

**Ranchi**

**Before Adjudicating Officer**

**Jharkhand Real Estate Regulatory Authority, Ranchi**

Present ----- Ranjeet Kumar Choudhary

Dated 24<sup>th</sup> day of February, 2021

**Complaint Case No.- 132/2019**

Mrs. Archana Upadhyay ,

D/o Nagendra Kumar Dubey,

Address – Flat No. 504, Block – A,

Tapovan Apartment,

Near Argon Battery,

Kokar, Ranchi, Sadar P.S., Ranchi,

Jharkhand

--- Complainant

VERSUS

Shri Fulchand Saw,

Saket Vihar, Near D.A.V. Kapildeo Road,  
Kadru, Ranchi – 834 001.

	--- Respondent
Complainant Represented through	--- Her Father
Respondent Represented through	--- None

### **ORDER**

1. The instant Complaint has been brought by the Complainant Mrs. Archana Upadhyay against the respondent Fulchand Saw with reliefs that Builder / Respondent may be directed to complete the flat of the Complainant and handover the same to her and get the same registered in her name.
2. As per the complaint petition, it is the case of the complainant that she had made an agreement with Respondent Fulchand Saw on 25.03.2014 to buy Flat in the proposed Mangal Enclave apartment vide Block – C, Flat No. – Unit – C, 2<sup>nd</sup> Floor with parking, generator and meter connection at Dhela Toli, Kokar, Ranchi. An Agreement for Sale was executed on 05.05.2014 and under said Agreement Rs. 24,70,000/- was fixed as consideration amount including car parking area and lift out of which Rs. 23,48,000/- has been paid to the Respondent till now. The above said flat is still not complete. The Respondent / Builder is asking for more money and he is threatening the Complainant to sale this flat to someone else. As per agreement for sale, the flat was

to be handed over to her within 12 months from the date of the execution of the agreement for sale but still it is incomplete. Hence, it has been prayed that Respondent / Builder may be directed to complete the arrear works of this flat and give its possession to the Complainant and also get the same registered in her name.

3. On being noticed through speed post, Respondent did not appear physically in this case, then paper publication was made in the local news paper for the appearance of the Respondent. Despite that when he did not appear, vide the order dated 04.11.2020, the case record was fixed for Ex-parte hearing.
4. The point for determination arising out of this case that whether the complainant is entitled for reliefs as claimed for?

### **FINDINGS**

5. On the basis of the Authority given by the Complainant, her father argued her case. He has submitted that Complainant had booked a flat having an area of 998 sq. ft. in “**Mangal Enclave**”, Dhela Toli, Kokar, Ranchi and in this regard agreement for sale was executed between her and the Respondent on 05.05.2014. Consideration amount was fixed Rs. 24,70,000/- and Respondent was supposed to give possession of flat to her within one year from the date of execution of agreement for sale with grace period of six months. He has further submitted that out of total

consideration amount of Rs. 24,70,000/-, an amount of Rs. 23,48,000/- has already been paid to the Respondent / Builder regarding which bank statement of State Bank of India, Industrial Estate, Branch - Kokar, Ranchi and Indian Bank, Kokar Branch and different money receipts issued by the Respondent / Builder have been filed. He has further submitted that Respondent / Builder is demanding more money for this flat and in case of non-payment of more money, he is threatening to sale out this flat to somebody else. He has further argued that Complainant is ready to pay the balance amount of consideration amount to the Respondent / Builder as and when required. It is his further argument that agreement for sale was executed in the year 2014 and we are in year 2021 and still the possession of the flat has not been given to the Complainant. Hence, he has submitted that Respondent / Builder may be directed to give possession of the flat to the Complainant as early as possible after completing arrear works and get it registered in her name. He has further submitted that in the Complaint Petition compensation was not demanded by the Complainant but she deserves compensation also.

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

7. Perused the case record and the documents filed by the Complainant. Perusal of agreement for sale dated 05.05.2014 entered between the parties indicates that both the parties had entered into agreement for sale for purchase of Flat No. 2<sup>nd</sup> Floor, Block – C, Unit – C having an area of 998 sq. ft. in Mangal Enclave for a consideration amount of Rs. 24,70,000/-. As per this agreement for sale the possession of the flat will be given by the Respondent to the Complainant within one year from the date of the execution of the sale deed with grace period of six months. As per submission Rs. 23,48,000/- has been paid by the Complainant to the Respondent / Builder against purchase of this flat but when I go through the money receipts issued by the Respondent / Builder and bank statements, I find that Rs. 22,97,000/- has been paid by the Complainant to the Respondent / Builder. Certainly, major part of the consideration amount has been paid by the Complainant to the Respondent / Builder but even after lapse of more than six years from the date of agreement, possession of the flat has not been given to her. As discussed above Respondent / Builder did not appear in this case and obviously this Court was deprived from hearing his defence. In my view gross injustice has been caused to the Complainant. Certainly, she deserves possession and registration of the flat booked by her in “**Mangal Enclave**” belonging to the Respondent / Builder.

8. During course of argument, this fact also came within the knowledge of his court that project of the Respondent / Builder is not registered with Jharkhand Real Estate Regulatory Authority. Its registration with Jharkhand Real Estate Regulatory Authority is required because project of the Respondent / Builder is ongoing project.

### **ORDER**

9. It is therefore

## **ORDERED**

that the Respondent / Builder shall handover the possession of the flat as discussed above to the Complainant within three months from the date of this order after completing remaining work of this flat. Thereafter, he will get the flat registered in the name of the Complainant after receiving balance consideration amount within five months from the date of this order.

10. I am not going to impose any penalty upon the Respondent / Builder for non-registration of his project with Jharkhand Real Estate Regulatory Authority because in Complaint Case No. 1/2020 for the same project, he has already been penalised.
11. Respondent is directed to give a sum of Rs. 3,00,000/- to the Complainant as compensation because Respondent has failed to handover the flat to the her within reasonable period of time from

the date of agreement for sale despite receiving major part of consideration amount

12. It is also ordered that the Respondent will pay Rs. 30,000/- to the complainant as litigation cost.
13. Accordingly the Complaint brought by the Complainant succeeds Ex-parte. Complainant is directed to take step for service of this judgment upon the Respondent / Builder for compliance.

Dictated & Corrected

By me

Adjudicating Officer

JHARERA

Ranjeet Kumar Choudhary,  
Adjudicating Officer,

JHARERA