

## **REAL ESTATE REGULATORY AUTHORITY (RERA)**

### **IN THE COURT OF ADJUDICATING OFFICER**

**4<sup>TH</sup>&6<sup>TH</sup> FLOOR, BIHAR STATE BUILDING CONSTRUCTION CORPORATION CAMPUS  
HOSPITAL ROAD, SHASTRI NAGAR, PATNA-800023**

<b>Sl.</b>	<b>Complaint Case No.</b>	<b>Complainants</b>
1.	RERA/CC/868/2020 RERA/AO/244/2020	Sri Alok Kumar Singh, S/o Sri Vishwanath Prasad Singh, R/o Plot No.42, Bari Co-operative, Bokaro Steel City, Bokaro, Jharkhand-827012. <u>At Present:</u> Flat No.404, C-Block, Jagsuman Apartment, Argora-Kathal More Road, Aryan Road, Pundag, Ranchi, Jharkhand-834004.
2.	RERA/CC/869/2020 RERA/AO/245/2020	Smt. Kumari Smita, W/o Sri Lakshman Singh, R/o Flat No.102, Harshita Kunj Apartment, Majistrate Colony, Ashiana, Patna-800025. <u>At Present:</u> Flat No.401, Rama Shyama Villa, Gola Road, Patna-801503.
3.	RERA/CC/870/2020 RERA/AO/246/2020	Sri Sudeep Kumar, S/o Sri Jai Prakash Prasad, R/o Flat N o.102, Harshita Kunj Apartment, Majistrate Colony, Ashiana, Patna-800025. <u>At Present:</u> Flat No.401, Rama Shyama Villa, Gola Road, Patna-801503.
4.	RERA/CC/871/2020 RERA/AO/247/2020	Sri Chandan Kumar, S/o Late Ram Babu Singh, R/o Vill+P.O.-Shekhopur, District-Vaishali-844509. <u>At Present:</u> Power Grid Corporation of India, Qtr.No.B2/6,Vill+P.O.-Dariyapur Kafen, District-Muzaffarpur, PIN-844127.
5.	RERA/CC/872/2020 RERA/AO/248/2020	Sri Dharendra Kumar, S/o Sri Chandra Chur Prasad Singh, R/o Vill-Nipania, P.O.-Barauni, District-Begusarai, Bihar-851112. <u>At Present:</u> Flat No.1105, Block-E, Greenwood Apartment, Gomti Nagar Extension, Lucknow-226010.
6.	RERA/CC/873/2020 RERA/AO/249/2020	Sri Anurag Kumar, S/o Sri Hari Kishor Prasad, R/o Vill-Simra, P.O.-Parsa Bazar, District-Patna, PIN-804453. <u>At Present:</u> Qtr. No.C/11, Power Grid Corporation of India Ltd., Maranga, NH-31, Bypass Road, District-Purnea, PIN-854301.

7. RERA/CC/874/2020  
RERA/AO/250/2020 Sri Namit Sharat, S/o Sri Upendra Prasad Mandal,  
R/o Barmasia, PO.+P.S.-Katihar-854105  
At Present:  
Qtr. No.C-5, Power Grid Residential Colony, Near  
Panama Chowk, Jammu.
  
8. RERA/CC/875/2020  
RERA/AO/251/2020 Sri Ramit Anand, S/o late Vinod Kumar Srivastava,  
R/o Nirala Path, Binoba Nagar, Postal Park,  
Patna-800001.  
At Present:  
Qtr. No.C/7, Power Grid colony, NH-31, Bypass,  
Maranga, P.O.-Lalganj, Purnea-854303.
  
9. RERA/CC/876/2020  
RERA/AO/252/2020 Sri Dharmendra Kumar, S/o Late Chandranath  
Prasad Karan, R/o H.No.997/1, Sainik Colony, Vill-  
Dumardaga, Near Panchayat Bhawan,  
P.O.-Buti, Ranchi, Jharkhand-835217.
  
10. RERA/CC/877/2020  
RERA/AO/253/2020 Ms. Anshu Mala, D/o Sri Mahendra Pratap Arya,  
R/o F-18, Kalpataru Vatika (Jharokha), Akurli Road,  
Near Thakur House, Kandivali, East Mumbai,  
Maharashtra-400101.
  
11. RERA/CC/878/2020  
RERA/AO/254/2020 Sri Narendra Kumr, S/o Jagdish Prasad, R/o Vill-  
+P.O.-Korari, P.S.-Nagarnausa, District-Nalanda,  
Bihar-801305.  
At Present:  
B-1/5, Power Grid Township, Karbigahia, Jakkanpur,  
Patna, Bihar,PIN-800001.
  
12. RERA/CC/893/2020  
RERA/AO/255/2020 Sri Ranjit Kumar, S/o Tilakdhari Prasad, R/o Flat  
No,206, Kashi Palace, Road No.09, Arpana Bank  
Colony, Ramjaipal Path,District-Patna.
  
13. RERA/CC/894/2020  
RERA/AO/256/2020 Ms. Pooja, D/o Sri Uday Kumar Singh,  
R/o B-606, Vasudeo Enclave, Kankarbagh Main Road  
(Opp: Jalanshop, Patna-800020.
  
14. RERA/CC/895/2020  
RERA/AO/257/2020 Sri Pankaj Kumar Choudhary, S/o Deoraj  
Choudhary, R/o Vill-Danubigha, P.O.-Manjosh,  
P.S.-Makhdumpur,Near Kachnama, District-  
Jehanabad, Bihar-804424.  
At Present:  
Flat No.C-305, Power Grid Township, Sector-43,  
Gurgaon, PIN-124001.
  
15. RERA/CC/905/2020  
RERA/AO/261/2020 Sri Durgesh Kumar Jha, S/o Deo Chandra Jha, Ward  
No.43, Ward No.8, Poowari Tola, Kalali Chowk,  
Singhia, Samastipur-848209.  
At Present:  
C-122, NTPC Township, Dadri NTPC, Dadri,  
Goutambudh Nagar, Noida, U.P.-201008.

16. RERA/CC/948/2020 Md. Anisur Rahman, S/o Md. Fazlur Rahman Ansari,  
RERA/AO/266/2020 At-Ledatand, P.O.-Madaidih, P.S.-Topchanchi,  
District-Dhanbad, Jharkhand-828402.  
At Present:  
Flat No.402, Savita Apartment, Indrapuri Road No.4,  
Samanpur, Patna-800023, Bihar.
17. RERA/CC/956/2020 Sri Vinay Kumar, S/o Raj Nath Sharma,  
RERA/AO/271/2020 R/o B-06,Power Grid, NH-77,Dariyapur Kafen, Turki,  
Muzaffarpur, Bihar-844127.
18. RERA/CC/1020/2020 Sri Ramnandan Prasad Singh, S/o Late Yamuna  
RERA/AO/290/2020 Mahto, R/o Ramchandarpur, Mangla Sthan, Infront of  
Sadanand College, Biharsharif, District-Nalanda  
(Bihar)-803101.
19. RERA/CC/1062/2020 Smt. Sweta Kumari, W/o Sri Rajeev Ranjan, R/o Vill-  
RERA/AO/308/2020 Chhutu, P.S.-Ranchi Chhutu, District-Ranchi,  
Jharkhand-835217.  
At Present:  
Ramchandrapur, ManglaSthan, In Front of Sadanand  
College, District-Nalanda, (Bihar)-803101.
20. RERA/CC/1063/2020 Roshan Kumar Yadav, S/o Ramesh Chandra Yadav,  
RERA/AO/309/2020 R/o Vill-Kharik, P.O.-Rahua-Sangram, (Via),  
Madhepur, District-Madhubani, Bihar-847408.
21. RERA/CC/1208/2020 Sri Purushottam Kumar Sinha, S/o Late Jagdish  
RERA/AO/337/2020 Chandra Mehta, R/o New Area, RanaBigha, P.O.-  
RanaBigha, P.S.-Aadarsh Thana Deep Nagar, District-  
Nalanda (Biharsharif)-803216.  
At Present:  
B-3/4 Power Grid Colony, Near Village-Sukha, Patna  
Road, Jabalpur, M.P.-482002.
22. RERA/CC/1209/2020 Smt. Vinita Kumari Sinha, W/o Sri Purushottam  
RERA/AO/338/2020 Kumar Sinha, R/o New Area RanaBigha, P.O.-  
RanaBigha, P.S.-Aadarsh Thana Deep Nagar, District-  
Nalanda (Biharsharif)-803216.  
At Present:  
B-3/4, Power Grid Colony, Near Village Sukha, Patna  
Road, Jabalpur,M.P.-482002.
23. RERA/CC/1236/2020 Sri Kaushlendra Kumar Gupta, S/o Chmri Prasad  
RERA/AO/348/2020 Gupta, R/o Near Primary School, Lakhanu Bigha,  
Nalanda, Bihar-811103.  
At Present:  
Qtr. No.B3/5, Power Grid Colony, Village-Lalpur,  
Post-Sitpura, Pana Road, Satna-485441.

24. RERA/CC/1254/2020 Sri Mukesh Kumar, S/o Sri Krishna Nandan Prasad,  
RERA/AO/354/2020 R/o C/o Lt. Gunuri Rajak, Vill-Nardiganj,  
District-Nawada, Bihar.  
At Present:  
Champa Niwash, Barwadda Road, Memco More  
Dhaiya, Near Rita Verma Petrol Pump, District-  
Dhanbad, Jharkhand.
25. RERA/CC/1307/2020 Sri Suman Kumar, S/o Sri Anirudh Mandal, R/o  
RERA/AO/377/2020 Buddhuchak Barmishya, P.O.+District-Katihar, PIN-  
854105.  
At Present:  
Qtr. No.B-3/1, 400/220KV Power Grid, Gaurichak,  
Patna, Patna-Gaya Road, Gaurichak.
26. RERA/CC/1309/2020 Sri Nawal Kishore Prasad, S/o Late Ragubir Prasad,  
RERA/AO/379/2020 R/o Mirjapur Mohanagani,  
West Champaran, Bihar-845438.  
At Present:  
Power Grid Bir Para, District-Alipurduar, OPP: Suzuki  
Show Room Land-Madari Hat Road, PIN-735204.
27. RERA/CC/1390/2020 Dr. Tabassum Khan, D/o Mahmood AlamKhan, W/o  
RERA/AO/411/2020 Md. Abdul Riad,  
R/o Minuthong Hafiz HattaImphal Municipl Council  
Imphal East, Manipur-795005.  
At Present:  
H/o 121 Riverbelt Colony Dimapur,  
Nagaland-797112.
28. RERA/CC/1391/2020 Sri Intikhab Alam Khan, S/o Sri Mahmood Alam  
RERA/AO/412/2020 Khan, R/o Jagaulia Tola Gulab Khan, P.S.-Madhuban,  
Post-Rupni,East Champaran, Bihar-845420.  
At Presnet:  
Flat No.304,Zeenat Tower Samanpura, Raja Bazar,  
Patna-800014.
29. RERA/CC/1410/2020 Sri Krishna Chandra Bahera, S/o Sri B.M. Behera,  
RERA/AO/422/2020 R/o Ananda Nagar, P.O.-Lanjipali, Brahmapur,  
District-Ganjam, Odisha-760008.  
At Present:  
Power Grid Corporation of India Ltd., WRTS-II,  
Regional Head Quarter, Plot No.54,  
Opp: Ambe Vidyalaya, SamaSavli Road,  
Vadodara,Gujrat-390024.

30. RERA/CC/1726/2020 Sri Manan Kumar Singh, S/o Sri Sadanand Singh,  
RERA/AO/596/2020 R/o C3, Power Grid , Near LIC Office, Rupnarayanpur  
Bazar, District-Bardhaman, West Bengal-713364.

Versus

1. M/s Agrani Homes Pvt. Ltd.  
Through it's Director,
2. Sri Alok Kumar, Director, S/o Sri Padum Singh, House  
No.15, Ward No.1FA, Near Ruban Hospital, Patliputra  
Colony, District-Patna (Bihar) PIN-800013  
Presently Residing:  
Yogipur Chitragupta Nagar, P.S.-Patrakar Nagar,  
P.O. Lohia Nagar, Kankarbagh, Patna-800020 ... Respondents

**Present:**

**Sri Ved Prakash  
Adjudicating Officer**

Appearance:

For Complainants ... Sri Kishore Kunal, Advocate  
For Respondents ... Sri Alok Kumar, Director

**ORDER**

15-03-2021

In view of the fact that these 30 complaint cases relate to same project "Power Grid Nagar" of the Promoter/Respondents and allegations are of similar nature, so a composite order is being passed in all these cases.

2. These complaint cases are filed by the complainants named above against the Respondent No.1, M/s Agrani Homes Pvt. Ltd. through Respondent No.2, Sri Alok Kumar, Director of M/s Agrani Homes Pvt. Ltd. u/s 31 read with Section-71 of Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016") for refund of their advanced principal amount along with accrued interest 18% per annum thereon and

compensation of Rs.5.00 lacs for their economical, physical and mental harassment with litigation cost of Rs.1.00 lac to each complainant, consequent to non-delivery of their allotted flats.

3. In nutshell, the common case of the complainants is that the Respondents with ulterior motive proposed in the name and style of various projects like “Power Grid Nagar”, Sarari, Danapur, Sampatchak and Varanasi to construct approximately 300 residential flats having super built up area of 1626 sq.ft. (Carpet Area – 1300 sq.ft) along with one reserve car parking space to be allotted to the employees/ex-employees of Power Grid Corporation of India Ltd., as per their choice. Various brochures were published by the Respondents and it was assured individually and collectively that delivery of possession of flats shall be made within 3 years with grace period of 6 months and many other amenities were also promised to the consumers including the present complainants. These complainants are employees/ex-employees of Power Sector like Power Grid Corporation of India, N.T.P.C. etc. and they formed a Society in the name of “Power Grid Employees Welfare Housing Society” / “Power Welfare Organization” (A Unit of P.E.W.A., Patna) having it’s office at Alankar Place, P.O.-Boring Road, Patna-800001, Bihar with objective to get constructed a residential complex for its members. On 19-04-2014 the Respondents and Power Grid Employees Welfare Housing Society (A Unit of P.E.W.A., Patna) through it’s General Secretary, Sri Shatrughan Mishra entered into an Agreement (M.O.U.) regarding the project “Power Grid Nagar”, situated at Mauza-

Fathepur, P.S.-Gauri Chak, Sampatchak, Patna (Bihar) for construction of 100 residential flats with one reserve car parking space with super built up area of 1626 sq.ft. (Carper Area 1300 sq.ft.) consisted in two Blocks to be allotted to it's members as per their choice. As per assurance of Respondents and Sri Shatrughan Mishra, General Secretary of Power Grid Employees Welfare Housing Society, each member has agreed to purchase a flat on consideration of Rs.6.00 lacs plus applicable Service Tax. As such, as per agreement, each complainant has paid his/her instalments towards the consideration amount for purchase of flat.

4. Details of the payment of instalments made by the complainants to the Respondents may be seen through the chart as under:-

CHART

Sl. No.	Complaint Case No.	Name of the Complainant	Total Consideration of the Flat (Applicable Taxes Extra) Rs.	Date of Advance Payment of Instalment	Amount of Advanced Consideration Rs.
(1)	(2)	(3)	(4)	(5)	(6)
1.	RERA/CC/868/2020 RERA/AO/244/2020	Sri Alok Kumar Singh	6,00,000.00	30-04-2014	2,00,000.00
2.	RERA/CC/869/2020 RERA/AO/245/2020	Smt.Kumari Smita	6,00,000.00	19-04-2014 07-06-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
3.	RERA/CC/870/2020 RERA/AO/246/2020	Sri Sudeep Kumar	6,00,000.00	19-04-2016 07-06-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
4.	RERA/CC/871/2020 RERA/AO/247/2020	Sri Chandan Kumar	6,00,000.00	16-07-2014	2,00,000.00
5.	RERA/CC/872/2020 RERA/AO/248/2020	Sri Dharendra Kumar	6,00,000.00	16-07-2014	2,00,000.00
6.	RERA/CC/873/2020 RERA/AO/249/2020	Sri Anurag Kumar	6,00,000.00	30-04-2014 03-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,640.00</u> <b>4,14,640.00</b>
7.	RERA/CC/874/2020 RERA/AO/250/2020	Sri Namit Sharat	6,00,000.00	16-07-2014	2,00,000.00
8.	RERA/CC/875/2020 RERA/AO/251/2020	Sri Ramit Anand	6,00,000.00	30-04-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>

9.	RERA/CC/876/2020 RERA/AO/252/2020	Sri Dharmendra Kumar	6,00,000.00	13-05-2014 07-06-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
10.	RERA/CC/877/2020 RERA/AO/253/2020	Ms. Anshu Mala	6,00,000.00	16-07-2014	2,00,000.00
11.	RERA/CC/878/2020 RERA/AO/254/2020	Sri Narendra Kumr	6,00,000.00	30-04-2014	2,00,000.00
12.	RERA/CC/893/2020 RERA/AO/255/2020	Sri Ranjit Kumar	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,00,000.00</u> <b>4,00,000.00</b>
13.	RERA/CC/894/2020 RERA/AO/256/2020	Ms. Pooja	6,00,000.00	30-04-2014	2,00,000.00
14.	RERA/CC/895/2020 RERA/AO/257/2020	Sri Pankaj Kumar Choudhary	6,00,000.00	24-06-2014	2,00,000.00
15.	RERA/CC/905/2020 RERA/AO/261/2020	Sri Durgesh Kumar Jha	6,00,000.00	16-07-2014	2,00,000.00
16.	RERA/CC/948/2020 RERA/AO/266/2020	Md. Anisur Rahman	6,00,000.00	05-05-2014	2,00,000.00
17.	RERA/CC/956/2020 RERA/AO/271/2020	Sri Vinay Kumar	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
18.	RERA/CC/1020/2020 RERA/AO/290/2020	Sri Ramnandan Prasad Singh	6,00,000.00	25-06-2014 07-03-2016	2,00,000.00 2,14,500.00
19.	RERA/CC/1062/2020 RERA/AO/308/2020	Smt. Sweta Kumari	6,00,000.00	12-05-2015 15-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
20.	RERA/CC/1063/2020 RERA/AO/309/2020	Roshan Kumar Yadav	6,00,000.00	16-07-2014	1,94,006.00
21.	RERA/CC/1208/2020 RERA/AO/337/2020	Sri Purushottam Kumar Sinha	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,00,000.00</u> <b>4,00,000.00</b>
22.	RERA/CC/1209/2020 RERA/AO/338/2020	Smt. Vinita Kumari Sinha	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,00,000.00</u> <b>4,00,000.00</b>
23.	RERA/CC/1236/2020 RERA/AO/348/2020	Kaushlendra Kumar Gupta	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,00,000.00</u> <b>4,00,000.00</b>
24.	RERA/CC/1254/2020 RERA/AO/354/2020	Sri Mukesh Kumar	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
25.	RERA/CC/1307/2020 RERA/AO/377/2020	Sri Suman Kumar	6,00,000.00	19-04-2014 03-03-2016 <b>Total</b>	2,00,000.00 <u>2,00,000.00</u> <b>4,00,000.00</b>
26.	RERA/CC/1309/2020 RERA/AO/379/2020	Sri Nawal Kishore Prasad	6,00,000.00	16-07-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
27.	RERA/CC/1390/2020 RERA/AO/411/2020	Dr. Tabassum Khan	6,00,000.00	30-04-2014 07-10-2016 <b>Total</b>	2,00,000.00 <u>2,18,000.00</u> <b>4,18,000.00</b>
28.	RERA/CC/1391/2020 RERA/AO/412/2020	Sri Intikhab Alam Khan	6,00,000.00	19-04-2014 17-03-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>
29.	RERA/CC/1410/2020 RERA/AO/422/2020	Sri Krishna Chandra Bahera	6,00,000.00	28-04-2014 31-05-2016 <b>Total</b>	2,00,000.00 <u>2,14,500.00</u> <b>4,14,500.00</b>



30.	RERA/CC/1726/2020 RERA/AO/596/2020	Sri Manan Kumar Singh	6,00,000.00	16-07-2014	2,00,000.00
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5. The Respondents did not start/complete the above project within the prescribed time of 3 years and the grace period of 6 months from the date of execution of said Agreement dated 19-04-2014, due to which each vendee/buyer, as per Agreement, has become entitled to get refunded his/her deposited amount along with accrued interest thereon on Bank rate from the Respondents. In spite of assurance, the Respondents failed to deliver possession of the flat to the complainants and also failed to refund the advanced consideration money to them. So, the complainants have filed these complaint cases against the Respondents with above reliefs.

6. The Respondents after appearances have filed replies pleading *inter-alia* that they are ready to refund the principal amount of each and every complainant on cancellation of their allotment of flats, but they may be provided some time till September, 2021 for refund of their principal amount in instalments. They have further stated that they are also ready to adjust the principal amount of the complainants in their project of plot/land situated in Parmanandpur, and in light of their assurances these complaint cases may be disposed of.

7. On the basis of the pleadings of the parties and submissions of the learned lawyer for complainants and Respondent No.2, Sri Alok Kumar, the following points may be formulated to adjudicate the case:-

- (i) Whether the complainants are entitled for refund of their advanced principal amount along with accrued interest @ 18% per annum thereon against the Respondents?
- (ii) Whether each complainant is entitled for compensation of Rs.5.00 lacs against the Respondents for his/her economical, physical and mental harassment?
- (iii) Whether each and every complainant is entitled for litigation cost of Rs.1.00 lac against the Respondents?

Point No.(i):

8. Admittedly, the complainants have constituted a Society consisting of friends/employees/ex-employees of power sector like Power Grid Corporation, N.T.P.C. etc. in the name and style of “Power Grid Employees Welfare Housing Society”/ “Power Welfare Organization” (A Unit of P.E.WA, Patna) having its office at Alankar Place, P.O.-Boring Road, Patna-800001 with the objective to get constructed a residential complex for its members. It is also admitted case that on 19-04-2014 the General Secretary of the Society, Sri Shatrughan Mishra entered into a Memorandum of Understanding (M.O.U.) with the Respondents through Respondent No.2, Sri Alok Kumar, Director of the Respondent No.1, M/s Agrani Homes Pvt. Ltd. to construct 100 flats having super built up area 1626 sq.ft (Carpet

Area 1300 sq.ft.) with one reserve car parking space consisted in two Blocks on consideration of Rs.6.00 lacs plus applicable Service Taxes on each flat, which have to be allotted to its members, as per their choice. It was further agreed that each and every member shall purchase the flat on payment of the above consideration in instalments to the Respondents. The allottees have to deposit initially an amount of Rs.2.00 lacs plus applicable Service Tax per flat on the date of signing of the M.O.U. and the balance amount of Rs.4.00 lacs plus applicable Service Tax shall be payable, as per following schedule:-

1. On approval of Map, Rs.2.00 lacs plus Service Tax.
2. On starting of construction Rs.2.00 lacs plus Service Tax.

The failure of any terms in payment schedule on part of members/allottees M.O.U. shall have no effect and all the deposited amount by the allottees to the Respondents/Developers shall be refunded, after deduction of paid amount against the Service Tax plus 5% as Cancellation Charge.

9. It was also agreed between the parties in para-10 of Agreement that construction of the said building “Power Grid Nagar”, Mauza-Fathepur, P.S.-Gaurichak, Sampatchak, Patna shall be completed within 3 years with a grace period of 6 months from the date of approval of Map, failing which the vendee/buyer shall be entitled to Bank interest over the deposited amount for such delayed period.

10. As per first proviso Section-3 of the Act, 2016, the Respondents should have filed Completion/Occupancy Certificate for showing that the project “Power Grid Nagar” has been completed prior to enforcement of the Act, 2016 on 01-05-2017 and non-filing of Completion/Occupancy Certificate shows that the project is ongoing. During continuance of Agreement, either the Respondents should have completed the project and handed over possession to the complainants within the stipulated period or should have refunded their principal amount along with interest thereon at Bank rate as agreed in Agreement executed between both the parties. The complainants have stated that several revised dates for delivery of possession were assured by the Respondents, but they failed to deliver the flats. It is correct that the Agreements between both the parties were executed on 19-04-2014 and time for delivery of possession was given within 3 years with grace period of 6 months, which has expired on 19-10-2017, so the buyers/complainants cannot wait indefinite period for delivery of possession of their flats. It also shows that when the Respondents have become unable to construct the project, then either *Suo-mottu* or on demand they should have refunded the principal amounts to the complainants as stated above. Hence, as per proviso of Section-12 and Section 18(b) of the Act, 2016, it is reasonable for this Court to hold that the Respondents are liable to refund the principal amounts along with Bank interest thereon, as per Agreement (M.O.U.), to each and every complainant.

11. The complainants have claimed interest @ 18% per annum on the advance principal amount paid to the Respondents. But, the Respondent No.2 submitted that the Respondents are also making constructions of other projects and interest @ 18% per annum is much high, hence, the same may be minimised. On going through the record as well as submissions of both the parties, it appears that the Respondents are running other projects, in which the interest of other buyers is involved and naturally the payment of higher rate of interest will adversely affect the construction business of the Respondents as well as the interest of other buyers. In such view of the matter and circumstances of these cases, it appears that the prevailing bank interest agreed between the parties in Agreement (M.O.U.) may be appropriate to be levied against the Respondents.

As per rule 17, 18 of the Bihar Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the “Rules 2017”), the Respondents have to pay simple interest 2% above the M.C.L.R. of S.B.I. Presently, the M.C.L.R. of S.B.I. is 7.30% per annum for Home Loan of more than 3 years and if 2% is added, the interest rate will come 9.30% per annum. Hence, the Respondents have to refund the principal amount to each and every complainant paid by him/her to the Respondents along with accrued simple interest @ 9.30% per annum on said principal amount from the date of payment made by the respective complainant to the Respondents. Accordingly, Point No.(i) is decided in positive in favour of the complainants and against the Respondents.

Point No.(ii):

12. Each complainant has also claimed compensation of Rs.5.00 lacs for his/her economical, physical and mental harassment. As per Section 72 of the Act, 2016, the Respondents have been benefitted with advance principal amount paid by the complainants, which is approximately more than Rs.97,92,140/- and still the said amount is lying with the Respondents and they are using the same in development of their business. Presently, the Respondents are avoiding delivery of flats/refund of advanced principal amount to the complainants. It is also to be mentioned here with now a flat of same area will not be available to each and every complainant in the same locality at the same price, which was available to him/her in the year 2014. Hence, naturally the price of flats would have been multiplied. 18 of the complainants have paid approximately more than Rs.4.00 lacs plus Service Tax to the Respondents, which is about 66.00% of the total consideration Rs.6.00 lacs and 12 complainants have paid Rs.2.00 lacs, which is about 33% of the total consideration. The Respondents are running their other projects and improving their business. In addition, in spite of repeated assurances in the Court, the Respondents have not refunded the advanced principal amounts to the complainants. So, taking all situations into consideration, and the advance principal amount paid by the complainants to the Respondents, I think, the complainants each complainant namely; Smt. Kumari Smita, Sri Sudeep Kumar, Sri Anurag Kumar, Sri Ramit Anand, Sri Dharmendra Kumar, Sri Ranjeet Kumar, Sri Vinay Kumar, Sri Ram Nandan Prasad Singh, Smt.Sweta Kumari,

Sri Purushottam Kumar Sinha, Smt. Vinita Kumari Sinha, Sri Kaushlendra Kumar Gupta, Sri Mukesh Kumar, Sri Suman Kumar, Sri Nawal Kishore Prasad, Dr. Tabassum Khan, Sri Intikhab Alam Khan and Sri Krishna Chandra Bahera has to be paid Rs.50,000/- and each of the remaining 12 complainants named above has to be paid Rs.25,000/- as compensation for their economical, physical and mental harassment. Accordingly, Point No.(ii) is decided in positive in favour of the complainants and against the Respondents.

Point No.(iii):

13. The complainants have visited repeatedly to the office of the Respondents and contacted them as well as their staffs for refund of their advanced principal amounts, but neither the Respondents nor their staffs have given any heed to their requests till filing of the present complaint cases. Though the complainants have not brought any proof on the record about the actual expenses incurred by them, but I think, the complainants would have incurred expenses in visiting to the office of the Respondents, engagement of lawyer, execution of documents in the A.O. Court of RERA, Bihar, remittance of Court Fee and in all these processes they would have incurred not more than Rs.15,000/-, which must be paid by the Respondents. Accordingly, I find and hold that each and every complainant is entitled for litigation cost of Rs.15,000/- against the Respondents. Accordingly, Point No.(iii) is decided in positive in favour of the complainants and against the Respondents.

Therefore, all the 30 complaint cases of the complainants named above are allowed on contest with litigation cost of Rs.15,000/- (Rupees fifteen thousand only) to each and every complainant against the Respondents. The Respondents are directed to refund the advanced principal amounts along with accrued simple interest @ 9.30% per annum thereon to the complainants since the respective date of payment by each and every complainant to the Respondents till actual date of refund of the said amount by the Respondents to each and every complainant. The Respondents are further directed to pay compensation to each of the complainants namely; Smt. Kumari Smita, Sri Sudeep Kumar, Sri Anurag Kumar, Sri Ramit Anand, Sri Dharmendra Kumar, Sri Ranjeet Kumar, Sri Vinay Kumar, Sri Ram Nandan Prasad Singh, Smt. Sweta Kumari, Sri Purushottam Kumar Sinha, Smt. Vinita Kumari Sinha, Sri Kaushlendra Kumar Gupta, Sri Mukesh Kumar, Sri Suman Kumar, Sri Nawal Kishore Prasad, Dr. Tabassum Khan, Sri Intikhab Alam Khan and Sri Krishna Chandra Bahera Rs.50,000/- (Rupees fifty thousand only) and each of the remaining 12 complainants named above Rs.25,000/- (Rupees twenty five thousand only) as compensation for their economical, physical and mental harassment. The Respondents are further directed to comply the order within 60 (sixty) days, failing which the complainants are entitled get enforced the order through process of the Court.

Sd/-  
(Ved Prakash)  
Adjudicating Officer  
RERA, Bihar, Patna  
15-03-2021