

**IN THE COURT OF ADJUDICATING OFFICER,  
REAL ESTATE REGULATORY AUTHORITY(RERA), BIHAR, PATNA**

**RERA/CC/451/2019  
RERA/AO/107/2019**

Sri Chandra Mohan Jha, C/o Dr. C.M.  
Jha, Gangjala, Ward No.18, Near  
Panchwati Chowk, Opp-Vijay Shree ... Complainant  
Press, District-Saharsa, PIN-852201

Versus

1. M/s Grih Vatika Homes Pvt.  
Ltd.
2. Mr.Sri RanjeetKumrJha, C.M.D.
3. Ms. Anita Kumari, M.D.,  
- all r/o Dipti Roy Complex,  
Ground Floor, S.K. Puri,  
Boring Road, District-Patna, ... Respondents  
PIN-800001.

**Present:**

**Sri Ved Prakash  
Adjudicating Officer**

Appearance:

For Complainant - In Person

For Respondents - Mr.Ankit Kumar, Advocate

**ORDER**

18-02-2020

This complaint petition is filed by the complainant, Sri Chandra Mohan Jha against the Respondent No.1, M/s Grih Vatika Homes Pvt. Ltd. through its C.M.D., Respondent No.2, Sri Ranjeet Kumr Jha and M.D., respondent No.3, Ms. Anita Kumari u/s 31 read with Section-71 of Real Estate (Regulation and Development) Act, 2016

(hereinafter referred as the "Act, 2016") for refund of his principal amount Rs.3,70,000/- along with applicable interest thereon and compensation for his mental and physical harassment, consequent to non-delivery of flat allotted to his son, Mohit Kumar Jha.

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2. In nutshell, the case of the complainant is that the complainant, Sri Chandra Mohan Jha has booked one residential 3 BHK Flat No.305 on 3<sup>rd</sup> floor having built up area measuring 1505 sq.ft. on 22-11-2015 in the project "VIP Residential Phase-3" at Mahuabag with the Respondents M/s Grih Vatika Homes Pvt. Ltd. through its C.M.D., Sri Ranjeet Kumar Jha and M.D.,Ms. Anita Kumari in the name of his son, Mohit Kumar Jha on total consideration of Rs.36,60,500/-. The complainant has paid Rs.1.00 lac on 22-11-2015 vide cheque no.052285 dated 22-11-2015, Rs.2,70,000/- on 03-12-2015 vide cheque no.052284 to the Respondents and got money receipts from the authorised signatory, Ms. Neha Sharma. The authorised signatory of the Respondents has noted on 19-12-2015 on back of the booking sheet that if approval of the Map from the Government is not received till 22-01-2016, then the customer has option to cancel the booking. The Respondents could not get approval of the Map from the

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competent authority, so the complainant has cancelled the booking on 29-03-2017, as there was abnormal delay in construction of the project and he was in urgent need of residence at Patna. The complainant has requested several times to the Respondents to refund his advanced principal amount, but they did not give any care to his request. Hence, the complainant has filed this case against the Respondents with prayer for the above reliefs.

3. On appearance, the Respondents pleaded *inter-alia* that they are ready to refund the actual amount to the complainant, but they need two months time, hence, the case may be disposed of in light of their assurance in the Court.
4. On basis of the pleadings and submissions of the parties and learned lawyer for the Respondents, the following points are formulated to adjudicate this case:-
  - (1) Whether the complainant is entitled for refund of his booking amount Rs.3,70,000/-along with accrued interest thereon against the Respondents?
  - (2) Whether the complainant is entitled for compensation for his physical and mental harassment against the Respondents?
  - (3) Whether the complainant is entitled for litigation cost against the Respondents?

Point No.1:

5. Admittedly, the complainant has booked on 22-11-2015 a 3 BHK Flat No.305 in 3<sup>rd</sup> floor of the project “VIP Residency, Phase-3” of the respondents’ company, M/s Grih Vatika Homes Pvt. Ltd. through its C.M.D., Respondent No.2,Sri Ranjit Kumar Jha and Respondent No.3, Ms. Anita Kumari in the name of Mohit Kumar Jha on consideration of Rs.36,60,500/-. It is also admitted that the complainant has paid Rs.1.00 lac through cheque No.052285 dated 22-11-2015 of S.B.I. and Rs.2,70,000/- through cheque no.052284 dated 03-12-2015 of S.B.I. and got money receipts from the authorised signatory of the Respondents, Ms.Neha Sharma, which find support from money receipt filed by the complainant. It is also admitted case that on 19-12-2015 Ms. Neha Sharma, authorised signatory has given written assurance on back of booking sheet that if Map of the project is not approved till 22-01-2016, then the consumer/customer/complainant has option to cancel his booking of flat in “VIP Residency, Phase-3”. Since there was abnormal delay as per requirement of the complainant, he cannot wait for indefinite period. So, he has cancelled the booking on 29-03-2017. In his cancellation letter of booking, he has requested the Respondents as well as their staffs for

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refund of his booking amount, but they did not pay any attention towards his request. It appears that since the Respondents have not got approval of the Map for the project within the assured period, so the complainant as per assurance of the Respondents, may take refund of his advanced principal amount Rs.3,70,000/- from the Respondents. The Respondents have used Rs.3,70,000/- of the complainant in their business and have been benefitted, so they have to pay accrued interest on the above amount paid by the complainant with effect from the respective date of payment by the complainant to the Respondents. The complainant has claimed applicable interest on the advanced principal amount/consideration Rs.3,70,000/- against the Respondents. The Respondents have not completed the project within scheduled time, but they are running the present project as well as other projects and amount paid by the complainant has been used in the interest of consumers. If compound interest is levied, it will adversely affect the interest of other consumers, who are waiting for flat. So, I think, instead of compound interest, simple interest is payable by the Respondents to the complainant. As per rule 17 and 18 of Bihar Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as the "Rules, 2017"), the Respondents have to pay simple interest @ 2% above M.C.L.R. of S.B.I.

Presently, the M.C.L.R. of S.B.I. is 8.20% for 3 or more years. Hence, if 2% is added, it will come to 10.20%. As such, the Respondents have to pay simple interest @ 10.20% on the booking/principal amount with effect from the respective date of payment by the complainant to the Respondents.

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The payments made by the complainant to the Respondents since the date of flat booking on 22-11-2015, refund of amount by the Respondents, date of refund and amount of interest payable by the Respondents may be seen through the chart as under:-

Date of Payment by the Complainant	Amount paid by the complainant Rs	Date of refund	Amount of Refund Rs.	Amount of Interest Rs.
22-11-2015	50,000.00	16-01-2020	50,000.00	21,174.25
22-11-2015	50,000.00	18-02-2020	50,000.00	21,599.25
03-12-2015	2,70,000.00	18-02-2020	2,70,000.00	1,15,881.75
<b>TOTAL</b>	<b>3,70,000.00</b>	-	<b>3,70,000.00</b>	<b>1,58,655.25</b>

On the basis of above calculations, simple interest @ 10.20% per annum on the paid principal amount comes to Rs.1,58,655.25. Hence, it appears that the Respondents have to refund the principal amount Rs.3,70,000/- to the complainant along with interest Rs.1,58,655/- @ 10.20% per annum on the above paid principal amount of the complainant. Accordingly, Point No.(1) is decided in positive in favour of the complainant and against the Respondents.

Point No.(2):

6. The complainant has also claimed compensation against the Respondents for his mental and physical harassment. As per Section 72 of the Act, 2016, Respondents are being benefited by using the amount Rs.3,70,000/- paid by the complainant in their business without giving delivery of possession of the flat to him. Now the complainant may not get flat of same area in the same locality at the same rate, which was available to him in the year 2015. The present rate of flat in the same locality has not come on record from either side. However, naturally the price of the flat would have gone very high in comparison to the rate available in the year 2015. Out of total consideration of the flat Rs.36,60,500/-, the complainant has paid Rs.3,70,000/-, which about 10% of the total consideration. The Respondents are still running their business of building construction. It is also not out of place to mention that the Respondents have first issued cheque no.002088 dated 03-10-2017 worth Rs.2,70,000/- of Bank of India, Jamal Road Branch, Patna, which was dishonoured and returned by the Bank for the reason of insufficient amount in the account of the Respondents. Thereafter, during hearing of this case on 26-12-2019, the Respondents intentionally issued another cheque no.004568 dated 14-01-2012 of Bank of India, Boring Road Branch, Patna,

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which was received by the complainant due to oversight of date, but it could not be encashed due to invalid date 14-01-2012 mentioned in the cheque. When the Respondents were informed about the invalid date mentioned in the cheque, they have issued another cheque no.004568 worth Rs.50,000/- of Bank of India, Boring Road Branch, Patna, which also dishonoured due to insufficient fund in account of the Respondents and lastly on 16-01-2020 they credited Rs.50,000/- in account of the complainant through N.E.F.T.. Hence, such attitude of the Respondents clearly shows that presently at the time of refund they are not taking same view, which they have in their mind, while taking advance principal amount from the complainant. Rather, they are intentionally doing everything to make delay in refund of principal amount to the complainant. In the above facts and circumstances, I think, a lump sum amount of Rs.35,000/-, which is about 9% of the advanced principal amount, will be appropriate to be paid by the Respondents to the complainant for his mental and physical harassment. Accordingly, Point No.(2) is decided in positive in favour of the complainant and against the Respondents.

Point No.(3):

7. The complainant has visited several times to the Respondents office, met with them and their staffs and



requested for refund of his paid principal amount, whereon, the Respondents and their staffs did not give any attention towards the repeated requests of the complainant, which compelled the complainant to file this case. The complainant would have naturally made expenses in travelling to the office of the Respondents to meet them and their staffs and have also incurred expenses for filing the present complaint case in RERA, Bihar, preparation of documents, Court Fee etc. I think, in all the process the complainant would not have incurred more than Rs.15,000/-, which must be paid by the Respondents. Accordingly, Point No.3 is decided in positive in favour of the complainant and against the Respondents.

Therefore, the complaint case of the complainant is allowed on contest with litigation cost of Rs.15,000/- (Rupees fifteen thousand only) against the Respondents. The Respondents are directed to refund the remaining booking/advanced principal amount Rs.3,20,000/- (Rupees three lacs twenty thousand only) to the complainant along with accrued simple interest till today Rs.1,58,655/- (Rupees one lac fifty eight thousand six hundred fifty five only) @ 10.20% per annum on principal amount. The Respondents are further directed to pay simple interest at the same rate of 10.20% per annum on non-refunded amount from tomorrow till the date of refund. The Respondents are further directed to

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pay compensation of Rs.35,000/- (Rupees thirty five thousand only) to the complainant for his mental and physical harassment. The Respondents are directed to comply the order within 60 days, failing which the complainant is entitled to enforce the order through process of the Court.

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Sd/-  
(Ved Prakash)  
Adjudicating Officer  
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