

Ranchi

Before Adjudicating Officer

Jharkhand Real Estate Regulatory Authority, Ranchi

Present ----- Ranjeet Kumar Choudhary

Dated 24th day of June, 2020

Complaint Case No.- 100/2019

Mr. Gautam Rajgariah,

S/o Sri Vijay Kr. Rajgariah,

At – 55, Circular Road, Lalpur, Ranchi

--- Complainant

VERSUS

M/s Rebloon Impex,

Builder & Developer A partnership Firm

Partners

1 Dharmendra Kumar Dhiraj, S/o- Sri Bishwanath Kumar

Add- Flat no- 503, Jascon Plaza, 44/C, Circular Road, P.O. + P.S.-

Lalpur, Ranchi

2. Rajesh Kumar Sinha, S/o- Kameshwar Sinha

44 C, Jascon Plaza, Circular Road, P.O + P.S- Lalpur, Ranchi

3. Shashikant Singh, S/o- Nikhilesh Kumar Singh

605 C, Nandan Niketan, Bishnu Puri Marg, Burdwan Compound,
Ranchi

--- Respondents

Complainant Represented through

--- Sri Jitendra Kumar,
Ld. Advocate

Respondents No. 1 to 3 represented through

--- Sri Siddharth Jain,
Ld. Advocate

ORDER

1. The instant complaint has been brought by the complainant Gautam Rajgariah against the respondents Dharmendra Kumar Dhiraj, Shashi Kant Singh and Rajesh Kumar Sinha (Builders) with reliefs that builders may be directed to make a payment of Rs. 1,24,000/- to the Complainant along with interest which he has invested in making floor and opening door of his flat and also pay Rs. 5,00,000/- as compensation and Rs. 1,00,000/- litigation charge and give possession of the flat to him and get its registry done.

2. As per the complaint petition, it is the case of the complainant that he had made an agreement with M/s Rebloon Impex on 01.07.2008 to buy Flat No. 03, Floor No. 8, Block- B having super built up area of 1191 sq. ft., in Basudeo Residency, Phase – I , situated at Lalpur, Ranchi. According to agreement for sale, the price of the flat was Rs.

8,63,700/- in which Complainant made payment of Rs. 11,000/- as advance. Total payment of Rs. 4,86,000/- has been made to the builders against the total consideration amount. Even after lapse of 11 years from the date of the agreement, flat is not fully complete. Flooring and wiring have not been done, lift is also not operational. Bathroom is also not complete. On the advice of builders, Complainant spent Rs. 1,24,000/- for making bathroom and installing door. Against this amount builders issued a cheque but the cheque was dishonoured as there was no money in the account of the builders. Hence it has been prayed that Respondents/Builders may be directed to pay Rs. 1,24,000/- with interest to the Complainant which he had invested in doing floor work and door work of the flat. A compensation of Rs. 5,00,000/- has been demanded by the Complainant along with litigation cost of Rs. 1,00,000/-. It has further been prayed that Respondents/Builders may be directed to give possession of the flat to the Complainant as quickly as possible and get its registry done.

3. On being noticed through speed post, Respondents did not appear physically in this case and the speed post notice was not received back in this authority unserved. On 18.09.2019 Respondents were present in this court in connection with other case and they were informed regarding this case and they assured that they will formally appear in this case but they did not. On 16.10.2019 lawyer on behalf of the Respondents appeared before this court and sought adjournment for filing power (vakalatnama). Adjournment was given and power was filed but thereafter neither Respondents nor their lawyer appeared and

as such vide order dated 27.11.2019 case record was fixed for hearing debarring Respondents from filing written statement.

4. The point for determination arising out of this case that whether the complainants are entitled for reliefs as claimed for.?

FINDINGS

5. The learned Counsel appearing on behalf of the Complainant has submitted that by filing allotment letter and agreement for sale dated 01.07.2008 entered between the parties, Complainant has been able to establish that he had booked Flat No. 03, Floor No. 8, Block –B in the Rebloon Impex Project in which the Respondents are partners. He has further argued that by filing Xerox copy of money receipts issued by the Respondents have been able to establish that out of total consideration amount of Rs. 8,63,700/-, Complainant has made payment of Rs. 5,86,000/-. He has further argued that when the case was filed the Complainant was not having money receipt dated 08.08.2016 by which he made payment of another 1,00,000/- to the builders and as such this fact was not incorporated in the Complaint petition. He has further submitted that actually Complainant and his family members booked four flats in this project and on the advice of as well as consent with the builders, Complainant had invested Rs. 1,24,000/- approx. in all flats for doing flooring of the bathroom and also setting doors in the flat. Against this expense Respondents issued self cheque vide cheque no. 111011 of Rs. 5,50,000/- of the account of the project situated at State Bank of India, RMC Campus, Bariatu and

this cheque was not encashed as there was no money in the account. Xerox copy of the cheque has been filed by the Complainant. Hence he has prayed that the Complaint case brought by the Complainant may be allowed and the reliefs sought by him may be given to him.

6. As discussed above Respondents never physically appeared in this case and no written statement has been filed by them, hence question of argument on their behalf does not arise.

7. Perused the case record and the documents filed by the Complainant. Perusal of allotment letter dated 01.07.2008 and agreement for sale dated 01.07.2008 clearly indicate that Complainant had booked Flat No. 03, Floor No. 8, Block – B in the project of the Respondents. Perusal of money receipts issued by the Respondents indicate that they have received Rs. 5,86,000/- from the Complainant against the sale of this flat to him out of total consideration amount of Rs. 8,63,700/-. Perusal of money receipts indicate that last payment made by the Complainant on 08.08.2016. The flat was booked by the Complainant way back in the year 2008 and even today the flat is not complete. Perusal of xerox copies of order sheet of Lalpur P.S. Case No. 429/2018 pending in the court of Judicial Magistrate, 1st Class, Ranchi indicate that on behalf of the Complainant and other this case was filed against Respondents and they were allowed Anticipatory Bail in this case. Perusal of Xerox copy of pleaders notice dated 15.01.2019 indicates that Respondents/Builders have terminated the agreement for sale made between them and the Complainant and Complainant was requested to receive amount of Rs. 5,64,571/- from them. Perusal of

reply to the pleaders notice dated 07.03.2019 issued by the lawyer of the Complainant indicates that Complainant has claimed Rs. 10,10,266/- along with interest from the Respondents and he also sought compensation of Rs. 4,00,000/-. As such, it is well established that the agreement for sale entered between the parties regarding purchase of flat in the project of the Respondents has been cancelled by them and Complainant has also not protested against this cancellation. So I feel that this court has no authority to restore the agreement for sale reached between the parties regarding the purchase of the flat. In my view, Respondents cannot be directed to give possession of the booked flat to the Complainant. But certainly the Complainant is entitled for compensation as well refund of the money which he has invested towards the purchase of the flat.

8. From perusal of money receipts it is establish that Complainant has made payment of Rs. 5,86,000/- to the Respondents right from 2008 till 08.08.2016. So certainly this amount is lying with the Respondents. Complainant has claimed Rs. 1,24,266/- from the Respondents which he had invested in the flat which the Respondents have assured to reimburse. In this regard Complainant has filed xerox copy of self cheque issued by the Respondents of Rs. 5,50,000. Original cheque was also produced before the court and as per submission the cheque was not honoured due to lack of money in the account of the Respondents. I do feel that there was no occasion for the Respondents to give signed self cheque to the Complainant and certainly this cheque has not been honoured by the bank. Hence in my

view the claim of the Complainant is convincing that he has invested Rs. 1,24,000/- in the flat for doing some internal works and he is entitled to get back this money from this Respondents. So the total amount which the Respondents are liable to refund the Complainant comes to Rs. 5,86,000 + Rs. 1,24,000/- = Rs. 7,10,000/-. Certainly the Respondents are sitting over this money for more than four years. It is also a fact that the price of the flat has enhanced many times from the price which was in the year 2008. In my view Complainant is also entitled for compensation from the Respondents.

ORDER

9. It is hereby

Ordered

That the Respondents will refund Rs. 7,10,000/- to the Complainant along with 10.25 % interest on this amount from the date of last payment made by the Complainant i.e. 08.08.2016 till the final payment made by them. They are directed to refund the money within two months from the date of this order.

10. It is also ordered that Respondents will pay Rs. 4,00,000/- to the Complainant as compensation and Rs. 30,000/- as litigation cost.

Dictated & Corrected
by me

Ranjeet Kumar Choudhary
Adjudicating Officer
JHARERA

Adjudicating Officer
JHARERA