flats

have been sold and in some cases, one flat has been sold to two persons and requested the Authority for scrutiny of the project. He submits that the allottees are ready to put in funds to complete the project. He further requested the Authority that since the respondent company has defalcated huge money, they should not be allowed to sell any flat and the concerned authority may be directed not to register any flat. He further submitted that in some cases final order for refund has been issued and in some cases execution cases have been filed.

The Authority observed that on 09/04/2021, the respondent company was directed to file affidavit but the same has not yet been filed. The Authority asked the complainants whether any criminal case has been filed in the matter as it appears to be a fit case for investigation by the police. The allottees or the association of Allottees could file the FIR and also write to the EOW (Economic Offence Wing).

The respondent company has also not submitted any record. Since the respondent company has sold the share of landowner also the land owner as allottee may also be heard.

Issue notice to the land owner/ allottee to appear on the next date of hearing.

The Authority while observing that the respondent company cannot be allowed to sell or register any flat, directs that notice be issued to the respondent company under Rule 21 Section 36 of CPC giving 15 days' time to appear otherwise warrant will be issued under Section 35(2) of the Act.

The Authority further directs the concerned Registrar not to register any flat from the project Realize Green Exotica and any other project of the Promoter M/s Realize Realcon Pvt Ltd.

The association of allottees may obtain formal letters of cancellation in respect of refunds. The allottees may clarify whether they had earlier sent the letter seeking cancellation of allotment and refund to the respondent company or not .

The Authority noted that the validity of registration certificate issued by the RERA has expired. While referring to Section 8 of the RERA Act, the Authority suggested to the Association of Allottees to get the valuation of the investment by the respondent company in the project and submit their proposal regarding completion of the project.

Put up on 23/09/2021.

Nupur Banerjee
Member

R.B. Sinha
Member

Naveen Verma
Chairman

may take another 1 ½ to 2 years. He further stated that as per the interim order of the Authority, the respondent company has not paid Rs 10.00 per sq ft for the delay.

Mr Abhinav Srivastava, learned counsel of the respondent company submits that the building is complete and as per the instruction of the respondent company they will hand over the flat within 15 days. He further submits that the plan was approved in July, 2016 and the delay was due to an order of the Patna High Court to stop all construction and also due to non-availability of sand. He further submits that against the interim order of this Authority for compensation, they have filed appeal before the Tribunal.

The Authority while referring to the provisions of Section 17 and Section 11(4) of the RERA Act, directed the respondent company to get the validity of development agreement and the sanctioned plan extended and complete the project in all respects.

Mr S. Satyadarshi, learned counsel of the complainant Satyendra Kumar (CC/737/2098) submits that they are the land owner having 50% share in the project. The respondent has provided super built up area which is against the Act. On 03/02/2021 the Authority had directed the respondent company to file affidavit which they have not yet filed.

Mr Abhinav Srivastava, learned counsel of the respondent company submits that in pursuance of the last order of the Authority, they have handed over map of the project to the complainant. As regards counter reply, they will file it with copy to the other party.

Mr Manoj Kumar Singh, learned counsel of the complainant Raj Kumar Sinha (CC/1002/2020) submits that the respondent company has not yet filed counter reply. He further submits that the main issue is share demarcation.

Mr Abhay Kumar, learned counsel of the respondent company prays for time to file counter reply with pleadings.

Mr Navin Kumar, learned counsel of the complainant Sachidanand Jha (CC/1351/2020) submits that the respondent company has not yet filed its reply.

The Authority directed the respondent company to file reply within two weeks.

Mr Sharad Shekhar, learned counsel of the complainant Ujjawal Prakash (CC/1372/2020) submits that they have filed rejoinder to the counter reply of the respondent company. He further submits that they want possession of the flat.

The Authority directed the complainant to serve copy of the rejoinder on the opposite party.

Mr Shivendra Rai and Mr Gaurav Pratap, learned counsel of the complainants Anil Kumar Gupta (CC/259/2021) and Rajesh Kumar (CC/615/2021) submit that in 2013 they paid Rs 14 lakh out of the consideration amount of Rs 35 lakh. On 08/12/2013 sale agreement was registered and the flat was to be handed over in September, 2014 but work up to the plinth level has not yet been completed. He submits that there are 30

unsold flats in other project of the respondent company and requested for refund and interest.

The Authority while referring to Section 29 of the RERA Act, observed that on 23/03/2021 the respondent company was directed to file counter affidavit.

Mr Abhay Kumar, learned counsel of the respondent company prays for time.

The complainant Murli Manohar Prasad (CC/616/2021) submits that the project is on a housing society land for which the respondent company had signed the agreement in 2011 with the society. In view of the order of the Patna High Court that no commercial building can be constructed on the society's land, the society cancelled the agreement but the respondent company is continuing its construction work and has constructed the boundary wall. He requests for return of the land in question.

The complainant Asha Devi (CC/618/2021) submits that she has not signed any agreement with the respondent company but they have constructed boundary wall on their land.

The complainant Shanti Devi (CC/626/2021) submits that she signed agreement with the respondent company in 2012 but till date no construction has been done by the respondent company and they have erected boundary wall on her land. She requests for return of her land.

The Authority observed whether the above complainants have approached the PMC or the Court

The Authority while referring to Section 7, 19 and 20 of the RERA Act, directed that notice be issued to the respondent company.

Put up on 27/09/2021.

Nupur Banerjee
Member

R.B. Sinha
Member

Naveen Verma
Chairman