

Ranchi

Before Adjudicating Officer

Jharkhand Real Estate Regulatory Authority, Jharkhand, Ranchi

Present ----- Ranjeet Kumar Choudhary

Dated 25th Day of August, 2021

Complaint Case No. 05/2020

Sudhakar Prasad, S/O- Ramchandra Prasad

Qtr. No- 4 D-Type, V.N. Colony, Sonempure Bazari Project Area,
Bahadurpur, p.o Batula Dist.- Burdman, West, West Bengal.

Present Address- Gudri Bazaar, P.O. Dalsingsarai, Dist.- Samastipur
(Bihar).

--- Complainant

VERSUS

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, Flat No. 902, Block- A,
Basudev Nagar, Lah Kothi, Kantatoli, Ranchi.

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

501, Jascon Plaza, 44/C, Circular Road, P.o+P.s- Lalpur, Ranchi

--- Respondents/Builder

Complainant Represented through --- Self
Respondent represented through ---None

ORDER

1. The instant case has been brought by the Complainant Sudhakar Prasad u/s 31 of the Real Estate (Regulation and Development) Act, 2016 against Dharmendra Kumar Dhiraj, Shashikant Singh and Rajesh Kumar Sinha ,who are partners of Rebloon Impex ,with reliefs that direction may be given to the builders to complete internal pending work of the flat and hand over the same to the Complainant within one month and fix time line for completion of other pending work. This relief has also been sought to direct the Respondents/Builder to execute sale deed of the Flat after receiving balance consideration amount from the Complainant and penalty may be imposed upon the Respondents/Builder for causing inordinate delay in completing the project.

2. According to Complaint Petition, it is the case of the Complainant that he booked a residential Flat bearing no-01, 5th floor in Block-E having a super built up area of 1441 sq. ft. in the project of the Respondents/builder .no 1 to 3 namely Basudev Regency at Basudev Nagar, Kantatoli, Ranchi. Project was approved by RRDA in the year 2005 vide B.C No. 255/2005 dated 31.12.2005. Several efforts were made by the Complainant for signing of the sale agreement but he could not succeed. Complainant received a provisional allotment letter dated 15.11.2006 from the Respondents/Builder which is enclosed as Annexure- 'A' with the Complaint Petition. The price of the flat is Rs. 18,52,906/- (Eighteen Lakhs, fifty two thousand, nine hundred and six) inclusive of flat cost, garage cost, JSEB Connection charge, generator and lift charge, maintenance deposit, infrastructure development etc. Complainant has

already paid Rs 13,50,000/-(Thirteen Lakhs, fifty thousand) to the Respondents/Builder and he is ready to pay balance amount proportionate to the completed work. Superstructure is completed but brick work is half completed. Internal work has not been completed as yet. Some of the common work like internal road, play area, car parking, sewerage, Drainage, Water harvesting etc are pending. Hence it has been prayed that direction be given to the builder to complete internal pending work and hand over the same to him within reasonable period. Hence it has been prayed Respondents/Builder may be directed to complete the entire construction and other work of the flat of the5 Complainant and hand over the same to him within a stipulated period and they may further be directed to execute sale deed with respect to flat in question after receiving balance consideration amount and Respondents/Builder may be penalized for not completing the projects within the time frame fixed.

3. On being noticed Respondents/Builder did not appear. Perusal of case records shows that this court issued notice to the Respondents/Builder through speed post on 27.02.2020 and the envelope containing the notice did not receive in this office unserved. Presumption can be drawn that notices were duly served upon the Respondents/Builder. After that paper publication was made in the local daily news paper 'Dainik Jagaran' dated 14.01.2021, despite that they did not appear. Ultimately vide the order dated 10.03.2001, the case record was fixed for ex-parte hearing.

4. The point of determination is whether the Complainant is entitled for reliefs as claimed for.

FINDINGS

5. Complainant himself argued this case. He has submitted that it is an admitted fact that he had booked a flat vide flat no-01, 5th floor in Block-E in the Basudev Regency project of the Respondents/Builder and he has paid Rs. 13,50,000/- towards purchase of this flat. The flat was booked in the year 2006 and still the flat has not been handed over to him. He has further argued that despite several efforts made by him, Respondents/Builder did not execute agreement for sale but they issued allotment letter (Provisional) dated 15.11.2006 acknowledging the allotment of the flat to him (Complainant). Several works in the flat as well as project are pending. He has drawn my attention towards allotment letter dated 15.11.2006 which indicates that aforesaid flat was allotted to him and total consideration amount including different charges was Rs. 18,52,906/- (Eighteen Lakhs, fifty two thousand nine hundred six). Complainant has drawn my attention towards Xerox copies of money receipts issued by Reblon Impex acknowledging the receipt of money from the Complainant on different dates and has argued that total Rs. 13,50,000/- has been paid by him to the Respondents/Builder against the purchase of flat in question. He has further submitted that superstructure of the building is complete but brick work is not complete and internal plaster of the flat is also incomplete. Internal road, garden, street light, lift, water tank, water harvesting system, generator facility etc. are also pending. Hence he has prayed that Respondents/Builder may be directed to fully complete his flat and also complete the pending common work of the project and handover the same to him after receiving balance consideration amount within a stipulated period. Relief of Registration of the flat in his name has also been sought and prayer has been made to

impose penalty upon the Respondents/Builder for causing inordinate delay in completing the project.

6. Perused the case record. The present case is being heard ex-parte against the Respondents/Builder and obviously they have not put forward any defense or Counter claim against the case of the Complainant.

7. Perused the original allotment letter dated 15.11.2006 issued by the Respondents/Builder (Xerox copy of this letter is Annexure- 'A'). It is true that no agreement for sale has been executed between the parties but perusal of allotment letter indicates that Respondents/Builder had agreed to sale Flat No. 1, 5th Floor, Block- E having super built up area of 1441 sq. ft. to the complainant in their project namely Basudev Regency. Complainant has filed Xerox copy of draft agreement for sale which convince me that deliberately Respondents/Builder did not execute any agreement for sale in his favour . Perusal of different Xerox copy of money receipts indicates that Rs. 13,50,000/- has been paid by the Complainant to the Respondents/Builder against the purchased of the flat out of total consideration amount of Rs. 18,52,906/- inclusive different miscellaneous charges like generator and lift charges, garage cost, legal fee etc. This allotment letter (Provisional) has been issued on 15.11.2006 and on 20.10.2013 last payment has been made by the Complainant towards consideration amount for purchase of flat but till date he has not received possession of the flat. Complainant is ready to pay the balance consideration amount when the remaining work of flat and remaining work of common area is complete and common facility is provided. Really inordinate delay has been caused by the Respondents/Builder in completing the project. Complainant is deprived of from the possession of

the flat he had booked in Rebloon Impex despite payment of almost two third amount of consideration money.

8. In course of hearing of this case, this fact come into light that project of the Respondents/Builder is not registered with RERA. I find that direction has been given to the Respondents/Builder to do the same but they failed to do so.

CONCLUSION

14. In the circumstances, I come to this conclusion that Respondents/Builder/builder have committed wrong by not giving possession of the flat to the Complainant despite receipt of major portion of the consideration amount from the Complainant. Further I find that Respondents/Builder have not provided basic amenities in the project in which Complainant has purchased a flat and inordinate delay has been caused in handing over the flat to the Complainant.

It is thereby

ORDERED

That (a) The Respondents/Builder are directed to get the project registered with JHARERA (along with late fine as applicable) within a period of two weeks after this order. It is further directed that the Respondents/Builder shall not sell, book, offer for sale or invite persons to purchase any flat in the project Basudeo Regency until the project is registered with JHARERA.

(b) On account of violation of section 3(1) of the Real Estate (Regulation and Development) Act, the (Respondents/Builder) shall pay a

fine of Rs. 5,00,000/- (Rs. Five lakhs only) in terms of section 59(1) and 59(2) for continued violation of section 3 of the Act.

(c) Respondents/Builder are further directed to hand over the flat in question to the Complainant within two months of this order after completing remaining internal work. Thereafter they will execute a sale deed in favour of the Complainant after receiving balance amount from him when the project is registered with JHARERA. As soon as basic facilities and amenities are provided by the Respondents/Builder, proportionate remaining amount will be paid by the Complainant.

(d) Respondents/Builder are further directed to give Rs 30,000/- to the Complainant as litigation cost.

(e) Respondents/Builder are further directed to give Rs 1,00,000/- to the Complainant for sitting over the consideration money of the and not completing and handing over the flat to her by way of compensation.

(f) The cost and penalty amount will be deposited by the Respondents/Builder within 60 days of this order failing which they will be liable to pay compound interest on these amounts @ 9% per annum till the deposit of the amount.

Dictated& Corrected
By me

Ranjeet Kumar Choudhary
Adjudicating Officer
JHARERA

Adjudicating Officer
JHARERA