REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mrs. Nupur Banerjee, Member

Case No. RERA/CC/1211/2021

Pramod Kumar Sinha….....Complainant

Vs

M/s Krity Sagar Construction Pvt. Ltd. .....Respondent

Project: KIRTI RAMAN RESIDENCY

08/06/2023 **ORDER**

The matter was last heard on 08.09.2022 and was fixed for order on 28.10.2022, but the order couldn't be pronounced because of pre-occupation of the authority on the other matter for which the Authority couldn't pronounced on the date fixed.

The case of the complainant is that the complainant has booked a flat bearing flat no.- 405 "B" in the respondent project and accordingly paid total amount of rupees 4,81,000/-. Since the Agreement for Sale in respect to the booked flat has not been executed because of which the respondent has approach before the Authority with a prayer to direct a respondent to execute the Agreement for Sale. Further the complainant has also prayed for compensation on the ground of mental harassment and economic loss etc.

The Bench notes this matter has been taken before the conciliation forum where the respondent has appeared and submitted that the principal amount of rupees 4,81,000/- has been refunded to the complainant without making any deduction, however, two hearings held before the conciliation forum, the complainant has not appeared due to which conciliation failed and this matter has been transferred before the Authority.

Further, The Bench takes the note of last hearing dated 08.09.2022 where the complainant submitted that the complainant has booked the flat and accordingly paid the consideration amount but the respondent has not executed the Agreement for Sale in respect to the booked flat. The complainant has also placed on record certain mails where a communication in regard to the cancellation of booking has been intimated by the respondent.

The Bench observes that the respondent has not file any reply or affidavit as per the direction made during the last hearing, however, during the last hearing, learned counsel of the respondent submitted, since, the complainant has made part payment and has not paid further payment as

agreed due to which his booking has been cancelled and the amount paid has been refunded to the complainant.

The Bench takes the note of submission of both the parties and observes that though the respondent has submitted that because of part payment made by the complainant, the booking has been cancelled but respondent doesn't bring on record any document from which it appears that before the cancellation of booking any intimation asking for the amount due, as agreed has been made by the respondent to complainant. Moreover, the respondent also as per last direction not filed any affidavit stating that any third party has been created in respect to booked flat as submitted. In such a situation, the Bench finds that the cancellation made by the respondent of the complainant booked flat is not in accordance to the provisions of the Act and is a unilateral cancellation.

Since, the payment has been refunded to the complainant, the Bench in view that if the complainant wants to proceed with this flat they can by paying the amount as agreed, can proceed with the booked flat.

The respondent is further directed to execute the Agreement for Sale in favor of the complainant after he gives intimation to proceed and payment as per the last allotment.

As regard to the claim of compensation is concerned, complainant is at liberty to press before the A.O. as per the provisions of the Act.

With these observations and directions, this matter is disposed of.

Sd/-

Nupur Banerjee
Member