

**THE RAJASTHAN REAL ESTATE REGULATORY AUTHORITY
JAIPUR**

Complaint No. RAJ-RERA-C-N-2024-6941

Rajesh Kirorilal Shah & Ors.

...Complainant

Versus

Ashiana Housing Limited

...Respondent

Present

Smt. Veenu Gupta, Hon'ble Chairperson

- (1) Adv. Jitendra Chaudhary and Adv Nishant Giri for Complainant.
- (2) Adv. Abhilasha Sharma and Adv Divyansh Jain for Respondent

Date of Order: 07.07.2025

ORDER



1. The present complaint is filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016, concerning the group housing project 'Ashiana Amantran Phase I,' registered with the Authority under registration number RAJ/P/2020/1180. The relief sought by complainant is in respect of Flat No. L-511 in the said project, initially booked by the partnership firm "M/s Siddhi Vinayak Associates" through an allotment letter dated 24.07.2020. The complainant, claiming to be an 80% partner in the said firm, seeks possession of the said unit in his individual name, contending that he made the final installment payment from his personal account and complied with the necessary formalities for change of allottee.

2. The brief facts of the case are that a partnership firm named "M/s Siddhi Vinayak Associates" booked a flat in the project "Ashiana Amantran Phase – I" in the year 2020, with the assurance from the

respondent that possession would be delivered within 36 months. Pursuant to this, vide allotment letter dated 24.07.2020, Unit No. L-511 was allotted to the firm for a total sale consideration of ₹63,33,600/-. Subsequently, on 01.04.2021, the composition of the partnership firm was revised, with the complainant holding an 80% stake and his wife holding 20%. On 10.07.2023, the respondent issued an offer of possession in the name of the partnership firm, stipulating that possession would be handed over within 30 days upon payment of the outstanding dues. While approximately 85% of the payment had already been made by the firm, the final instalment of ₹6,46,911/- was paid from the complainant's personal account. The complainant, at the time of making this payment, requested that the unit be transferred in his individual name instead of the firm's, and in support of this request, submitted a cheque of ₹35,400/- along with the requisite documents as per the respondent's instructions for processing the change in allottee's name. According to the complainant, this amount has already been credited to the respondent's account. Despite these actions, the respondent allegedly failed to hand over possession of the said unit within the promised timeline. The complainant, therefore, prays for possession of Unit No. L-511 to be granted to him personally after obtaining the occupancy certificate, along with interest for the delay in delivery.



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3. The counsel for the respondent filed a reply raising a preliminary objection on the ground that the complainant is not the lawful allottee of the unit in question, as the flat was originally allotted in the name of the partnership firm "M/s Siddhi Vinayak Associates" and not in the personal name of the complainant, who is merely a partner in the said firm.

4. It was further submitted that the agreement to sell was executed with the firm and not with the complainant in his individual capacity. The complainant, according to the respondent, has failed to produce any valid legal documentation demonstrating that the rights or assets of the firm, including the subject unit, have been transferred exclusively to him. In support of this position, the counsel relied on Section 14 read with Section 15 of the Indian Partnership Act, 1932, which provides that property belonging to a partnership firm is to be used exclusively for the purpose of the firm's business, and no individual partner can claim personal ownership over such property without proper legal transfer.

5. The counsel also contended that the complainant did not implead other partners of the firm, who are necessary and proper parties to this dispute. It was additionally submitted that the construction of the project has been completed, and the respondent has duly obtained the completion certificate on 23.06.2023 and the occupancy certificate on 24.06.2023.

6. Regarding the payment of ₹35,400/- made by the complainant for processing the change of allottee name, the respondent clarified that the



said amount has been kept in a suspense account and will be adjusted in accordance with the complainant's formal request. However, the request for name change was declined and the same was communicated through a reply to the complainant's legal notice dated 22.11.2023, citing that such change would be in violation of applicable property and taxation laws.

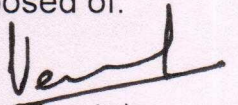
7. Therefore, the respondent contended that the unit cannot be transferred to the complainant's personal name unless the existing allotment is formally cancelled and a fresh allotment is executed in his favour.

8. Having heard the parties and on perusal of record available, this Authority observes that the unit was allotted to the firm "M/s Siddhi Vinayak Associates" and all related contractual documents, including the agreement to sell, are in the name of the firm. Although the complainant has majority interest in the firm (80%), no dissolution deed or conveyance assigning the property to him individually has been produced. The firm remains a separate legal entity for purposes of contract, and individual partners cannot claim personal title or interest over the firm's assets without due process. Hence, in the absence of such legal transfer or assignment, the complainant in his individual capacity does not have locus standi to seek possession of the unit allotted in the name of the firm.



9. Furthermore, considering that the partnership firm has substantially complied with the financial obligations under the allotment, the firm retains its right to receive possession of the unit upon fulfilment of any remaining dues and formalities. The respondent is therefore directed to hand over possession of Unit No. L-511 to the allottee firm, "M/s Siddhi Vinayak Associates," after verifying compliance with all outstanding requirements.

10. With these directions, the present complaints stand disposed of.


(Veenu Gupta)
Chairperson

