

JHARKHAND REAL ESTATE REGULATORY AUTHORITY

Complaint Case No. 19 of 2021

Chandra Kant Gopalka,
S/o Shyam Sundar Gopalka,
O/o 5/2, GEL Church Complex,
Main Road, P.S. Lower Bazar,
Dist.- Ranchi

--- Complainant

-VERSUS-

1. Pato Infrastructure Ltd.
2. Mukesh Kumar, C/o Sri Suresh Prasad
3. Sunita Devi, C/o Mukesh Kumar
4. Champa Devi, C/o Mukesh Kumar

Address of all Noticees- 5th Floor,
Umesh Tower, Opp. AIADA Bhawan,
Adityapur, Jamshedpur- 831 013

--- Respondents

Dated Ranchi the 09th Day of March, 2023

Complainant Represented through

--- Self

Respondents represented through

---A.K. Rashidi,
Ld. Advocate

**Coram: Hon'ble Chairman Shri Ranjeet Kumar Choudhary
Hon'ble Member Shri Birendra Bhushan**

JUDGMENT

1. The instant case has been brought by the Complainant Chandra Kant Gopalka against the Respondents with a prayer to direct the Respondents, to complete the flat booked by him in the year 2013 and deliver its possession to him. It is further said that Respondent has not registered his project with Jharkhand Real Estate Regulatory Authority (JHARERA).

2. According to the Complaint Petition, it is the case of the Complainant on 12.11.2013, he had entered into agreement for sale with Respondent No. 1 for purchase of Flat No. 406 on 4th Floor with one car parking in the project of the Respondents namely "**M.P. Heritage**" situated at Barganwa, Namkum, Ranchi on consideration amount of Rs. 19,67,000/- (Nineteen lakhs and sixty-seven thousand only) including service tax and other charges like electricity charge, D.G. Set Charge, Registration Charge etc. Out of this consideration amount Rs. 9,00,000/- (Nine lakhs) only was paid by the Complainant through cheques on different dates which are incorporated in agreement for sale. Within 24 months from the date of the agreement, possession of the flat was to be

given to the Complainant but still now flat of the Complainant is not complete and its possession was not given to him. It is further said that project of the Respondent is not registered with JHARERA. Hence it is prayed that Respondent may be directed to give possession of the flat to the Complainant within stipulated period and compensate him for the delay cause in handing over the flat to him.

3. On being noticed and after paper publication on 03.03.2022, Ld. Counsel for the Respondent appeared before the Authority by filing power (Vakalatnama) but thereafter stopped taking step again on 24.08.2022, Ld. Counsel for the Respondents appeared and on that very date, copy of the Complaint Petition was supplied to him. Thereafter, no step was taken on behalf of the Respondent. Vide the Order dated 09.11.2022, Respondent was debarred from filing Written Statement and the case virtually proceeded in their absence.

4. The only point out of this case for determination is whether the Complainant is entitled for reliefs as claimed for ?

FINDINGS

5. Complainant Chandra Kant Gopalka himself argued his case, he has submitted that in the facts and circumstances of the case, Respondents may be directed to complete the flat of the Complainant and hand over its possession to him. He has further submitted that heavy cost should be

imposed upon the Respondents for not registering the project with JHARERA. It is his further submission that due to inordinate delay in completion of the flat, suitable compensation may be given to him.

6. As stated above nobody appeared before the Authority to rebut or dispute the case and claim of the Complainant. Hence, we are force to dispose of this case on the contention made by the Complainant and on the basis of the materials available on the case record.

7. First of all we would like to confirm whether the project of the Respondents is registered with JHARERE or not ? When the list of registered projects was searched, it was found that project of the Respondents is not registered with JHARERA. So, this submission of the Complainant is correct that project of the Respondents is not registered with JHARERA.

8. Perusal of the agreement for sale indicates that on 12.11.2013 agreement for sale was executed between the parties and confirming parties Jagdish Singh by which Complainant was agreed to purchase Flat No. 406 on 4th Floor with one car parking in the project "M.P. Heritage" belonging to the Respondents on consideration amount of Rs. 19,67,000/- (Nineteen lakhs and sixty-seven thousand) only. Within 24 months from the date of agreement Respondents were supposed to handover the possession of the flat to the Complainant. It means that by 11.11.2015 Complainant was

supposed to take possession of the flat but still flat is not handed over to him by the Respondents. Perusal of agreement for sale indicates that on three dated through cheques payment of Rs. 5,00,000/-, 2,00,000/- & 2,00,000/- was made to the Respondents and in this agreement for sale this fact is very much incorporated. So, there is not dispute that Respondents have received altogether Rs. 9,00,000/- (Nine lakhs) only from the Complainant out of total consideration amount of Rs. 19,67,000/- (Nineteen lakhs and sixty-seven thousand) only. Last payment has been made on 12.08.2014. Respondents have not appeared before the Court to deny the factum of payment made by the Complainant. No doubt Complainant has not received the possession of the flat till date. No reasons have been assigned by the Respondents regarding inordinate delay in the construction of the flat.

CONCLUSION

9. In the circumstances we feel that case brought by the Complainant has merit. Respondents are hereby directed to complete the flat of the Complainant within 4 months from the date of this Order and handover its possession to him and thereafter get its registered in his name after registering the project with JHARERA. In the agreement for sale it is not mentioned how much interest, Respondents will pay, if any delay is caused in completing the project. But we feel that Complainant is very much

entitle to receive interest @ Rs. 2% more MCLR Rate of Nationalized Bank. On the amount which he has paid to the Respondents. The interest will run from 12.08.2014 till the handing over the flat to the Complainant.

10. It is thereby

ORDERED

11. that (a) Respondents were registered their project with JHARERA within 3 months from the date of this Order. A penalty of Rs. 6,00,000/- (Six lakhs) only is imposed upon the Respondents u/s 59(1) of the Real Estate (Regulation & Development) Act.

(b) Respondents will complete the flat of the Complainant within 4 months from the date of the Order.

Member,
JHARERA, Ranchi

Chairman,
JHARERA, Ranchi