

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No. CC/944/2020, CC/945/2020, CC/946/2020, CC/1061/2020, CC/1147/2020,  
CC/1182/2020, CC/1314/2020 & CC/1580/2020**

**Savita Devi/Rachana Kishorpuria/Bijay Kumar Kishorpuria/Sanjay Kumar Saraf/  
Sanjay Kumar Verma/Suresh Kumar Sinha/Kishore Kumar Modi & Ors/  
Sunil Kumar Sinha.....Complainants**

**Vs**

**M/s Nissa Realtors Pvt Ltd.....Respondent**

**Present: For Complainants: Mr Jairam Singh, Advocate  
For Respondent : Mr AK Singh, Advocate**

**26/07/2021**

**PROCEEDING**

**10/08/2021**

Hearing taken up. The complainants are present with their learned counsel Mr Jairam Singh. Mr AK Singh, learned counsel of the respondent company is also present.

Mr Jairam Singh, learned counsel appearing on behalf of the complainants Savita Devi/Rachana Kishorpuria/Bijay Kumar Kishorpuria/Sanjay Kumar Saraf submitted that the respondent has not obeyed the order of the Authority dated 26/03/2021 and did not do anything whereas he had assured that the grievances will be resolved. He further submitted that without our consent, the respondent has allotted the flat to some other person. They are interested in getting the flat as per registered agreement and the amount paid is still lying with the respondent. In the last hearing, the respondent company had agreed to provide flat. He put a legal question as to how without cancelling the registered agreement which still exists, the flat has been sold out to some other person.

Mr AK Singh, learned counsel of the respondent company submitted that they have taken up the matter with the complainants to resolve but they did not agree. He further submitted that the MD of the respondent company died on 01/05/2018 and the new Directors took over on 22/05/2018. When the new Directors looked into the audit report prepared by the Chartered Accountant it was found that Rs 2.77 crore was transferred to the then MD's personal account. The complainants are claiming that in 2012, Rs 23 lakh was given to the respondent company but when it was found that the complainants are not interested in the flat, therefore, the respondent company refunded Rs 11.35 lakh in the year 2012-15 which has been submitted in the counter affidavit by the respondent company

and now Rs 11.65 lakh remains to be refunded. The complainant never demanded the balance amount till the death of the earlier MD. The flat has been transferred to other allottee.

The Authority enquired from the counsel of the respondent company as to whether they had made any written communication/agreement with the complainants before returning the part payment of the deposited amount and how they have sold the flat to some other person without cancelling the sale agreement.

Learned counsel of the respondent submitted that since the complainant was not interested in the flat the amount of Rs 11.35 lakh was refunded to them. He submitted that there are 4 blocks and around 140 flats in the project. Out of 140 buyers 21 buyers have paid full amount in 2012 when the MD was alive who has siphoned off Rs 2.77 crore of the company.

The Authority observed that when the new Directors took over after the death of the MD, they own the assets and liability of the company. These cases are for the project which was started way back in 2010. The Authority also enquired as to how they are owning the assets and shares of the company whereas they are denying the responsibility of the liabilities and directed the respondent to file all the documents/papers relating to transfer of shares and to show what action has been taken if the money has been siphoned off by the earlier MD and if any FIR has been lodged in this regard. The Bench further observed that for the last two years, the respondent directors was claiming that the matter will be resolved and in March, 2021 had assured that they will hold meeting with the allottees for compromise but have not done anything to resolve it.

The respondent company submitted that they have submitted affidavit through email on 12/04/2021. The Authority directed the learned counsel of the respondent to serve copy of the reply to the opposite party and submit before the Authority all the questions asked for.

The case is adjourned to **21/10/2021**.

The complainant Sanjay Kumar Verma (CC/1147/2020) submitted that he had paid Rs 13.29 lakh out of the consideration amount of Rs 19.96 lakh. The respondent had filed counter affidavit to refund the principal amount in instalments within a year. He complained that the flat allotted to him was sold to some other buyer and in such a way they have sold out several flats.

The respondent submitted that when the complainants did not pay the consideration amount, the flats were sold out to other buyers in 2013 and therefore, the money is being refunded.

The Authority enquired from the learned counsel of the respondent company how they are going ahead with the project without getting the project registered with RERA and under Section 15 of the RERA Act the respondent

have to take prior approval from RERA before doing anything and directed them to come out with all the facts and submit their written proposal for approval before RERA.

**Order reserved.**

Mr Shubham Bajaj, learned counsel of the complainants Suresh Kumar Sinha (CC/1182/2020) submitted that he has paid Rs 13.67 lakh but in the counter affidavit filed by the respondent the figure differ. He further submitted that he has paid Rs 2.05 lakh as interest to the bank till date. The respondent company has refunded Rs 5.00 lakh and sold the allotted flat to some other person. He referred to some judgement of the Hon'ble Supreme Court and submitted that compensation should be paid by the respondent and requested the Bench that the matter be heard on merit and decision taken.

Learned counsel of the respondent company submitted that out of the consideration amount of Rs 16.05 lakh only Rs 10.67 lakh has been paid by the complainant. On 11/03/2016 Rs 5.00 lakh was refunded to him and the flat allotment was cancelled on 03/07/2017 and sold out to some other buyers.

The Bench directed the complainant to file written statement and enquired from the respondent as to how unilaterally the registered sale agreement can be cancelled and observed that their action of cancelling the sale agreement and selling the flats to other buyers is illegal. Action will be taken under Section 40 of the RERA Act.

**Order reserved.**

Mr Manoj Kumar Singh, learned counsel of the complainant Kishore Kumar Modi (CC/1314/2020) submitted that Rs 18 lakh was paid to the respondent the receipt of which is annexed with his petition but the respondent is denying that he had paid Rs 18 lakh.

Learned counsel of the respondent company submitted that there is no fund in the company and the new management is trying to arrange money and only after that they will be able to refund the money to the depositors in instalments within a year. He further submitted that till 2019 the project was under litigation with the land owner and the matter went to the Tribunal also.

The Authority directed the respondent to file list of the allottees along with flat numbers, money collected from them, funds actually spent on the project, additional funds required to complete the project and the proposal of the promoters to arrange the funds for completion of the project. The Bench also directed the respondent to let the Bench as to how many rights of allottees they have created in this project. Further, the promoter should facilitate in formation of association of allottees and submit a proposal with the consent of two-third of the allottees to go ahead with the project.

Put up on **21/10/2021**.

The complainant Sunil Kumar Sinha (CC/1580/2020) submitted that he made payment as per schedule and paying EMI to the LIC regularly but the respondent sold out the flat to some other buyer and threatens that the registered sale agreement with the then MD is dead.

Learned counsel of the respondent submitted that the complainant paid Rs16.37 lakh out of the consideration amount of Rs 18.65 lakh and submitted that the flat has gone in the share of the land owner. He further submitted that the new management which took over after the death of the MD, did not know of the liabilities.

The Authority was of the view that this matter needs to be investigated as to how the share of the deceased MD was transferred which appears to be a shady deal. If the Ex-MD has siphoned off the money of the company, FIR should have been filed with the police and Registrar of the Companies (RoC) for necessary action. The plea of the respondent is not maintainable. This is a fit case to be referred to the State Government for thorough investigation.

It was observed that letter was sent to the respondent company on 03/03/2021 to submit certain information but they have done nothing in this regard.

Order reserved.

Put up on **21/10/2021**.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No.CC/61/2021, CC/417/2021, CC/418/2021, CC/429/2021, CC/435/2021 &  
CC/62/2021**

**Archana Agrawal/Urmila Devi/Rekha Gupta/Meena Devi/  
Bimal Dalmia/Rajesh Kumar More..... Complainants**

**Vs**

**M/s Nissa Realtors Pvt Ltd.....Respondent**

**Present: For Complainants: Mr Ranjan Kr Srivastava, Advocate  
Mr Shubham Bajaj, Advocate  
For Respondent : Mr AK Singh, Advocate**

**26/07/2021**

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**10/08/2021**

**PROCEEDING**

Hearing taken up. The complainants are present along with their learned counsel Mr Ranjan Kumar Srivastava and Mr Shubham Bajaj. Mr A.K. Singh, learned counsel of the respondent company is also present.

Mr Ranjan Kumar Srivastava, learned counsel of the complainant Urmila Devi (CC/417/2021) submitted that under RERA Act customers rights are protected. They have paid full payment to the respondent company and requested that the respondent should be stopped from selling the flat to any other buyer.

Learned counsel of the respondent submitted that these are new cases and they have not yet got copy of the complaints which should be served on them and requested for a short adjournment.

The Authority directed that both the parties to send copies of the complaints and counter reply to all concerned and complete their pleadings before the next date of hearing.

Put up on **21/10/2021**.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No.CC/319/2019**

**Ram Laddu Ray .....Complainant**

**Vs**

**M/s Star India Constructions Pvt Ltd.....Respondent**

**CC/407/2019**

**M/s Star India Constructions Pvt Ltd.....Complainant**

**Vs**

**Shiv Narayan Yadav & Ors.....Respondent**

**CC/1008/2020**

**Raj Kumar & Ors. ....Complainants**

**Vs**

**M/s Star India Constructions Pvt Ltd.....Respondent**

**Present: For Complainants: Mr Suryadeo Prasad, Adv**

**Mr GG Mishra, Adv**

**For Respondent : Mr. Sharad Shekhar, Advocate**

**Mr Basant Kumar, Director**

**26/07/2021**

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**10/08/2021**

**PROCEEDING**

Hearing taken up. The complainants are present along with their learned counsel Mr Suryadeo Prasad and Mr GG Mishra. Mr Basant Kumar, Director of the respondent company is also present alongwith his learned Counsel Mr. Sharad Shekhar.

Mr Suryadeo Prasad, learned counsel of the complainant submitted that vide Authority's order dated 14/06/2021, the respondent company was to hand over two flats by 22/06/2021 but they have neither completed the flat nor handed over possession letter to the complainant yet.

Mr GG Mishra, learned counsel of the respondent submitted that all works in the flats have been completed and we are ready to hand over the flats but the complainant/land owner does not want to take possession of it. Possession letter has been filed before RERA. He further submit that the complainants should give in writing whatever shortcomings they find and what works are yet to be done.

The Authority suggested to the complainant to take possession of the flat and if any structural defect or shortcoming in quality of work is there in the flat, the respondent is duty bound to rectify up to 5 years.

The complainant land owner submitted that work in the flats in their share are not being undertaken by the respondent.

Mr Basant Kumar, Director of the respondent company submitted that they have filed the monthly progress report. He further submitted that they will abide by the work as specified in the agreement but the complainant wants additional work for which they have to pay. He prayed two months' grace period since the registration period of the project has expired and bank is not releasing the account. He also submitted that sand is not available in the market. The Bench declined to give any additional time as the project has been delayed inordinately.

Mr GG Mishra, learned counsel of the land owner submitted that monthly status report be also given to them also.

The Authority directed the respondent company to submit progress report every month and give a copy of the same to the land owner.

Order reserved.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No.CC/1200/2020**

**Afsana Begum.....Complainant**

**Vs**

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

**Project: Shiv Bhajju Vihar**

**Present: For Complainant: Mr Rakesh Roshan, Advocate  
For Respondent : Mr Sharad Shekhar, Advocate**

**HEARING THROUGH VIDEO CONFERENCING**

**26/07/2021**

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**10/08/2021**

**PROCEEDING**

Hearing taken up. The complainant is present along with her learned counsel Mr Rakesh Roshan. Learned counsel of the respondent company Mr Sharad Shekhar is also present.

Learned counsel of the complainant submitted that Rs 30.00 lakh i.e. 90% of the consideration money has been paid for the flat and is ready to pay the rest amount due but the respondent company is threatening that they will cancel the allotment.

Learned counsel of the respondent company submitted that Rs 18.00 out of Rs 48.00 lakh consideration money is still due with the complainant and for that they have issued demand letter to the complainant/

The Authority observed that since it is construction linked plan, the complainant must pay the rest amount keeping 10% of the consideration money to be paid at the time of handing over of the flat so that the respondent company could complete the flat. The respondent company should also issue demand letter for payment as per agreement and giving the date of handing over of the flat to the complainant mentioning therein that if not paid, the allotment will be cancelled.

The respondent company submitted that they have issued demand letter to all the allottees but no reply has been received from any one. They also arranged meeting on 18/07/2021 for the purpose but no one turned up.



The complainant submitted that certain works were assured to be done by the respondent which they have not done yet and demanding money and threatening for cancelling the allotment. She demanded compensation also.

The respondent company submitted that they cannot make any deviation in the plan to which the Authority directed the complainant to pay the dues and then only demand compensation.

Order reserved.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No.CC/515/2021 & CC/516/2021**

**Priya Jaiswal/Mukesh Kumar.....Complainants**

**Vs**

**M/s Star India Constructions Pvt Ltd.....Respondent**

**Project: Tech Towne**

**Present: For Complainants: Mr Ishteyaque Hussain, Adv  
For Respondent : Mr Sharad Shekhar, Adv**

**26/07/2021**

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**10/08/2021**

**PROCEEDING**

Hearing taken up. Mr Ishteyaque Hussain, learned counsel of the complainants and Mr Sharad Shekhar, learned counsel of the respondent company are present.

Learned counsel of the complainants submitted that Rs 2.51 lakh each out of the consideration amount of Rs 12.00 lakh for Duplex Bungalow was deposited on 19/07/2016. After three years, on 06/11/2019 the respondent got RERA Registration Certificate but no construction has been done in the project even after five years of agreement. Therefore, they pray for refund of the principal amount with interest.

Learned counsel of the respondent company submitted that they have refunded Rs 50,000/- to both the complainants and ready to refund the remaining balance with interest.

The Authority suggested both the counsel to sit together and settle the matter amicably and if not satisfied they can come to RERA.

Put up on **21/10/2021**.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

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

**Case No.CC/584/2019, CC/5892019, CC/591/2019 & CC/727/2019**

**Saurabh Kumar/Chandra Vijay Singh/Sanjay Kumar/Madhuri  
Devi/Shailendra Kumar Sinha.....Complainants**

**Vs**

**M/s SD Construction Pvt Ltd.....Respondent**

**Project: Sri Ganesh Township Duplex Bunglow**

**Present: For Complainants: In person**

**For Respondent : None**

**26/07/2021**

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**10/08/2021**

**PROCEEDING**

Hearing taken up. The complainants are present. The respondent company is absent.

The complainants have submitted that they have deposited Rs 7.27 lakh each for Duplex Bunglow in 2016 but nothing has yet been done by the respondent company. They requested for refund of their principal amount with interest.

The Authority observed that the respondent company is not obeying the order of the Authority to refund the money and are absenting themselves on several hearings. Warrants should be issued against the Promoter under section 35 (2) of the Act and criminal case should also be filed by the complainants, if they so wish, as more than five years have passed. Three complainants bearing RERA/CC/589/2019, RERA/CC/590/2019 & RERA/CC/591/2019 have lodged F.I.R. against the respondent company.

Order reserved.

Nupur Banerjee  
Member

R.B. Sinha  
Member

Naveen Verma  
Chairman

