

JHARKHAND REAL ESTATE REGULATORY AUTHORITY

IN THE COURT OF CHAIRMAN, RERA

Present ----- Ranjeet Kumar Choudhary

Dated Ranchi the 05<sup>th</sup> day of July, 2023

Complaint Case No. 46 of 2022

Santosh Dutta,  
S/o- Dilip Dutta,  
R/o- Flat No. A- 205, Divya Nilaya,  
Pundag, P.S.- Jagarnathpur,  
District- Ranchi

----- Complainant

-Versus-

M/s Divya Constructions,  
Through Subendu Bihari,  
Address- Ashok Prasth,  
Dibdih, Doranda,  
Ranchi

---- Respondent

Complainant Represented through

--- Mr. Shailesh Poddar,  
Ld. Advocate  
---Mr. Punit Kumar,



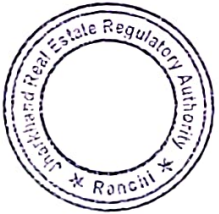
Ld. Advocate

Respondent represented through --- None

**JUDGMENT**

1. The instant Complaint has been brought by Complainant Santosh Dutta against the Respondent company with reliefs that Respondent may be directed to ensure proper alternative entrance with sufficient space in the apartment and to provide missing facilities in the apartment and also handover Completion & Occupancy Certificate. It has been prayed that penalty of Rs. 10,00,000/- (Ten lakh) only may be imposed upon the Respondent for violating the provisions of RERD Act, 2016 [Real Estate (Development & Regulation) Act, 2016]. Litigation cost of Rs. 50,000/- (Fifty thousand) only has also been claimed.

2. As per Complaint Petition, it is the case of the Complainant that he purchased the flat bearing Flat No. A- 205 in the project “**Divya Nilaya**”, residential project situated at Plot No. 1004 corresponding to Khata No. 96, Thana No. 228, Mauza- Pundag, P.S.- Jagarnathpur, District- Ranchi being developed by the Respondent vide Registered Sale Deed dated 21.10.2020. At the time of purchase of the flat, the Respondent assured that property is free from all encumbrances and land is not CNT land. Respondent assured that building has been constructed as per plan but he



did not complete the project. Committee Hall is also smaller in size. Complainant found that Respondent has illegally occupied property of some other woman and has constructed entrance gate over this land. Subsequently, the entrance gate was to be shifted from that place. This was only entrance to the apartment and now the flat owners are under stress losing their only entrance gate. Respondent has not formed Resident Welfare Association. He has converted drive way into parking area and guard post has not been built. Apart from that Respondent has not done following works:

- a. Balcony has no glasses.
- b. Community Hall has no false ceiling.
- c. Boundary has no retaining wall.
- d. There is no sump motor.
- e. Painting work is still incomplete.
- f. There is no CCTV.
- g. And so many other works etc.



It is further said that project is said to be completed on 30.12.2019, whereas Registration Certificate from Jharkhand RERA has been

obtained from 06.03.2020. Respondent has not deposited Occupancy & Completion Certificate. Hence this case. Above mentioned reliefs have been claimed by the Complainant. Alongwith Complaint Petition, several documents have been filed by the Complainant.

3. On being noticed, Respondent did not appear and vide the Order dated 10.11.2022, case record was fixed for ex-parte hearing.

4. The only point arising out of this case for determination is whether the Complainant is entitled for reliefs as claimed ?

### FINDINGS

5. This is an ex-parte Judgment as the Respondent did not appear to contest the case. Heard the Ld. Counsel for the Complainant. He has fully supported the case of the Complainant and submitted that Complainant is entitled for reliefs as claimed by him.

6. Perused the case record and particularly the documents annexed with the Complaint Petition. There is no dispute that Complainant has purchased a flat in the project of the Respondent namely "**Divya Nilaya**" through registered sale deed dated 21.10.2020 on payment of consideration amount of Rs. 57,70,070/- (Fifty seven lakh seventy thousand and seventy) only. The main grievance of the Complainant is



that Respondent had constructed entrance gate on the land of some other lady and on protest of that lady, entrance gate was removed from there. This was only entrance gate of the society and its removal has caused a lot of problems to the residents of the society including the Complainant. It has been submitted that other allottees have also filed cases against the builder which are pending before the Adjudicating Officer. Complainant has filed xerox copy of Register- 2 of Mauza- Pundag in order to show that Plot No. 1006 (over which entrance gate was constructed) belongs to one Devanti Toppo. Photographs of entrance gate has also been filed. Complainant has filed copy of petition given by the residents of the society to SDO, Ranchi regarding the problems being faced by them. Not only that he has also filed xerox copy of Complaint lodged by the residents of the society against the Respondent with Officer-in-Charge, Pundag- P.S., Ranchi. Respondent has not appeared before the Authority to controvert the allegations levelled by the Complainant against him. I am fully convinced that Respondent had constructed entrance gate on the land of Devanti Toppo and subsequently it was removed. I am further convinced that Respondent has not fully completed the construction and furnishing work of the apartment "**Divya Nilaya**". I am also convinced that Respondent has not formed Resident Welfare Society which he is duty bound to do. He has also not handed over the Completion & Occupancy Certificate to the residents of the society.



7. In the circumstances, I come to this conclusion that the case brought by the Complainant has got merit. The allegations levelled by the Complainant appears to be true. As such, the present case succeeds ex-parte. Respondent is directed to provide entrance gate in the apartment "Divya Nilaya" after purchasing some piece of land from other Raiyat whose land is situated near the apartment within three months from the date of this Order. He is further directed to obtain Completion & Occupancy Certificates and handover the same to the residents of the society within two months from the date of this Order. He is further directed to form Housing Welfare Society of the residents within three months from the date of this Order. Respondent is further directed to complete the remaining work of the society within three months from the date of this Order. Since the case has been heard ex-parte, let a copy of this Order be sent to the Respondent through Speed Post for compliance at the cost of the Complainant.

