

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Bench of Mr. Naveen Verma, Chairman, Mr. R.B.Sinha, Member and Mrs. Nupur Banerjee, Member

RERA/CC/319/2019-RERA/AO/59/2019

Sri Ram Laddu Rai Complainant

vs.

M/s Star India Construction Pvt. Ltd..... Respondent

WITH

RERA/CC/407/2019-RERA/AO/220/2019

M/s Star India Construction Pvt. Complainant

vs.

Shiv Narayan Yadav and others Respondents

WITH

RERA/CC/1008/2020

Raj Kumar and others Complainants

vs.

M/s Star India Construction Pvt. Ltd. Respondent

WITH

RERA/CC/1200/2020

Miss Afsana Begum Complainant

vs.

M/s Star India Construction Pvt. Ltd..... Respondent

14.06.2021

Proceeding

The proceedings were held through virtual court.

Learned Counsel for Complainant/Promoter Mr. Sharad Shekhar is present along with Director of the Respondent Company. Mr. Gopal Govind Mishra, Advocate is appearing on behalf of respondent no:- 1, 2 & 4 and Mr. Suryadeo Prasad, Advocate is appearing on behalf of respondent no:- 3. Mr. Rakesh Roshan Singh, Advocate alongwith the complainant is appearing in RERA/CC/1200/2020.

Learned Counsel for the complainant Mr Ram Laddu Rai submitted that he has been waiting for possession of his flats in Block B for several years, though the flats were ready for handing over the possession. He claimed that the promoter had already given the possession of the flats in the same Block to other allottees. The landowner/allottee has stated that as per the terms of agreement, the Promoter has to pay Rs. 10,000/- per month to the landowner if the promoter fails to complete the said project on time. He therefore also requested compensation due to delay in completion of project.

In response, the Promoter stated that Mr Ram Laddu Rai was offered the possession of the flats more than a year ago in course of hearing in AO's court but he didn't take. He stated that he was ready to give the possession of Shri Rai's share of flats (104 & 404) in Block B. At the request of the Bench, the promoter agreed

to hand over the possession of his share of two flats (104 & 404) to Sri Ram Laddu Rai on or before 22nd June, 2021.

The Promoter further submitted that it is the landowners who are creating hindrance in completion of the said project. They were not allowing the promoter to continue the work in Block A and C. He claimed that if he is permitted to work unhindered in the project, the project could be completed in three months. On the other hand, the Learned Counsel of landowners/allottees has stated that the promoter has not completed the project in more than ten years, though it was stipulated in the development agreement that it would be completed in 42 months with a grace period of six months. He further claimed that as per the terms of agreement, the Promoter has to give Rs.10,000/- per month to the landowners if the promoter fails to complete the said project on time. He also stated that he has in his share, 16 flats out of 40 flats in Block C. He further stated that the promoter was also not completing their share of flats in Block A.

Learned Counsel for the promoter while relying upon Section-34 of the Act has stated that the Authority has power to regulate the project, in case, any difficulty arises to the promoter and to fix liability upon the landowner and allottee to help in getting the project completed and also to provide protection upon which the Authority has found submission of the Learned Counsel for the promoter as nothing but, an eyewash to justify the delay in completion of the project.

Learned Counsel for respondent no:- 1, 2 & 4 while reply upon an I.A. application in RERA/CC/1008/2020 has stated that they have also prayed in the said petition to get their project completed and also to hand over the possession of the their share. It has further been submitted by the Learned Counsel for respondent no:- 1, 2 & 4 that share in Block-A falls with the landowner/allottee, whereas Block-B share belongs to the Promoter and so far as Block-C is concerned, the promoter and landowner will get 60 : 40 share respectively. The Learned Counsel for the landowner-allottee has further submitted that no flats in block-C have been given to them. He also alleged that they fear that the promoter will complete their share and run away from the Project.

The Bench unequivocally stated that the landowners are allottees under RERA Act, 2016 unless their development agreement provides their role in development of the project as co-developer. Learned Counsel of all landowners admitted that they were allottees in the project. The Bench made it clear that under the Act, both promoters and allottees have definite rights and duties. The Bench further directed that if any promoter or allottee contravenes the provisions of the Act, they will be liable for a penalty up to 5 % of the estimated cost of the apartment or building cost. The Bench further made it clear that they will not hesitate in using their powers if any allottee or promoter contravened the provisions of the Act.

On being questioned by the Bench as to when the project will be completed, it was unequivocally stated by the Director of the

Company that the pending work will be completed within three months provided they are allowed to work unhindered. The Bench directed both the parties to give an undertaking on affidavit within a week that no hindrance would be created by either of the parties so that the project may be completed keeping in view the interest of allottees.

The complainant in RERA/CC/1200/2020 has submitted that the due to dispute between the landowner and the Promoter, allottee like her has not been given possession of flat even after payment of 75 % of the estimated cost several years ago. She further requested that permission be given by the Authority to utilize her balance payable amount lying with her to get internal work of her flat done by her. The Bench felt that such prayer of the complainant cannot be allowed by the Court. However, such arrangements can be made mutually between the Promoter and the Allottee.

The Bench directs the promoter to complete the project within a period of three months from today and also to file monthly progress report with direction to hand over possession of all flats before 15th of September to all the allottees after completion of entire works as per terms of the agreement and only thereafter, the issue of compensation will be decided.

List on 12th July, 2021.

Sd/-
(Naveen Verma)

Sd/-
(R.B.Sinha)

Sd/-
(Nupur Banerjee)

