REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
Before the Single Bench of Mrs. Nupur Banerjee, Member

Case No: RERA/CC/1291/2021

Manish Kumar & Aradhana Kumari ...Complainants

Vs.

M/s Geetanjali Realtech Pvt. Ltd. ...Respondent

Project: Sudha Home Town

Present: For Complainant: Mr. Satyadeep Kumar Singh, Advocate

For Respondent: Mr. Mohit Raj, Advocate

18/08/2023 **ORDER**

This matter was last heard on 11.04.2023 and was fixed for orders on 08.06.2023. However, due to pre- occupation of the Bench in other matter, order could not be pronounced on the date fixed.

The complainant has filed a complaint petition against the respondent with a prayer to direct the respondent company and their Directors to hand over possession of the booked flat as soon as possible.

In short, the facts of the case are that the complainant booked a flat bearing Flat No. 305 Block-C in the said project on consideration of Rs.18,00,700/- for which an agreement was made between the parties on 17.10.2015. The complainant has paid Rs.2.20 lakh in lieu of the booked flat. According to the Agreement for Sale, the flat was to be handed over on or before December, 2020. It is stated that complainant no.1 enquired about the development regularly in 2018 but he found no development in construction. The respondent told him that by keeping his copy of registered agreement with him, a part of his money may be given back to him till the construction starts. Thereafter on 03.05.2018 the respondent has returned back the money of Rs.1.50 lakh to the complainant because the respondent has not started the construction. It is stated that on 12.12.2018 amount of further instalment was demanded by the respondent. On demand, the complainant enquired about the development of construction which still had not started. It is further stated that the construction work started in the year 2020 and thereafter the complainants offered payment to the respondent. In December, 2020 the complainant was told by the respondent that he needs to get his agreement cancelled. However, the complainant has enquired about the amount which he was supposed to pay and sent several mails to pay the due amount to the respondent. The respondent replied the mail but did not mention the amount which they were supposed to pay towards the performance of the contract Hence, this complaint.

The complainant has placed on record the copy of the Agreement for Sale dated 17.10.2015, the legal notice dated 18.11.2020 sent by the respondent company and the mails sent by the complainant with its reply by the respondent.

Perused the record. No reply has been filed by the respondent.

As per direction of the Bench, the complainants filed their written submissions in which they reiterated their submissions as made above. It is

also submitted that on 22.01.2021 the respondent filed a complaint against the complainants before the A.O. for cancellation of agreement, payment of compensation, interest etc. The complainants never had any intention of getting the agreement cancelled and have always been willing to complete their part of performance towards the agreement. Learned counsel further submitted that the complainants are willing to pay rest of the amount as per demand letter and legitimate interest in case of any delay on the part of the complainants. The respondent has not sent any demand letter to the complainants. The complainants want possession of their flat.

Learned counsel for the respondent submitted that all the submissions made by the complainants are vague. In 2015 the complainants made payment of Rs.2.20 lakh in lieu of booking of his flat. As per payment schedule, the complainants have not made the payment. The respondent has returned back Rs.1.50 lakh to the complainant. He submitted that the respondents filed a case before the A.O. for compensation against the complainant in 2020. The respondent has also sent a legal notice to the complainant but he has not replied. He further submitted that the respondent has cancelled his allotment of the flat. They are not willing to deliver him the flat at any cost. The Agreement for Sale has been made in 2015. Block-C is already complete and the allottees are residing there.

From the submissions made by both the parties and the documents available on record, it is clear that the agreement for the flat in question between the complainant and the respondent was made on 17.10.2015 and out of total consideration of Rs.18,00,700/- the complainant had paid Rs.2.20 lakh. Thereafter, after keeping the registered agreement with the respondent, an amount of Rs.1.50 lakh was transferred by the respondent in the account of the complainant. The complainant sent several mails to the respondent to know about the amount which he was supposed to pay, the respondent has replied the mail but did not mention the amount. It is the responsivity of the respondent to send a demand letter after they had restarted the construction work. It is also not clear that the flat, which was booked by the complainant, has been sold or not. From the own averment of the respondent, it is also clear that the Block-C is already complete and the allottees are residing there. Anyhow, the complainant wants possession of the flat for which he is ready to pay rest of the amount with interest thereon for the delayed payment. Therefore, the respondent is directed to send a demand letter for payment of remaining amount with interest accrued thereon and on payment of the said amount, the respondent is directed to hand over possession of the said flat, if not already sold, and return back the copy of registered deed which is with them, within a period of 60 days from the date of the order.

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

Sd/-
Nupur Banerjee
Member