

**REAL ESTATE REGULATORY AUTHORITY, BIHAR, PATNA**

**Complaint Case Nos RERA/27-31 of 2018**

1. Case No.27/2018 - Mrs. Anita Devi, - Complainant  
W/o Sri Arun Kumar
2. Case No.28/2018 - Mrs. Madhu - Complainant  
W/o Sri Sanjay Kumar Prasad
3. Case No.29/2018 - Mr. Balmukund Prasad - Complainant
4. Case No.30/2018 - Mrs. Anshu, - Complainant  
W/o Sri Pradeep Kumar
5. Case No.31/2018 - Mrs. Sarita Gupta - Complainant  
W/o Sri Ashok Kumar Gupta

Vs.

Mr. Alok Kumar, Director, Agrani Homes Pvt. Ltd. - Respondent

**Present:** For the Complainants- In person  
For the Respondent - Mr Ashok Singh, Sr Adv  
Ms Manisha Singh, Adv

01-11-2018

**Order**

1. All five petitioners namely; Mrs. Anita Devi, Mrs. Madhu, Mr. Balmukund Prasad, Mrs Anshu and Mrs Sarita Gupta have filed individual complaint petitions u/s 31 of the Real Estate (Regulation and Development) Act, 2016 to the Real Estate Regulatory Authority, Bihar (hereinafter referred as 'the Authority') against Mr. Alok Kumar, Director, Agrani Homes Pvt. Ltd. on 09<sup>th</sup> July, 2019 in which all of

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them defended themselves whereas the respondent M/s Agrani Homes Pvt. Ltd. (hereinafter referred as the 'company') was represented by the learned Senior Counsel, Mr. Ashok Singh along with Ms. Manisha Singh, Advocate.

**Case of the complainants:**

2. All the petitioners in their separate but similar petitions have claimed that they have executed agreements with the Respondent company during the period July to December, 2013 for a flat of 1300 sq.ft. in Block-A of the project 'Agrani Urmila' of M/s Agrani Homes Pvt Ltd located at different floors and paid Rs.14.00 lakhs by each of them, except Mrs. Madhu who had paid Rs.14.43.260/-. Details of the payments made by the abovementioned five petitioners are shown in the table given below:-

Sl. No.	Name of Complainant	Date of Payment	Cost of the Flat Rs.	Amount Paid Rs.
1	Mrs. Sarita Gupta	26-07-2013	17,52,530/-	14,00,000/-
2.	Mrs. Madhu	12-08-2013	17,42,975/-	14,43,260/-
3.	Mrs. Anita Devi	12-08-2013	17,52,530/-	14,00,000/-
4.	Mr. Balmukund Prasad	29-10-2013	17,52,530/-	14,00,000/-
5.	Mrs. Anshu	05-12-2013	17,52,530/-	14,00,000/-

3. Each petitioner, except Mrs. Sarita Gupta was committed that the construction of the Apartment would be completed within 3 years, while Mrs. Sarita Gupta who entered into the first Agreement, was committed by the Respondent Company that the construction of the Apartment will be completed within 2 years. Each petitioner claimed that they have been visiting the builder regularly but they were not

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given the correct picture and all of them were given false assurances that construction would be started soon. The petitioners claimed that though more than 5 years have passed since the dates of Agreement and payment of nearly 80 percent of the total cost of the flat in lumpsum, nothing has been done towards construction of Apartment and not a single brick has been laid. They claimed that the builder changed his administrative office, but did not inform them about the change in location by any method – telephone, e-mail, letter or any other means. They claimed that the company was not sincere and they were continuously misled, whenever they followed up, that the construction would commence soon but each time it was found to be a hollow claim. Each petitioner has claimed compassion either on account of old age, serious ailment in the family, kidney failure, stroke, cancer etc.

4. Each petitioner has sought similar reliefs :

- Delivery of the booked flat in the Agrani Urmila project at Pipara, R K Nagar, Patna,
- Money required to buy alternate accommodation in the same area;
- Payment of Interest @24% per annum;
- Compensation against mental and Physical harassment;

As an interim relief, each petitioner has claimed handing over of the flat, pending settlement of other issues.

**Response from the Company:**

5. On the individual notice issued to the respondent company in July, 2018 on each complaint, Sri Alok Kumar, Director of the company through Ms. Manisha Singh, Advocate stated in August, 2018 in each

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case that the present project 'Agrani Urmila' was conceived prior to the commencement of the Real Estate (Regulation & Development) Act 2016. They further stated that the project has had a peculiar history as the initial Memorandum of Understanding (MoU) signed by the promoter with the land-owners for 20 kathas of land with initial payment of Rs.45 lakhs to the land-owners did not fructify as there was dispute amongst the land-owners and their project could not proceed. The respondents further stated that as a result of dispute, the area of the plot got reduced and even then there was no respite from differences among the land owners. In spite of their best efforts, the company was not able to get the land-owners to compromise. As a result, no fresh plan could be prepared and proceed further. The respondent also claimed that there was no malafide intention on the part of the company with regard to this project and accordingly, submitted a proposal to sort out the grievances of the complainants as follows:-

- (i) to refund the entire principal amount with interest as provided in the Act/rules or order of the Authority.
- (ii) If the complainants are ready, the company could provide them similar flats in any project in 'Agrani IOB Nagar' in ready to move stage.

### Hearing:

6. On the date of first hearing on 11-09-2018, the respondent Company reiterated their position that due to reasons beyond their control, they could not commence the project as there were initial disputes amongst the land- owners. They stated that there was no malafide intention on their part. However, the complainants stated that the

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company has not informed them about the nature of delay and they kept the complainants in dark throughout the last 5 years and kept on promising that they would commence the project very soon. The Bench desired to know from the respondent whether they informed the Petitioners about the reasons for delay through letter or email or telephonically, to which the learned counsel responded that though they did not send any formal communication, the complainants were in regular touch with the company on the issue and they were properly briefed about the issues involved. On this, all petitioners contested the claim of the respondent and stated that though they were regularly following with the promoter, they were always kept in dark and given false assurances.

7. In such scenario, the Bench desired to know whether the petitioners would like to have the flats in some other project of the company or they would like to settle for refund of the principal amount along with due interest. The petitioners did not like to opt for similar to be built flats in other projects of the company, as they were not prepared to wait for another 4-5 years once again for completion of a new project. They were however ready to take flats in ready to move stage in any similar project at a good location. Accordingly, the Bench directed the complainants and the respondent company to sit together, discuss the option available for them and come back to the Authority after considering all the options.
8. Subsequently, the next date of hearing was adjourned to 05<sup>th</sup> October, 2018 at the request of the learned Counsel for the respondent. On 05<sup>th</sup> October, 2018, the petitioners came back to the Bench and stated that they were not given any option of ready to move stage flats by the

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company. As such they were not in position to accept the proposal of the company for providing flats in any of their to be built projects as they wanted to move in ready to move stage flats only as they have been waiting for flat for more than 5 years, even after making payment of lump sum amount of 80 percent of the total estimated cost. They wanted to settle the issue by refund of their principal amount with commensurate rate of interest @ 24% per annum, as they have suffered for the last 5 years and their request appears genuine as the prices of the flats in the market have gone up and similar flats were available now in the range of Rs,40,00,000/- only. Mrs. Anshu stated that her husband is on dialysis for the last several years and she had invested all her hard earned money to buy a home/flat, but her hope of getting any flat appeared to be dim. All complainants claimed interest @ 24%, so that they were able to purchase similar flats in the nearby vicinity in future.

### ORDER

9. The Respondent Company-M/s Agrani Homes Pvt. Ltd. was registered in 2011 as a Company under the Companies act 1956. It has 4 sister concerns namely; M/s Agrani Homes Pvt Ltd, M/s Agrani Homes Real Marketing Pvt. Ltd., M/s Agrani Homes Real Construction Pvt Ltd and M/s Agrani Homes Real Services Pvt Ltd. In the last 7 years since inception, all these companies have been running several projects in Real Estate Sector in and around Patna. This project namely 'Agrani Urmila' was launched and bookings made against this project, though they had not even registered the development agreement signed with the land owner in February 2013. In normal circumstances, the promoters get such development agreements registered within three months of the signing of the agreement. It

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would therefore appear that though the development agreement was not yet registered in six months following the signing of agreement due to disputes among landowners, the promoters went ahead and started booking apartments and collecting huge sums in lumpsum without any necessary initial preparations /clearances /approvals. They kept collecting the funds till December 2013.

10. Though the respondent company have submitted a declaration on a plain paper from one of the witnesses of the development agreements with the landowner that a sum of Rs.45.00 lakhs have been paid to the land owner, the respondent company has neither submitted concerned receipt, cheque number or the Account Number in which the payment has been made. So, the gravity of the issue increases as they continued to keep the petitioners in dark for nearly 5 years without any communication from them that this project was not likely to fructify. Though the Bench gave enough time to the respondent company requesting them to consider the claims of the petitioners sympathetically, as they have already suffered badly due to inordinate delay in commencement of the project, the respondent company have not made any suitable or attractive offer to the petitioners to enable them to accept the same.
11. All petitioners have claimed for payment of interest @ 24% for the delayed period, in addition to the compensation against the mental and fiscal harassment suffered by them, on account of significant increase in prices of flats in the market now. They claimed that the respondent never told them in the last 5 years that they would not be given flats in Agrani Umila Project.

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12. As the respondent have kept the petitioners in dark for nearly 5 years after taking 80 percent of the estimated cost of the Flats in lumpsum and used them for their working capital needs or investment in other projects, the natural justice would demand that Petitioners ought to be adequately remunerated as they have to incur significant additional cost for getting any identical flat in the similar vicinity in foreseeable future. The respondent should not have booked the flats of the aforesaid project *abinitio* as they had not even completed the basic formalities towards launch of the project and did not obtain even the routine clearance like map sanction, fire clearance etc.

13. It is, therefore, felt that though the respondent was ready to refund the principal amount paid by the petitioners along with interest at two percent above the rate of Marginal Cost of Lending Rate (MCLR) of the State Bank of India, the market cost/value of the principal amount paid by the Petitioners would be very high if we compare the rate at which the company would have enjoyed similar sums of money from the market/public financial institutions/banks during the period they kept the money with them, and the interest cost would range between 13 to 17%. Keeping the sensitivity of the matter and that the fact that most of the petitioners were from lower/middle income group/strata of the society and /or senior citizens and they wanted to live their life together in a Block, which didn't fructify, interest @ 15% per annum to be compounded quarterly on the deposits made by the petitioners with effect from the date of payment till the date of refund would be just and reasonable and cover the quantum of loss suffered by the petitioners. It is therefore ordered that the entire principal amount along with due interest @ 15 percent


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per annum to be compounded quarterly from the dates of deposit to the date of refund should be refunded in three installments by the Respondent Company to each petitioner within 60 (sixty) days of issue of this order.

  
Member  
(R B Sinha) 1/11/2018

  
Member 01.11.2018  
(Dr S K Sinha)

