

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

1. Complaint Case No.RERA/CC/189/
AO/26/2019 - Sri Niraj Kumar,
S/o Sunil Ray, r/o Power Grid Campus,
NH-77,Dariyapur Kafeen, District-
Muzaffarpur, PIN-844127.
2. Complaint Case No.RERA/CC/190/
AO/27/2019 - Sri Deepak Kumar, S/o
Binay Kumar Mall r/o Qr. No.B2/8
Power Grid Residential Colony,
Ambedkar Nagar, Bihar Colony,
Chauphatka, Allahabad, (U.P.), PIN-
211001.
3. Complaint Case No.RERA/CC/191/
AO/28/2019 - Abhishek Kumar Jha,
S/o Kuleshwar Jha, r/o Malini, Godda,
P.S.-Malini,District-Godda, Jharkhand-
814133.
4. Complaint Case No.RERA/CC/192/
AO/29/2019 - Sri Ram Pravesh Kumar,
S/o Raghunath Prasad, r/o Vill-
Mankatha, Post-Mankatha. P.S.-
Lakhisarai, District-lakhisarai, PIN-
811311.
5. Complaint Case No.RERA/CC/193/
AO/30/2019 - Sri Subhash Ranjan,
S/o Kameshwar Prasad Sharma r/o
Adarsh Colony, Road No.1, Kusumpuri,
Khemichak,Sampatchak, New
Jaganpura, District-Patna, PIN-800027.
6. Complaint Case No.RERA/CC/194/
AO/31/2019 - Sri Bikash Kumar Jha,
S/o Yoganand Jha, r/o Flat No.6074/5,
2nd Floor, Pocket 6-B, Basantkunj,
District-South West Delhi, PIN-110070.

Complainants
(Continued)

7. Complaint Case No.RERA/CC/195/AO/32/2019 – Smt. Chhabi Mishra, W/o Pramod Chandra Mishra r/o Bhuwal Khutwaniya Uchka Ganw, District-Gopalganj, Bihar, PIN-841501.
8. Complaint Case No.RERA/CC/196/AO/33/2019 – Sri Lakshman Kumar, S/o Man Mohan Chandra, r/o Tanti Bazar Road, Near Mansa Devi Mandir, Champanagar, Mohanpur, District-Bhaglpur, PIN-812004.
9. Complaint Case No.RERA/CC/197/AO/34/2019 – Sri Satish Kumar, S/o Rajeshwar Singh r/o Baliya, Guraru, District-Gaya, Bihar, PIN-824205.
10. Complaint Case No.RERA/CC/198/AO/35/2019 – Sri Lokesh Chandra Jha, S/o Vishambar Jha, r/o Village-Kharagwara, Post-Ramgarh, Via-Mani Chouk,PS.-Runni Saidpur Garha, District-Sitamarhi, Bihar, PIN-843323.
11. Complaint Case No.RERA/CC/199/AO/36/2019 – Sri AjendraJha, S/o Gauri Kant Jha, r/o H/N 38, Type-4, Ward No.18, Jagjeevan Nagar, Pathakheda, District-Betul, Madhya Pradesh, PIN-460449.
12. Complaint Case No.RERA/CC/200/AO/37/2019 - Sri Raju Kumar, S/o Mahendra Prasad Singh, r/o Sukulchak, Korauna, District-Jehanabad, Bihar, PIN-804417.
13. Complaint Case No.RERA/CC/440/AO/99/2019 – Sri Kameshwar Ram, S/o Bishwanath Ram, r/o Aadarsh Nagar, Ward No.18, In front of Collectorate,

Bhabua, District-Kaimur, Bihar,
PIN-821101.

14. Complaint Case No.RERA/CC/442/
AO/101/2019 – Sri Raj Kumar, S/o
Sulochan Baitha, r/o Village-Shivrajpur,
P.O.-Shivrajpur, P.S.-Yogapatty, District-
West Champaran, Bihar, PIN-845452.

15. Complaint Case No.RERA/CC/443/
AO/102/2019 – Sri Saharsh Kumar
Suman, S/o Govind Prasad, r/o A-360,
Road No.4B, Near Argora Chauk, Ashok
Nagar, Doranda, District-Ranchi, ...
Jharkhand, PIN-834002.

Complainants

Versus

(1) M/s Agrani Homes Pvt. Ltd.

(2) Alok Kumar, S/o Padum Singh, C.M.D.,
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 15 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 15 cases.

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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 along 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 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 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, but in 2/3 instalments, so the cases may be disposed of in light of their assurances.

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?

6. Point No.(1):

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 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:-

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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/189/AO/26/2019 -	Sri Niraj Kumar	6,00,000.00	30-04-2014	2,00,000.00
RERA/CC/190/AO/27/2019	Sri Deepak Kumar	6,00,000.00	30-04-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/191/AO/28/2019	Abhishek Kumar Jha	6,00,000.00	30-04-2014 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/192/AO/29/2019	Sri Ram Pravesh Kumar	6,00,000.00	16-07-2014 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/193/AO/30/2019	Sri Subhash Ranjan	6,00,000.00	30-04-2014 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/194/AO/31/2019	Sri Bikash Kumar Jha	6,00,000.00	19-04-2014 17-03-2014	2,00,000.00 2,00,000.00
RERA/CC/195/AO/32/2019	Smt. Chhabi Mishra	6,00,000.00	21-07-2014 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/196/AO/33/2019	Sri Lakshman Kumar	6,00,000.00	30-04-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/197/AO/34/2019	Sri Satish Kumar	6,00,000.00	30-04-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/198/AO/35/2019	Sri Lokesh Chandra Jha	6,00,000.00	19-04-2014 17-03-2016	2,00,000.00 2,14,500.00
RERA/CC/199/AO/36/2019	Sri Ajendra Jha	6,00,000.00	16-07-2014 17-03-2016	2,00,000.00 2,00,000.00
RERA/CC/200/AO/37/2019	Sri Raju Kumar	6,00,000.00	30-04-2014 20-12-2016	2,00,000.00 2,00,000.00
RERA/CC/440/AO/99/2019	Sri Kameshwar Ram	6,00,000.00	30-04-2014 13-07-2016	2,00,000.00 2,00,000.00
RERA/CC/442/AO/101/2019	Sri Raj Kumar	6,00,000.00	30-04-2014	2,00,000.00
RERA/CC/443/AO/102/2019	Sri Saharsh Kumar Suman	6,00,000.00	30-04-2014 13-07-2016	2,00,000.00 2,18,000.00

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 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

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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.

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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, so 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 8.25% per annum and if 2% is added, the interest rate will come 10.25% per annum. Hence, the Respondents have to pay simple interest @ 10.25% 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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9. Point No.(2):

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 more than Rs.56.00 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 Niraj Kumar and Raj Kumar has paid approx. Rs.4.00 lacs to the Respondents, which is above 66% of the total consideration Rs.6.00 lacs. The Respondents are running their other projects 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. 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 Niraj Kumar in Complaint Case No.RERA/CC/189/AO/26/2019 and Sri Raj Kumar in Complaint Case No.RERA/CC/442/AO/101/2019, to the respective complainant for his mental and physical harassment. However, the complainants Niraj Kumar and Raj Kumar are entitled for compensation of Rs.20,000/- each against the

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Respondents. Accordingly, Point No.(2) is decided in positive in favour of the complainants and against the Respondents.

10. Point No.(3):

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 Respondents nor their staffs have given any heed to their requests till filing of this complaint case. It is also not out of place to mention that on repeated requests of the learned lawyers on behalf of the complainants and assurances by the learned lawyers on behalf of the Respondents, cheques of Rs.1.00 lac were handed over to the complainants (except one complainant, in whose account Rs.1.00 lac was transferred through R.T.G.S./N.E.F.T), but all these cheques were dishonoured due to insufficient amount in the account of the Respondents. Further, it is also very important to note that delay in disposal of the case 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

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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,12,000/-, which must be paid by the Respondents. Accordingly, I find and hold that each and every complainant is entitled for litigation cost of Rs.12,000/- 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.12,000/- (Rupees twelve thousand only) to each complainant against the Respondents. The Respondents are directed to refund the remaining principal amounts along with accrued simple interest @ 10.25% 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 Niraj Kumar in Complaint Case No.RERA / CC / 189 / AO / 26 /2019 and Sri Raj Kumar in Complaint Case No.RERA / CC / 442 / AO / 101/2019, 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 Niraj Kumar and Sri Raj Kumar as compensation for his 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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