

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

**Case No. CC/885/2020, CC/886/2020, CC/899/2020, CC/900/2020,
CC/1066/2020, CC/1067/2020, CC/1195/2020, CC/1196/2020**

Raj Kumari/Chandradeo Ram/Kalindi Singh/Samarh
Priyadarshi/Priyatosh Kr/Kumar Rohit/Ajit Kr Suma/Madhuri Prasad
.....Complainant

Vs.

M/s Superb Buildtech Pvt. Ltd.....Respondent

Present: For Complainants: In person
Mr Saurabh Vishambhar, Adv
For Respondent: Mr Rakesh Roshan Singh, Adv

17/06/2021 PROCEEDING THROUGH VIDEO CONFERENCING

Hearing taken up through video conferencing mode. Complainants are present along with their learned counsel Mr Saurabh Vishambhar. Mr Rakesh Roshan Singh, learned counsel of the respondent company along with MD of the respondent company is also present.

Learned counsel of the complainants submitted that they have filed petitions under Section 12, 14, 17 and 18 of the RERA Act. The respondent company had advertised to provide specific facilities to the customers. The respondent collected huge money for providing flats to them. Though the building has been constructed but its pillars are weak which can collapse anytime and mishap may happen. The builder is asking Rs 5 lakh additional for garage and other facilities but in the brochure of the company, there was no mention of the liability of Rs 5 lakh of each allottee. . In support of his assertion regarding allotment of garage , he quoted the Double Bench judgment of the Hon'ble Supreme Court reported in AIR, 2010.

The inspection team of RERA which visited and inspected the project had collected photos of the building.

He further submitted that in the last hearing the respondent assured to file reply but they did not mention anything about the issues which we raised. The respondent is trying to divert the issue of garage. There are certain deficiencies in the building such as; lift is of inferior quality, pillar is very weak, sewerage has been covered with fiber, water tank is damaged, water pipe is leaking at many places and electric panels are not covered. He submitted these issues were explained to the RERA inspection team.

Learned counsel of the complainants further submitted that Section 14 of the RERA Act speaks about the sanctioned plan and lay out plans, which is an important aspect. He stated that the respondent company have made false claims in their rejoinder.

Mr Kalindi Singh, complainant reiterated the issue of structural defects and other deficiencies pointed out by the learned counsel.

Learned counsel of the respondent company submitted that the basic issue is that there are 52 flats and 68 garages and offered to give additional parking to the customers with whom they had entered into agreements. He submitted that they were ready to rectify the damages as complained. He stated that every flat owner has been allotted his garage and that for other garages, their allotment can be decided by the respondent company in consultation with landowners/allottees. Learned counsel of the respondent company assured that the boundary wall would be repaired.

The Bench observed that registration of flats with the customers does not mean that the building is complete. The Full Bench drew attention to Section 14 (3) of the RERA Act which makes it obligatory on the promoter to rectify the structural defects or deficiencies in any other services or facilities within a period of 5 years from the date of handing over of the project.

The Full Bench observed that the learned counsel for the complainants had submitted that they were seeking relief under sections

12, 14, 17 and 18 of RERA Act. As relief/compensation under the sections 12, 14, and 18 is to be adjudicated in the court of the learned Adjudicating Officer the issue of maintainability before the Authority was raised. The occupancy certificate and completion certificate are issued by the municipal authorities and the question of additional garages/ parking slots would need to be examined by them on the basis of the sanctioned plan. The merits of the case can be discussed after the issue of maintainability and specific relief sought from the Authority is settled, but the promoter is bound to fulfil the obligations cast upon him under the RERA Act. The issue of structural defects may be appropriately forwarded to the competent authority responsible for issuance of completion certificate and occupancy certificate, as mentioned in the RERA Act.

The learned counsel for the complainants submitted that action may be taken against the promoter for violation of Section 3 of the Act for non -registration of the project. Registration Wing, RERA is directed to examine this aspect, and issue notice to the promoter if indeed the project is not registered as per the provisions of the RERA Act.

The Bench directed the learned counsel of the respondent company to file written statement before the next date.

Put up on 01/07/2021.

Sd/-
Naveen Verma
Banerjee
Chairman

Sd/-
R B Sinha
Member

Sd/-
Nupur
Member