

JHARKHAND REAL ESTATE REGULATORY AUTHORITY

Complaint Case No. 58 of 2019

Vijay Kumar Gupta,
302, Bhagwati Sai Enclave,
Puran Vihar, Argora,
Ranchi, Pin- 834 002

--- Complainant

-VERSUS-

M/s Bhagwati Developers Infra Pvt. Ltd.,
Proprietor- Sri Navin Kumar Jha,
Bhagwati Sai Enclave, Puran Vihar,
Argora, Ranchi- 834 002.

--- Respondent

Dated Ranchi the 23th Day of February, 2023

Complainant Represented through

--- Self

Respondent represented through

--- Vikramaditya Roy, Ld. Advocate
---Siddharth Jain, Ld. Advocate

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

JUDGMENT

1. The instant case has been filed by the Complainant Vijay Kumar Gupta against the Respondent Bhagwati Developers & Infra Pvt. Ltd. Represented through its proprietor Navin Kumar Jha with reliefs that Respondent may be directed to provide lift and generator in the apartment namely “**Bhagwati Orchid**”, prepare parking floor and provide electrical connection for the lift.

2. In short, it is the case of the Complainant that he had booked Flat No. 301 in the project Bhagwati Orchid, Anand Vihar, Booty More, Ranchi and in this regard agreement for sale was executed on 23.02.2011 between the parties. Complainant made full and final payment of the aforesaid flat. Thereafter Respondent postponed the matter of registration for a long time but finally after much persuasion, on 31.11.2016 sale deed was executed by the Respondent in favour of the Complainant with regard to aforesaid flat. Prior to that on 30.07.2015 possession certificate of the flat in question was given to the Complainant by the Respondent. It is said that Respondent has not provided lift and generator in the apartment and parking floor has not been constructed. Hence it has been prayed that Respondent may be directed to provide lift and generator in the apartment and prepare parking floor and also take electrical connection for lift.

3. On being noticed Respondent appeared before this Authority and filed Show Cause dated 25.07.2019 and another Show Cause dated 02.09.2021 contesting the case and claim of the Complainant. As per Show Cause filed by the Respondent, it is admitted that Complainant booked Flat No. 301 in the project of the Respondent and the cost of the flat was Rs. 9,65,875/- (Nine lakhs sixty five thousand eight hundred and seventy five) only. Complainant was not making payment to the Respondent as per terms

and conditions of the agreement for sale. However payment was made and flat was handed over to the Complainant on 30.07.2015 and possession certificate was issued. Subsequently on 31.12.2016 registered deed of sale was executed by the Respondent in favour of the Complainant with respect to flat in question. Complainant after being satisfied with the work has issued letter dated 20.12.2016 with respect to some incomplete works. It is submitted that Complainant having knowledge and information of real facts wrongly sent letter dated 20.12.2016. It is said that four flat owners have not cleared their contribution which comes to Rs. 4,50,000/- (Four lakhs and fifty thousand) only. It is further said that even after taking possession of the flat, the Complainant and other flat owners did not take electrical connection and till January, 2017 Respondent made payment of electrical bill. The total amount paid by the Respondent after handing over the possession of the flats comes to Rs. 1,76,000/- (One lakh and seventy six thousand) only which includes the bill of the Complainant also. Respondent repeatedly approached flat owners for payment of Rs. 4,50,000/- (dues of four flat owners) and Rs. 1,76,000/- (electrical bill paid by the Respondent) but they are not doing so. It is said that lift has already been installed in the apartment and the advance payment for the generator set has already been done. So far as parking is concerned, it has been allotted to the flat owners including the Complainant. It is also said that in order to harass the Respondent, Complainant filed Criminal Case against him in Argora Police Station and he has not made payment of registration charges amounting to Rs. 1,25,000/- (One lakh and twenty five thousand) only. Hence it has been prayed to dismiss the case.

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

FINDINGS

5. Complainant himself argued his case while Ld. Counsel Sri Vikramaditya Roy argued the case on behalf of the Respondent. Complainant submitted that Respondent has not installed generator in the apartment. He has further submitted that after direction of the Court parking number has been displayed in the parking area but no flat owner has been formally allotted the parking space. He has also submitted that lift has been installed but it is non-functional in want of electrical connection and non-installation of generator. Hence, he has prayed that necessary direction may be given to the Respondent for removing these defects.

6. The Ld. Counsel appearing for the Respondent submitted that case brought by the Complainant is not maintainable before Jharkhand Real Estate Regulatory Authority (JHARERA) in view of the notification of the Urban Development and Housing Department vide Number **File No.- 06/TCPO (Vivid)/09/2016-Navi 2256 Ranchi, Date 15.09.2020** as because project of the Respondent was completed way back in the year 2012 and all the allottees were given possession in that year. The Ld. Counsel has drawn my attention towards Complaint Petition in support of his arguments and has submitted that in Para- 4 of the Complaint Petition, it is written that since 2012 parking, lift and generator have not been provided. He has further submitted that lift is very much installed in the apartment and it is in running condition. Parking space have also been allotted to allottees and recently on the direction of the Authority, fresh parking number have been given to each parking place. So far as generator facility is concerned, Complainant has already given order for installation of generator in the apartment to a company namely D.G. Electrodyne and Rs. 50,000/- (Fifty thousand) only advance has already been given to the company against total consideration amount of the generator set amounting to Rs. 3,02,000/- (Three lakhs and two thousand) only. In this regard, xerox

copy of debit voucher and purchase order have been filed which are on the record. The Ld. Counsel submitted that after handing over the project to the allottees, the residents of the society took illegal connection from the meter of the Respondent without his knowledge and Respondent could know about this fact when notice was issued to him in G.R. Case No. 849/2015 filed by Electricity Board against him. Respondent was forced to deposit Rs. 50,317 (Fifty thousand three hundred and seventeen) only, Rs. 61,000/- (Sixty one thousand) only and Rs. 20,000/- (Twenty thousand) only in order to compound this case. Thereafter he had to pay another Rs. 11,338/- (Eleven thousand three hundred and thirty eight) only against the electrical charges of this old meter which was wrongly used by the resident of the society. Respondent on 05.06.2017 wrote a letter to Assistant Engineer, Jharkhand Bijli Vitran Nigam Ltd. ventilating his grievances that how electrical bill came in his name when its connection was cut in the year 2015. Respondent is entitled to receive this amount from the residents of the society and this is the reason generator has not been installed despite payment of advance money to the agency. Hence, he has prayed that the instant case brought by the Complainant may kindly be dismissed.

7. Perused the case record and the documents filed by the parties. Also considered the arguments adduced on behalf of both the parties. Certainly in the present case reliefs of parking, lift and generator have been sought. During hearing of the case, Respondent was directed to put parking number in the parking place and he did so. Residents of the society are parking their vehicle in the parking space. Complainant submitted that no formal parking allotment letter have been issued to the residents. In such situation Respondent is directed to give formal parking allotment letter to the Complainant of the parking space which has been allotted to him.

8. Lift facility is already there in the apartment. If it is not functional, it is duty of the residents to get it functional. Developer is not supposed to maintain the lift forever.

9. So far as generator facility in the society is concerned, perusal of the documents filed by the Respondent indicates that he had taken step for installation of the generator in the society for which he had made advance payment of Rs. 50,000/- to the supplier of the generator namely D.G. Electrodyne. Xerox copy of purchase order dated 21.07.2015 is also on the record. Perusal of xerox copy of letter dated 05.06.2017 written by the Complainant to Assistant Engineer, Jharkhand Bijli Vitran Nigam Ltd. and xerox copy of legal notice, money receipts and order sheet of G.R. Case No. 849/2015 indicates that Respondent had taken an electrical connection for construction work in his project and after completion of the work he had requested the department to cut the connection in the month of March, 2015 but this meter remained operational and residents of the society consumed electricity from this meter and no payment of meter bill was made and then Electricity Department filed G.R. Case No. 849/2015 against the Respondent and in order to compound the case and get it disposed of, he had to pay Rs. 1,21,000/- (One lakh and twenty one thousand) only and subsequently also he paid Rs. 11,338/- (Eleven thousand three hundred and thirty eight) only as energy charge of this electrical connection. Respondent is claiming this amount from residents of the society and due to this reason he is avoiding to install generator set in the apartment. The facility of the generator is a common facility of all the residents of the society and obviously if they want generator set, they are supposed to repay the amount to the Respondent which he had to incur when criminal case was filed against him.

10. In my view, Complainant should be advice and impress upon the residents of the society to compensate the Respondent against the electrical

charges made by him of the electrical connection which were used by the residents. Thereafter Respondent is directed to install generator set in the apartment which is very much essential for any apartment.

CONCLUSION

11. In the circumstances we come to this conclusion that all the reliefs sought by the Complainant cannot be given to him. Respondent is hereby directed to give formal allotment letter of the parking space to the Complainant within one month from the date of this Order. Complainant is directed to take necessary step to compensate the Respondent of the expenses incurred by him while pursuing G.R. Case No. 849/2015 and thereafter within 3 months from the date of the settlement, Respondent will provide the generator set in the apartment.

12. As such the present Complaint Case partly succeeds on contest.

(Birendra Bhushan),
Member,
JHARERA, Ranchi

(Ranjeet Kumar Choudhary),
Chairman,
JHARERA, Ranchi