

JHARKHAND REAL ESTATE REGULATORY AUTHORITY

COMPLAINT CASE NO. 02/2021

Deepak Kumar Sinha & Others

--- Complainants

S/o Ishwar Dayal Sinha,

Owner of Flat No. 8B,

Randhir Tower, Ratu Road, Ranchi.

-VERSUS-

M/s Swastik Hi – Tech Developers Pvt. Ltd.

--- Respondents

Represented through Director Anand Kumar,

Randhir Tower, Beside Hotel Arsh Residency,

Ratu Road, Ranchi.

Complainants represented through

--- Rajiv Anand, Advocate

Respondents represented through

--- NA

Coram:- Hon'ble Chairman Smt. Seema Sinha

JUDGMENT

18.03.2021

1. A Complaint Case has been filed on behalf of the Complainants Deepak Kumar Sinha, Sanjay Kumar Thakur, Priti Choudhary, Santosh Kumar Bhagat, Madan Kumar Jha, Shikha Kumari, Vikky Kumar Choudhary, Amit Kumar, Harjeet Kaur & Vinay Kumar against Respondent M/s

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Swastik Hi – Tech Developers represented by Anand Kumar, who is Director of this project.

2. Heard on the point of “**Admission**” the Ld. Lawyer appearing on behalf of the Complainant has submitted that all the Complainants have same grievance against the Respondent and hence all the Complainants have filed jointly this Complaint Case and are seeking reliefs as mentioned in the Complaint Petition at Para – 5. The Ld. Lawyer has further submitted that **Form – N of Rule – 43 (43/1)** provides Provision for filing Complaint Case by several persons against the Respondents, if their grievances are same and against the same Respondents, hence this Complaint Case filed by the ten Complainants may be admitted.

I perused the record, I find that 10 Complainants namely Deepak Kumar Sinha, Sanjay Kumar Thakur, Priti Choudhary, Santosh Kumar Bhagat, Madan Kumar Jha, Shikha Kumari, Vikky Kumar Choudhary, Amit Kumar, Harjeet Kaur & Vinay Kumar have filed this Complaint Case jointly against the Respondent M/s Swastik Hi – Tech Developers Pvt. Ltd. represented through Anand Kumar, Director. Before discussing on the point of Admission of Complaint Petition I would like to refer the provision which provides the filing of Complaints with the Authority or the Adjudicating Officer. Section 31(1) of Real Estate (Regulation & Development) Act, 2016 says, “Any aggrieved person may file a Complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provision of this Act or Rules and Regulations made thereunder against any Promoter, Allottee or Real Estate Agent as the case may be.

Explanation:- For the purpose of this sub section ‘person’ shall include Association of Allottees or any Voluntary Consumer Association registered under any law for time being inforce.

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Section 2 (zg) defines person which includes,-

- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) a Company;
- (iv) a Firm under the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008 as the case maybe;
- (v) a competent authority;
- (vi) an association of persons or a body of individuals whether incorporated or not;
- (vii) a co-operative society registered under any law relating to co-operative society;
- (viii) any such entity as the appropriate government may, by notification, specify in this behalf;

The above provision of Real Estate Regulatory Act clearly shows that Association of Allottees may file a case before the Real Estate Regulatory Authority, if the Association of Allottees is registered under any law for the time being inforce.

In the instant case I find that all the Allottees have entered into Agreement separately with the Builder but the Builder has not complied the terms of the agreement in time. The Complainants are though the aggrieved persons but they are not association of allottees registered under any law for the time being inforce. All the Complainants may file their case separately, if they desire so. Hence the Complaint Petition filed by the Complainants is not maintainable. Accordingly the Complaint Petition is rejected.