

JHARKHAND REAL ESTATE REGULATORY AUTHORITY

IN THE COURT OF CHAIRMAN, JHARERA

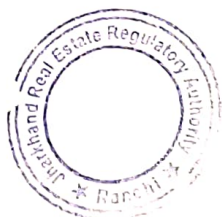
Present ----- **Birendra Bhushan**

Dated 13th day of February, 2025

Complaint Case No. 34 of 2020

- Am
1. Alope Kumar Gupta, S/o- Late Radhe Shyam Gupta
Director of Naman Barter Pvt. Ltd.
R/o- H.B. Road, Kokar, Ranchi, Jharkhand
 2. Chandra Kant Gopalka, S/o- Shyam Sundar Gopalka
Director of M/s Dhanbad Finance Pvt. Ltd.
R/o- G.E.L. Church Complex, Main Road, Ranchi

..... Complainants



VERSUS

Amrendra Kumar Sinha
Managing Partner of M/s New Aryan Construction Co.
R/o- Arctic Mall, Bariyatu, RanchiRespondent

Complainants represented through ... Sri Ashish Kumar Lal
Respondent represented throughSri Manoj Kumar Sinha
& Sri Jitesh Kumar Sinha

JUDGEMENT

1. In the instant Complaint has been brought by the complainants namely Alope Kumar Gupta and Chandra Kant Gopalka against the respondent Amrendra Kumar Sinha, who is

Proprietor and owner of M/s New Aryan Construction Company, Arctic Mall, Bariyatu, Ranchi, for various reliefs.

2. As per complaint petition it is case of the Complainants that they had purchased entire 1st floor including 1316 Sq. ft. on the right side of the floor in the project of the respondent namely Arctic Mall regarding which agreement for sale was executed on 13.07.2006. Subsequently on 10.05.2011 sale deed with respect to these shops bearing shop no. 01 to 14 on 1st floor having an area of 4386 Sq. ft. plus 1316 Sq. ft. on right of the constructed area was executed. It was also agreed upon that if the developer will not give the same the said shops and hall then the developer will give the shop space on the ground floor on the same side onwards east side as marked in built-up area or double height at the rate of Rs. 3,000/- (Three thousand) only per Sq. ft. In the sale deed dated- 10-05-2011 it is very much mentioned that a sum of Rs. 1,08,84,500/- (One Crore eight lakh eighty-four thousand five hundred) only has already been received by the respondent as a consideration amount against the said shop space no. 1 to 17 on first floor measuring an area of 5,500 Sq. ft. as described in schedule II along with 10 Nos car parking space in lower ground floor of the building of the Arctic Mall. The car parking space has not been delivered by the respondent to the complainants despite the lapse of 13 years of the date of registration of sale deed. Complainants made correspondence with the respondent on



different dates for getting 10 Nos of car parking but invain. The Completion and Occupancy Certificate have also not been provided to the complainants. Hence, it has been stated that respondent may be directed to provide 10 Nos of car parking to the complainants and also provide them Completion and Occupancy Certificate.

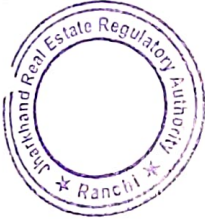
3. On being noticed the respondent appeared in the case and contested the same by filing Written Statement. According to the reply filed by the respondent, the case brought by the complainants is not maintainable. It is said that respondent executed deed of sale in favor of the complainants in the terms of agreement dated- 13.07.2006 and they were fully satisfied with the area provided to them. It is further said that when the agreement for sale and the sale deed were executed the Real Estate (Regulation and Development) Act, 2016 was not in force and as such the provision of this Act will not attract in the present case. It is also said that details of the cost of the shops have been given in the schedule 7 of the agreement and according to which the cost of the shop with undivided share of the land is approximately Rs. 1,42,55,000/- (One Crore forty two lakh fifty five thousand). As per agreement the total area is equivalent to 5,702 Sq. ft. and according to agreement for sale the total area 5,500 Sq. ft. has been registered. The price of 5,500 Sq. ft. at the rate of 2,500/- (Two thousand five hundred) per Sq. ft. comes to Rs. 1,37,50,000/- (One Crore thirty



seven lakh fifty thousand) only and price of car parking comes to Rs. 6,00,000/- (Six lakh) only and as such Rs. 35,50,000/- (Thirty five lakh fifty thousand) only is still due upon the complainants. It is also said that maintenance of the building is upon the residents and not upon the developer. The generator has already been installed in the project. Hence, it has been prayed that the case brought by the complainants may have been dismissed with cost.

Handwritten signature or initials.

4. After going through the Complaint petition and written statement, the point arising out in the present case for determination is whether the complainants are entitled for 10 Nos of parking space and Completion and Occupancy Certificate or not ?

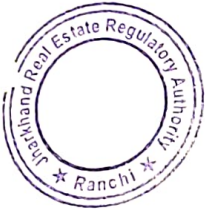


Findings

5. Heard the argument accused by both the parties and also perused the complaint petition, written statement and the document submitted by the parties. There is no dispute that on 13.07.2006 agreement for sale was executed between the parties for purchase of shop no. 1 to 14 on 1st floor having an area of 4,386 Sq. ft. plus 1,316 Sq. ft. on right side of the constructed area with entire common space of 1st floor adjacent to shop no 1 to 14 plus hall 1,316 Sq. ft. It was also agreed upon the developer will not give right side of the 1st floor then he will give shop space on the ground floor in the same side shop no. 15 onward on east side in

front as marked in built-up area or double height at the rate of Rs. 3,000/- (Three thousand) only Per Sq. ft. It was also agreed upon that complainants will purchase 10 parking space in the said project. Xerox copy of the agreement for sale is on the record. It is also established that on 10.05.2011 respondent executed sale deed in the light of term and conditions of the sale agreement in favor of the complainants on payment of Rs. 1,08,84,500/- (One Crore eight lakh eighty four thousand five hundred) only. Xerox copy of sale deed is on the record. On the page no. 18 of the sale deed there is description of payment of consideration amount. At the page of 20 of the sale deed there is description of the shop purchased by the complainants. As per schedule II complainants purchased shop/office no. 1 to 17 of 1st floor measuring an area of 5500 Sq. ft. with 10 car parking space in the lower floor. In the sale deed it is no where mentioned that any further payment is due upon the complainants. It is not mentioned in the sale deed that respondent owe anything against the complainants. The xerox copy of the correspondence dated- 15.09.2010, 21.10.2010, 01.12.2017, 15.12.2019 and 28.11.2020 indicates that for getting the parking space, complainants made several correspondences with the respondent with but of no avail. Respondent has not been able to establish that Rs. 28,65,500/- (Twenty eight lakh sixty five thousand five hundred) only is still due upon the complainants. As stated above in the sale deed there is no reference that any dues is upon the complainants. Is there was any due upon the

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complainants, the respondent should have made correspondence with them but no chit of paper has been filed to establish that respondent ever claimed the alleged due amount from the complainants. The Completion and Occupancy Certificate has not been provided to the complainants. Respondent has not filed even xerox copy of these documents before the court while as per building by laws it is essential for a builder to obtain Completion and Occupancy Certificate from the Architect and the ULB (Urban Local Bodies) respectively. This plea has been taken by the respondent that complainants has sold out the purchased unit to other persons but in my view selling of the purchased unit by the complainants will not extinguish their claim to get further area (parking space from the respondent).



6. In the circumstances, I find merit in the present case. The plea taken by the respondent regarding non-providing of the parking space to the complainants are not at all tenable. Accordingly, the present case filed by the complainants succeeds on contest. Respondent is directed to provide 10 parking space to the complainants within 6 months from the date of this order failing which necessary action will be taken against him. He is also directed to provide the Completion and Occupancy Certificate to the complainants within 6 months from the date of this order. If the order passed by this authority is not complied by the respondent within stipulated period, Rs. 500/- (Five hundred) only

Per day cost will be imposed upon him till the order is complied. Complainants will be at liberty to file Execution Case before the Authority for execution of the order if the order is not complied within stipulated period. A penalty in terms of money may be imposed upon the respondent for non-providing the parking space to the complainants at the rate of present market value of the area.

