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Ranchi

Before Adjudicating Officer

Jharkhand Real Estate Regulatory Authority, Jharkhand, Ranchi

Present ----- Ranjeet Kumar Chaudhary

Dated 30 the Day of September 2019

Complaint case no- 106/2019

Manmohan Verma S/o- Late Goverdhan Das Verma

R/o- 4 F, Ashok Nagar, Dhansar, P.o and P.s- Dhansar, Dist-
Dhanbad

--- Complainant

VERSUS

Dheeraj Kumar Singh, S/o- Sri Amrendra Narayan Singh, Director-
M/s Apcon Homes Pvt. Ltd.

Chandra Vihar Colony, Dhaiya, P.o- I.S.M, Dist- Dhanbad

Complainants Represented through --- Self

Respondent represented through --- Self

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ORDER

1. The instant complainant has been filed by the complainant Manmohan Verma a against the respondent Dheeraj Kumar Singh, Director of M/s Apcon Homes Pvt. Ltd. U/s 31 of the Real Estate (Regulation and Development) Act 2016 with prayer to give direction to the respondent to cancel the sale deed no 7561/6936 dated 15.10.2018 and sale deed no 7425/6807 dated 12.10.2018 by which he sold flat no 1/H in Block-A and flat no- 1/G in Block-A to Sunil Kumar and Usha Kiran Singh respectively as because aforesaid flat's were supposed to be transferred in favour of the complainant as per allotment letter dated 06.09.2012.

2. After filing of the complaint the respondent was noticed to appear and he appeared accordingly and filed show cause/reply.

3. The brief facts of the case of the complainant is that he is landowner of 21 kathas 13.34 chhatak of land which is situated at saraidhela, Dhanbad. He entered into development agreement with the respondent and as per this agreement, complainant was supposed to get 36% of constructed area. The respondent issued allotment

letter dated 06.09.2012 where by he allotted flat no- 1/H in Block-A and flat no- 1/G in Block- A in favour of the complainant apart from other flats but subsequently respondent sold these two flats in favour of Sunil Kumar and Usha Kiran Singh vide registered sale deed no- 7561/6936 dated 15.10.2018 and 7425/6807 dated 12.10.2018. Along with complaint petition Xerox copy of Allotment letter has been filed.

4. As per reply filed by the respondent it is case that complaint filed by the complainant is wrong, confusing and the same has been filed in order to grab the flat of the respondent. It is further said that as per direction of the Hon'ble Jharkhand High Court in ABA No- 264/2012 the respondent surrendered in the court of C.J.M Dhanbad in connection with saraidhela P.s case no- 924/11 corresponding to G.R case no 3766/11 and he filed an undertaking before that court regarding the number of flats to be given to the complainant and in this undertaking flats claimed by the complainant are not mentioned. Hence, it, has been prayed that complaint brought by the complainant may be dismissed.

5. The only point arising out of this case for determination is whether the complainant is entitled to get relief as claimed for.

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Findings

6. Before touching the merit of the case I would like to see whether this case is maintainable or not.

7. As per section 31(1) of the Real Estate (Regulation & Development) Act (For short RERA Act) **“any aggrieved person may file a complaint with the Authority for any violation and contravention of the provision of this Act or the rules and regulations made thereunder against any promoter, allottee or real estate agent, as the case may be.”** For the purpose of sub section (1) of section 31 of the RERA Act, person can include the association of allottees or any voluntary consumer association registered under any law for the time being in force. But there is no stipulation that land owner who entered into development agreement with builder will come within the perview of aggrieved person for the purpose of this Act.

Hence, I come to this conclusion that present case brought by the complainant is not maintainable brfore this Authority under RERA Act. Moreover from perusal of undertaking filed by the respondent before the court of C.J.M Dhanbad, it appears that

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respondent had not undertaken to give flat no- 1/H and 1/G in Block 'A' to the complainant.

In this circumstances, I do not find any merit in this case and accordingly the complainant petition is dismissed as not maintainable.