REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of

Hon'ble Member Mr. S. D. Jha, RERA, Bihar,

RERA/CC/107/2023

Mrs. Meera Kumari ..... Complainant

Vs.

M/s Sarvodaya Marketing Pvt. Ltd. ..... Respondent

For the complainant: Mr. Puneet Sidhartha, Advocate

For the Respondent: Mr. Bhola Shankar, Advocate

Project: – SARVODAYA CITY

O R D E R

07.12.2023 This case was last heard and order was reserved on 04.12.2023. Mr. Puneet Sidhartha, Advocate, appeared and defended the case of the complainant while Mr. Mr. Bhola Shankar, Advocate, appeared and defended the case of the respondent. The order is being passed today 07.12.2023.

2 (i). Learned counsel for the complainant submitted that the complainant entered into an Agreement For Sale with the respondent on 9.4.2016 to purchase Flat no. C/1103 on 11th floor in Block - B of the project " Sarvodaya City situated at Mouza Adampur, P.S. Khagaul, District – Patna, on consideration amount of Rs.31,16,592/-, out of which she paid Rs.19,25,000/- vide multiple cheques from April 2011 to August, 2014, which finds mention in paragraph -6 of the Agreement as well as the written submission filed by the complainant's counsel on 4.10.2023. The flat was to be handed over within the specified time on or before December, 2018 with grace period of six months and in case of failure to hand over the possession within the stipulated period interest @ 12% per annum would be paid to the Vendee for the paid amount, with effect from 1st August, 2019, which finds mention in paragraph -8 of the Agreement. However, the respondent failed in handing over possession of the flat within the stipulated period of time. As a result, the complainant

cancelled her booking and requested for refund of money along with interest in July, 2019, upon which the respondent refunded Rs.7,00,000/- on different dates starting from 1.8.2021 to 29.7.2022, details of which are also mentioned in the written submission filed on 4.10.2023.

(ii) He also submitted that the complainant made several requests to the respondent to refund her entire money and also sent a cancellation letter dated 3rd September, 2023 giving reference therein to her verbal request made in the year, 2019 for cancellation and refund her money but the respondent has still been holding back her remaining amount of Rs.12,25,000/-. He further submitted that since the respondent failed in handing over the flat within the stipulated period of time, as mentioned in paragraph -8 of the Agreement For Sale dated 9.4.2016, the complainant is entitled to get the money refunded @ 12% interest on the paid amount from 1st August, 2019 as incorporated in paragraph -8 of the Agreement.

3. Learned counsel for the respondent submitted that in response to the cancellation letter dated 3rd September, 2023, the respondent also sent a letter dated 11.9.2023 to the complainant, wherein it was conveyed to the complainant that the respondent is not liable to pay any interest on the paid amount as the complainant has willingly cancelled her booking of the flat whereas the respondent is ready to hand over possession of the flat. He further submitted that the project is under construction and the Registration Certificate given to the project by RERA is valid upto 31st March, 2025. By filing counter reply on 05.12.2023, he reiterated his submission that the respondent is not liable to pay any interest as they are ready to handover possession of the flat. He has further stated therein that the complainant is herself at fault as she failed to comply with the terms and conditions of the Agreement dated 9.4.2016 with regard to payment of installments.

4. Perused the record. The Authority notes that the complainant entered into an Agreement For Sale with the respondent on 9.4.2016 to purchase Flat no. C/1103 on 11th floor in Block - B of the project " Sarvodaya City on consideration amount of Rs.31,16,592/-, out of which she paid Rs.19,25,000/- through multiple cheques from April 2011 to August, 2014, which finds mention in the Agreement For Sale as well as the written submission filed on 4.10.2023 by the complainant. The Authority further notes that the flat was to be handed over within the specified time on or before December, 2018 with grace period of six months but the respondent did not handover the same within the specified time, which compelled the complainant in cancelling the booking of the flat in the year, 2019. She, accordingly, requested the respondent to refund her entire amount, upon which the respondent refunded Rs.7,00,000/- only on different dates starting from 1.8.2021 to 29.7.2022, which finds mention in the written submission filed by the complainant on 4.10.2023. The remaining amount of Rs.12,25,000/- has still been held back by the respondent for no fault of the complainant.

5. The Authority observes that the respondent has failed in handing over possession of the flat to the respondent within the stipulated period of time as per paragraph -8 of the Agreement dated 9.4.2016, which has resulted in cancellation of booking by the complainant. Hence, the submission of the respondent that since the complainant had willingly cancelled her booking she is not entitled to get interest over the paid amount, cannot be considered favourably and, accordingly, the said submission is rejected. The Authority further observes that the complainant cannot be said to be a defaulter in making payment of installments as the respondent has not brought any paper including demand notice to prove that the complainant was a defaulter in making payment of installments and, therefore, the submission

made on this count is also rejected. The Authority also observes that the complainant is entitled to get interest on the paid amount with effect from 1st August, 2019 which finds mention in paragraph -8 of the Agreement For Sale till the payment of the entire amount.

6. Accordingly, the Authority directs the respondent – company and its Director Mr. Devendra Narayan Singh to make payment of remaining amount of Rs.12,25,000/- along with interest within sixty days of issue of this order. The rate of interest payable by the promoter shall be at two percent above the prevalent Prime Lending Rates of the State Bank of India on the date on which the amount became due i.e. August, 2019 till the date of payment.

With the aforesaid observations and direction this case is disposed of.

Sd/-
S.D. Jha,
Member