

Ranchi

Before Adjudicating Officer

Jharkhand Real Estate Regulatory Authority, Jharkhand, Ranchi

Present ----- Ranjeet Kumar Choudhary

Dated 08th Day of December, 2021

Complaint Case No. 38/2020

Reba Devi W/o Amresh Singh Babu,

Village- Adardih, P.O.- Ichadih,

District- Seraikella Kharsawan,

Jharkhand- 832 403

--- Complainant

VERSUS

Ashwini Kumar,

At- Didli Basti, Near- Ashok Nagar,

Adityapur, Seraikella Kharsawan,

Pin- 831 013 (Jharkhand)

--- Respondent

Complainant Represented through

--- Self

ORDER

1. The instant case has been brought by the Complainant Reba Devi against the Respondent Ashwini Kumar with reliefs regarding handing over of physical possession of the flat to the Complainant by the Respondent and also registration of the flat in her favour

2. According to Complaint Petition, it is the case of the Complainant that on 29.04.2017 the Complainant paid Rs. 1,00,000/- as advance to the Respondent for purchase of flat which was being built vide Adityapur, Nagar Nigam Building Permit No. 502 dated 21.05.2014. On 22.05.2017 Complainant paid Rs. 20% of the consideration amount to the builder. Thereafter she applied for loan but due to non furnishing of relevant papers by the builder, the bank returned the home application. Thereafter, Respondent got the loan sanctioned for the complainant from another bank by depositing relevant papers there. On 23.08.2018, bank disbursed Rs. 8,00,000/- to the account of builder and against this amount the Complainant is paying EMI to the bank. Complainant is still residing in a rented house. Bank is issuing notices to the Complainant for depositing sale deed of the flat but still the registration of the flat in her favour has not been done. As per agreement no work is being done by the builder and he is mentally torturing her. Thereafter Complainant sent Pleader's Notice to the builder but he did not reply. Hence this case. It has been prayed that Respondent may be directed to give possession of the flat to the Complainant as soon as possible and get it's registration done in her favour. Several documents have

been annexed with Complaint Petition such as xerox copy of the money receipts, order of the Nagar Nigam of Adityapur, copy of the Pleader's Notice, documents relating to loan account, copy of the sale agreement etc.

3. On being noticed, the Respondent did not appear in this case. Notice through speed post was sent to the Respondent which was returned to the office unserved. Thereafter paper publication was made in the local edition of Jamshedpur in daily newspaper "Prabhat Khabar on 19.03.2021" but despite that he did not appear and as such vide the order dated 25.10.2021 the case was heard ex parte against him.

4. The only point arising out of this case for determination is whether the Complainant is entitled to get relief as prayed for or not ?

FINDINGS

5. The husband of the Complainant argued this case on her behalf. He has submitted that on 29.04.2017 after making payment of Rs. 1,00,000/- Complainant had booked a flat in the project of the Respondent which was sanctioned by the Adityapur, Nagar Nigam vide Permit No. 502 dated 21.05.2014 and on 25.05.2017 she made payment of 20% of consideration amount. Thereafter Complainant got bank loan sanctioned from State Bank of India, RACPC, Bistupur, Jamshedpur and bank disbursed Rs. 8,00,000/- to the builder. On 04th August 2017 sale agreement was executed between the parties and as per this agreement, Complainant was supposed to purchase Flat No. 402, 2nd Floor in the project called SAIAWAS PHASE NO. 2 at Adityapur for consideration amount of Rs. 21,00,000/-. As per agreement Rs. 2,00,000/- was added to this amount for car parking. Builder was

supposed to handover this flat to the Complainant with a grace period of six months but still today she is deprived of her flat. She is residing in rental house. Respondent did not respond to the Pleader's Notice sent by the Complainant. Complainant has paid altogether Rs. 15,25,000/- to the Respondent which includes Rs. 10,00,000/- disbursement made by the bank against the loan taken by her and out of this amount Rs. 15,000/- has been refunded by the Respondent to her. Complainant is ready to pay the balance amount to the Respondent as and when she gets possession of this flat and registration of the flat is done in her favour. He has further prayed that case brought by the Complainant may be allowed.

6. Since the case is being heard ex parte, no argument has been done on behalf of the Respondent and none of this submission made by the Complainant has been rebutted by him.

7. Perused the case record. From perusal of the sale agreement dated 04.08.2017 indicates that both the parties had entered into agreement for sale of a flat bearing no. 402, 2nd Floor in Commercial Building Project known as SAIWAS PHASE NO. 2 located at Adityapur for a consideration amount of Rs. 21,00,000/-. The size of super built up area of the flat was 975 sq. ft. Complainant was supposed to pay another Rs. 2,00,000/- for parking space and as per agreement Respondent was supposed to handover the flat to the Complainant within two years from the date of the agreement with a grace period of six months. From perusal of the bank statements and money receipt, it is apparent that Complainant has paid Rs. 5,25,000/- to the Respondent from her pocket. Bank papers filed by the Complainant indicates

that she had taken bank loan from State Bank of India, RACPC, Bistupur, Jamshedpur and the bank has disbursed Rs. 8,00,000/- through bankers cheque to the Respondent on 23.08.2018 and has also disbursed Rs. 2,00,000/- to the Respondent on 27.10.2020. Further I find that bank has issued notice to the Complainant to this extent to deposit title deed of the flat failing which bank will charge penal interest on this loan. Xerox copy of Pleader's Notice dated 04.11.2019 indicates that Complainant had sent this Pleader's Notice to the Respondent for handing over the physical possession of the flat to her but this notice was not replied by him. I find that this flat was must be handed over to the Complainant maximum within 2 years and six months from the date of the agreement i.e. 04.08.2017. It means that maximum by February, 2020, Respondent was to handover possession of the flat to the Complainant but he has not done so as yet. It is true that due to Corona Pandemic, progress of construction work must be hampered for sometime but despite that atleast one year before the flat should have been handed over to the Complainant. She is ready to pay the balance of consideration amount to the Respondent as and when she gets possession of the flat. The conduct of the Respondent by not replying Pleader's Notice sent to him by the Complainant and his non-appearance before this Authority to contest this case despite steps taken by the Authority clearly indicates that he is not fair in dealing with the matter. The Complainant is still residing in the rented house.

CONCLUSION

It is thereby

ORDERED

Respondent will complete the construction of the flat and its furnishing purchased by the Complainant within four months from the date of this order and handover its physical possession to her and get its registration done soon thereafter after receiving balance of consideration amount. Respondent is further directed to pay 8% interest on the money which he has received against the consideration amount for causing delay in the construction of the flat and this interest will be payable by him from September, 2020 till the date of payment. Respondent is further directed to pay Rs. 30,000/- to the Complainant as compensation Rs. 20,000/- as litigation cost.

Accordingly the present case succeeds ex parte. Let a copy of this order be sent to the Respondent for compliance at the cost of the Complainant.

Dictated & Corrected
By me

Ranjeet Kumar Choudhary
Adjudicating Officer
JHARERA

Adjudicating Officer
JHARERA