

THE RAJASTHAN REAL ESTATE REGULATORY AUTHORITY,
JAIPUR

Complaint No. RAJ-RERA-C-2020-3622

Vinod Kumar Agarwal

...Complainant

Versus

Jaipur Development Authority

...Respondent No.1

Jaipur Metro Rail Corporation Ltd.

...Respondent No.2

Present

**Shri Nihal Chand Goel, Hon'ble Chairman
Shri Shailendra Agarwal, Hon'ble Member
Shri Salvinder Singh Sohata, Hon'ble Member**

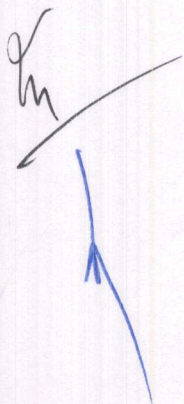
- (1) Adv Pranjul Chopra, on behalf of the complainant
- (2) CA Mitesh Rathore, on behalf of Respondent No. 1
- (3) None present on behalf of Respondent No. 2

Date of Order: 22.09.2020

ORDER

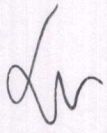
The present matter concerns a project of Jaipur Development Authority, registered with this Authority (RERA, for short) by the name of "METRO ENCLAVE", vide registration No. RAJ/P/2019/1133.

The case of the complainant is that he participated in an auction organized by Respondent No.1 and, having been successful, he has been allotted a plot in the aforesaid project, being implemented by Respondent No. 1 under an MoU with Respondent No. 2. As per the requirement of the terms and



conditions of auction, he has already deposited 15 per cent amount with Respondent No.1. But, without executing an agreement for sale, Respondent No.1 has issued a further demand note of 35 per cent amount, which is due to be deposited by 30.09.2020. Respondent No.1 has, in its demand note, also included a warning that if the amount is not paid within due time, interest at the rate of 15 per cent will be charged for the delay. The only point of the complainant is that Respondent No.1 has not executed an agreement for sale as envisaged under section 13 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act') and is asking for further amounts to be deposited. This action of Respondent No.1 is violative of section 13 of the Act, which provides that no promoter can accept more than 10 per cent of the cost without first having executed and got registered an agreement for sale. Therefore, the prayer of the complainant is that Respondent No.1 should be directed to execute an agreement for sale in terms of section 13 of the Act and be restrained from asking for deposit of the remaining amount until such an agreement is executed and registered.



 CA Mitesh Rathore, appearing on behalf of Respondent No.1 has reiterated the arguments included in their written reply. His main contention is that an agreement for sale is not required



to be executed in the present case as Respondent No. 1 is a statutory body and the requirement of agreement for sale does not fit into the overall scheme under which Respondent No.1 operates. The auction has been done under the Disposal of Urban Land Rules of 1974 and as per the terms and conditions of auction that were well publicized and were expressly accepted by the complainant before the auction was conducted. The plot has been sold on 'as is where is basis'. Therefore, Respondent No.1 is in a position to hand over possession of the auctioned plot as soon as full payment is made; and Respondent No.1 need not and cannot afford to wait for the sale consideration until the completion of development works. It would be unfair on the part of Respondent No.1 to deviate from the pre-announced terms and conditions of auction as any such deviation may be detrimental to the rights of other persons who participated in the auction.

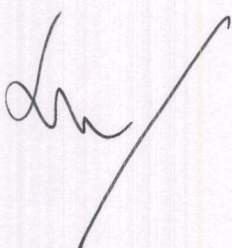


Having heard the parties and having perused record of the case, we find that the project in question "METRO ENCLAVE" is registered with RERA vide registration No. RAJ/P/2019/1133. That being so, all the provisions of the Act, section 13 included, which apply to any advertisement, promotion, booking, offer of sale, or sale of any plots in a registered project would apply to the

project at hand. The said project was registered by RERA with a clear commitment on the part of Respondent No.1 that it will abide by all the provisions of the Act and the rules and regulations made thereunder. Even a draft agreement was submitted as part of the application for registration. The auction has been conducted by announcing that the project in question is a project registered with RERA and thereby informing and promising to the potential buyers that the provisions of the Act and the rules and regulations made thereunder would apply to this project and determine their relationship with Respondent No.1 in respect of any plot purchased at the auction.

Section 13 (1) of the Act provides for an agreement for sale to be executed and registered before the promoter accepts an amount exceeding 10 per cent of the total cost of the plot. This is a mandatory requirement of the Act and cannot be dispensed or compromised with.

In view of the above observations and findings, it is directed as under:

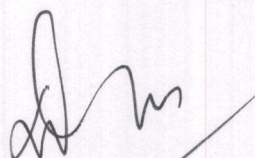
-  (i) Respondent No.1 shall execute an agreement for sale with the complainant and get it registered before demanding or accepting any further amount beyond the 15 per cent

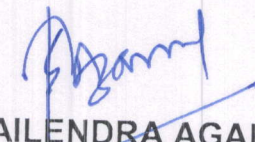


amount which has already been deposited by the complainant;

- (ii) The complainant shall pay the balance amount by 30.09.2020 or within three days from the date an agreement for sale is registered or as per the payment schedule given in the agreement for sale to be executed, whichever date is latest;
- (iii) Respondent No.1 shall align its land disposal rules and terms and conditions of auction/allotment, with the provisions of the Act and the rules and regulations made thereunder so that such complaints do not arise in future; and
- (iv) Respondent No.1 shall comply with these directions and submit a compliance report within 45 days from the date of issue of this order, failing which further appropriate action will be considered under the provisions of the Act.




(SALVINDER SINGH SOHATA)
MEMBER


(SHAIENDRA AGARWAL)
MEMBER


(NIHAL CHAND GOEL)
CHAIRMAN