

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

1. Complaint Case No.RERA/CC/614/AO/155/2019 – Smt. Puja Gupta, w/o Late Santosh Kumar, r/o Fulksha, Nawabganj, District-Araria (Bihar), PIN-854336.
2. Complaint Case No.RERA/CC/615/AO/156/2019 – Sri Suresh Prasad, s/o Ragho Prasad, House No.2186, Kanchanalay, N.T.P.C. Colony, Road No.-4, P.O.-Jaganpura, East Ram Krishna Nagar, New Jaganpura, District-Patna (Bihar), PIN-800027.
3. Complaint Case No.RERA/CC/616/AO/157/2019 – Sri Navneet Nishant, s/o Shyam Bihari Prasad, r/o Shyam Kunj,417, Beli Sarai, New Khandahar Lodge, Motihari, District-East Champaran (Bihar), PIN-845401.
4. Complaint Case No.RERA/CC/617/AO/158/2019 – Sri Tripureshwar Prasad Sinha, s/o Sri Shibeshwar Prasad, r/o Ward No.4, Krishna Nagar Dumra, District-Sitamarhi (Bihar),PIN-843301.
5. Complaint Case No.RERA/CC/618/AO/159/2019 – Sri Saket Saurav, s/o Sri Binod Kumar Singh, C/o Pawan Murari, Near Forest Colony, Kumodini Ghosh Road, Barmasia, District-Deoghar, (Jhrkahnd), PIN-814112.
6. Complaint Case No.RERA/CC/619/AO/160/2019 – Sri Navin Kumar, s/o Sri Yogendra Prasad Yadav, Bandha, Parmanandpur, Near Shiv Mandir, Budhma, Madhepura, District-Madhepura,PIN-852114.
7. Complaint Case No.RERA/CC/620/AO/161/2019 – Sri Baleshwar Pandit, s/o Sri Binda Pandit, Srirampur, Mahesia, Vasant, Sirsiya, Jagdishpur, District-Muzaffarpur (Bihar, PIN-843127. ...

Complainants
(Continued)

8. Complaint Case No.RERA/CC/621/AO/162/2019 – Sri Jayveer Dutta Jha, s/o Late Gouri Dutta Jha, r/o C/o Mukul Rani, 702-B, 6th Floor, Gopal Marketing Complex, Opp.-IDBI Bank, Argora Chowk, Ashok Nagar, Road No.05, Dodranda, Ranchi, District-Ranchi (Jharkhand), PIN-834002.
9. Complaint Case No.RERA/CC/622/AO/163/2019 – Sri Chandan Kumr, s/o Shivnandan Prasad, r/o Near Govt. Primary School, Shah Salempur Barh, District-Patna-803213.
10. Complaint Case No.RERA/CC/441/AO/100/2019 – Sri Chandan Kumar Sahu, s/o Harekrushna Sahu, r/o Village-Binjhua, P.O.-Binjhua, P.S.-Tiring Mayurbhanj, Odisha, PIN-757046.
11. Complaint Case No.RERA/CC/462/AO/114/2019–Sri Amarjit Kumar Chaudhary, s/o Sri Kapil Dev Chaudhary, r/o Raghunandanpur, (Via) Teghra, District-Begusarai, PIN-851133. ... Complainants

Versus

- (1) M/s Agrani Homes Pvt. Ltd.
- (2) Alok Kumar, S/o Padum Singh, Director Agrani Homes Pvt, Ltd., House No.15, Ward No.1FA, Patliputra Colony, Near Ruban Hospital, District-Patna, Bihar, PIN--800013. ... Respondents

Present:

**Sri Ved Prakash
Adjudicating Officer**

Appearance:

For Complainants ... Mr. Kishore Kunal, Advocate
For Respondents ... Mr. Ankit Kumar, Advocate

ORDER

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In view of the fact that these 11 complaint cases relate to the same project “Power Grid Nagar” of the

Promoter/Respondents and are similar in nature, so a composite order is being passed in all these 11 cases.

2. These complaint cases are filed by the complainants named above against the Respondent No.1 M/s Agrani Homes Pvt. Ltd. and Respondent No.2, Sri Alok Kumar, C.M.D. 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 mental and physical harassment with litigation cost of Rs.1.00 lac to each complainant, consequent upon non-delivery of their allotted flats.

3. In nutshell, the common case of the complainants is that the complainants are employees/ex-employees/ buyers of power sector like Power Grid Corporation, N.T.P.C. etc. and they formed a Society in the name of "Power Grid Employees Welfare Housing Society", Alankar Place, P.O.-Boring Road, Patna-800001, Bihar with the objective to get constructed a residential complex for its members. On 19-04-2014 the Respondents and Power Grid Employees Welfare Housing Society through its General Secretary, Sri Shatrughna Mishra entered into an

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agreement (M.O.U.) regarding the project "Power Grid Nagar" situated at Mauza-Fatepur, P.S.-Gaurichak Sampatchak, Patna, (Bihar) for construction of 100 residential flats consisting in two blocks to be allotted to its members as per their choice. It was also agreed between both the sides that each member has to purchase a flat on consideration of Rs.6.00 lacs plus applicable Service Tax. As such, as per agreement, each applicant has paid his/her instalments towards consideration amount for purchase of flat. But, the Respondents did not complete the above project within the prescribed time of 3 years with grace period of 6 months from the date of approval of the Map from competent authority, due to which the vendee/buyer has become entitled to bank interest over the deposited amount for such delayed period. 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, these complainants have filed cases against the Respondents with above reliefs.

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4. The Respondents, after appearance, have filed replies pleading *inter-alia* that the project has been cancelled due to Master Plan, so they are ready to refund the principal

amount of each and every complainant. It is further case that on 13-12-2019 also the Respondents have assured to Bihar RERA Full Bench that they will refund all the money of the complainants, but the Respondents may be allowed some time. Hence in light of their assurances the case may be disposed of.

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5. On basis of the pleadings and submissions of learned lawyers of both the parties, the following points may be formulated to adjudicate the case:-

(1) Whether the complainants are entitled for refund of their advanced principal amount along with accrued interest @ 18% per annum thereon against the Respondents?

(2) Whether each complainant is entitled for compensation of Rs.5.00 lacs against the Respondents for his/her mental agony and physical harassment?

(3) Whether each and every complainant is entitled for litigation cost of Rs.1.00 lac against the Respondents?

Point No.(1):

6. Admittedly, the complainants have constituted a society consisting of friends/employees/ex-employees of

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power sector like Power Grid Corporation, N.T.P.C. etc. in the name and style of “Power Grid Employees Welfare Society”, Alankar Place, P.O. Boring Road, Patna-800001 (Bihar) 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 Shatrughna Mishra entered into an M.O.U. with the Respondents through Respondent No.2, Sri Alok Kumar, C.M.D. of Respondent No.1, M/s Agrani Homes Pvt. Ltd., who agreed to construct 100 flats consisted in two Blocks on consideration of Rs.6.00 lacs plus applicable taxes on each flat, which have to be allotted to its members. It was further agreed that each and every member shall purchase the flat on payment of the above consideration Rs.6.00 lacs plus applicable taxes in instalments to the Respondents. Details of the payment of instalments made by the complainants may be seen through the chart as under:-

Complaint Case No.	Name of the Complainant	Total Consideration of the flat Rs.	Date of Advance Payment of Instalment	Amount of Advance Payment of Instalment Rs.
(1)	(2)	(3)	(4)	(5)
RERA/CC/614/AO/155/2019 -	Smt Puja Gupta	6,00,000.00	29-04-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/615/AO/156/2019	Sri Suresh Prasad	6,00,000.00	18-06-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/616/AO/157/2019	Navneet Nishant	6,00,000.00	16-07-2014 17-03-2016	2,00,000.00 2,14,500.00

RERA/CC/617/ AO/158/2019	Sri Tripureshwar Prasad Sinha	6,00,000.00	16-07-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/618/ AO/159/2019	Sri Saket Suresh	6,00,000.00	19-04-2014	2,00,000.00
RERA/CC/619/ AO/160/2019	Sri Navin Kumar	6,00,000.00	30-04-2014 15-11-2015	2,00,000.00 2,21,000.00
RERA/CC/620/ AO/161/2019	Sri Baleshwar Pandit	6,00,000.00	16-07-2014 28-03-2016	2,00,000.00 2,14,500.00
RERA/CC/621/ AO/162/2019	Sri Jayveer Dutta Jha	6,00,000.00	16-07-2014 17-12-2016	2,00,000.00 4,27,000.00
RERA/CC/622/ AO/163/2019	Sri Chandan Kumar	6,00,000.00	06-01-2015 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/441/ AO/100/2019	Sri Chandan Kumar Sahu	6,00,000.00	16-07-2014	2,00,000.00
RERA/CC/462/ AO/114/2019	Sri Amarjeet Kumar Chaudhary	6,00,000.00	30-04-2014 03-03-2016	2,00,000.00 2,14,500.00

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7. The Respondents have agreed in the M.O.U. that the project shall be completed within 3 years with grace period of 6 months from the date of approval of the Map, failing which the buyer/vendee shall be entitled to bank interest over the deposited amount for such delayed period. The complainants are ready to pay the remaining consideration money to the Respondents for execution of the Sale Deed in their favour, so that they may get delivery of possession of the flat. But, admittedly the Respondents have failed to complete the project and have pleaded that the project has been cancelled due to Master Plan. The Respondents have not submitted that as to when the Master Plan/Programme has come to their knowledge and as to why they have not refunded the advanced principal amount to the respective complainant on cancellation of project. However, the Master Plan of Patna was notified on 13th August, 2014. So, immediately thereafter the Respondents should have

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cancelled the project and refunded the advanced consideration amount taken from the complainants. On the contrary, they have motivatively and decisively taken further advance consideration amount from the complainants with the ulterior motive, even though the Map of the project was not approved by the competent authority. The Respondents have also not brought on record as to why they have not refunded up-till-now the amount of the advanced principal amount to the respective complainant, in spite of the fact that the project was agreed between the parties on 19-04-2014 and now we are at the fag end of the year 2019. So, naturally more than 5 years have elapsed and the Respondents have not taken any step for refund of the advanced principal amounts to the concerned complainant. In this way, it appears that the Respondents are reluctant about refund of advanced principal amount to the complainants. I think, in such facts and circumstances, the complainants are entitled to get refund of their advanced principal amount without any deduction along with accrued interest at bank rate, as agreed in the M.O.U. between both the parties.

8. The complainants have claimed interest @ 18% per annum on the advanced principal amount paid to the Respondents. But, the learned lawyer on behalf of the Respondents submitted

that the Respondents are 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 the learned lawyers 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 the case, it appears that the bank interest agreed between the parties in 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 of 2% above the M.C.L.R. of S.B.I. Presently, the M.C.L.R. of S.B.I. is 8.20% per annum and if 2% is added, the interest rate will come 10.20% per annum. Hence, the Respondents have to pay simple interest @ 10.20% per annum on refund of the principal amount paid by the respective complainant to the Respondents. Accordingly, Point No.1 is decided in positive in favour of the complainants and against the Respondents.

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Point No.(2):

9. Each complainant has also claimed compensation of Rs.5.00 lacs for his mental and physical harassment. As per Section 72 of the Act, 2016, the Respondents have been benefitted with the amount of advanced principal amount paid by the complainants, which is approximately Rs.44.00 lacs and still the said amount is lying with the Respondents and they are using said amount in their business. Presently, instead of refund of advanced principal amount to the complainants after cancellation of the project, the Respondents are avoiding to refund the same for one or other reasons. Now the flat of same area will not be available to the complainants in the same locality at the same price, which was available to them in the year 2014. Naturally, the price of flats in the localities of Patna have gone much high, rather the price has been multiplied. Each of the complainants, except Sri Chandan Kumar Sahu, Sri Saket Saurabh and Jayveer Dutta Jha has paid approx. Rs.4.00 lacs to the Respondents, which is above 66.67% of the total consideration Rs.6.00 lacs. Sri Chandan Kumar Sahu and Sri Saket Saurabh have paid only Rs.2.00 lacs each to the Respondents and Sri Jayveer has paid Rs.6,27,000/- to the Respondents. The Respondents are running their other projects

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and improving their business. In spite of repeated assurances in Court, the Respondents have not refunded the advanced principal amount of the complainants. So being bound, after hearing in detail, the record was reserved for passing final order.

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Hence, taking all situations into consideration and the advanced principal amounts paid by the complainants to the Respondents, I think, lump sum Rs.50,000/- will be appropriate amount to be paid by the Respondents, except Sri Chandan Kumar Sahu in Complaint Case No.RERA / CC / 441 / AO / 100/2019, Sri Saket Saurabh in Complaint Case No.RERA/CC/618/AO/159/2019 and Sri Jayveer Dutta Jha in Complaint Case No.RERA/CC/621/AO/162/2019 to the respective complainant for his mental and physical harassment. However, the complainants Sri Chandan Kumar Sahu and Sri Saket Saurabh are entitled for compensation of Rs.20,000/- each against the Respondents and Sri Jayveer Dutta Jha is entitled for compensation of Rs.60,000/- against the Respondents. Accordingly, Point No.(2) is decided in positive in favour of the complainants and against the Respondents.

Point No.(3):

10. The complainants have visited repeatedly to the office of the Respondents and consulted them as well as their staffs for refund of their advanced principal amounts, but neither the

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Respondents nor their staffs have given any heed to their requests till filing of the present complaint cases. It is also very important to note that delay in disposal of the cases has occurred due to false assurances given by the Respondents through their learned lawyers to the learned lawyers on behalf the complainants in the Court for refund of their advanced principal amounts in instalments, but the same were never fulfilled by the Respondents. In such situations, in my mind, the complainants would have repeatedly visited to the office of the Respondents, executed documents, deposited Court Fee, engaged learned lawyers and have made other expenses towards litigation, in which they would have incurred not less 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.(3) is decided in positive in favour of the complainants and against the Respondents.

Therefore, all the complainant cases of the complainants are allowed on contest with litigation cost of Rs.15,000/- (Rupees fifteen thousand only) to each complainant against the Respondents. The Respondents are directed to refund the remaining principal amounts along with accrued simple interest @ 10.20% per annum thereon since respective date of payment

by the complainants to the Respondents till actual date of refund to each and every complainant. The Respondents are further directed to pay compensation of Rs.50,000/- (Rupees fifty thousand only) to each complainant, except Sri Chandan Kumar Sahu in Complaint Case No.RERA / CC / 441 / AO / 100/2019, Sri Sakaet Saurabh in Complaint Case No.RERA/CC/618/AO/159/2019 and Sri Jayveer Dutta Jha in Complaint Case No.RERA/CC/621/AO/162/2019 for his mental and physical harassment. The Respondents are further directed to pay Rs.20,000/- (Rupees twenty thousand only) to each of the above complainants, Sri Chandan Kumar Sahu, Sri Saket Saurabh and Rs.60,000/- to the complainant, Sri Jayveer Dutta Jha as compensation for their mental and physical harassment. The Respondents are further directed to comply the order within 60 (sixty) days, failing which the complainants are entitled to get enforced the order through process of the Court.

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Sd/-
(Ved Prakash)
Adjudicating Officer
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