

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Double Bench of Mr. Naveen Verma, Chairman

& Mrs. Nupur Banerjee, Member

Case No. RERA/CC/324/2021

Jeetendra Prasad Roy.....Complainant

Vs

M/s Agrani Homes Pvt. Ltd.....Respondent

Project: AGRANI P.K. VILLA

ORDER

12-05-2022 This matter was last heard on 07-04-2022.

The case of the complainant is that he booked a shop in the project after which an allotment letter was issued by the respondent company on 18.07.2018 for unit number G-06 having total sale consideration of Rs.20,00,000/- + GST as applicable. The complainant has stated that he has paid a sum of Rs. 17,25,000/- starting from 18.07.2018 till 04.10.2018, the details of which have been mentioned on page 8 and 9 of the complaint as the respondent company demanded entire payment before handing over of the possession. It has been alleged that as assured, the possession of the shop was to be handed over in 24 months which lapsed in 2020 but, even after payment of 85% of the amount, the possession of the shop has not been handed over. The complainant has also alleged that the Project is completely abandoned by the respondent company which has hence violated Section 18(1) of the Real Estate (Regulation and Development) Act, 2016.

The complainant has also stated that a legal notice dated 07.12.2020 was sent to respondent company demanding refund of

entire amount with 18 % compound annual interest. The complainant has alleged that since there is apprehension about the completion of the project, the complainant elected to withdraw from the project and sought refund of the paid amount along with interest. The complainant has also quoted an excerpt from the judgment of the Hon'ble Supreme Court of India in the case of Fortune Infrastructure & Anr. V. Trevor D'Lima & Ors (2018) 5 SCC 442 wherein the Apex Court has observed that "15. Moreover, a person cannot be made to wait indefinitely for the possession of the shops allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation."

Therefore, the instant case has been filed praying for direction to the respondent company to return the entire amount received by him with interest @ 18% per annum from the date of payment, direction to the respondent company to pay Rs. 10 lakhs to the complainant for mental, economical and physical harassment and R. 1,00,000/- as litigation cost and any other relief which the Authority may deem fit and proper in facts and circumstances of the case.

The complainant has placed on record allotment letter dated 18.07.2018 and various money receipts issued by the respondent company from 18.07.2018 till 04.10.2018 against payment of Rs 17,25,000/-.

During the course of hearing, the learned counsel for the complainant submitted that a representation was filed on behalf of all the landowners on 22.12.2021 stating that registration of the project has lapsed and the respondent company has not applied for further extension and therefore the project may be transferred to another promoter. And on the last date of hearing, the respondent company was directed to file an application for unfreezing of the project account and also send the details of the bank account pertaining to P K Villa project.

Reply was filed by the respondent company in the light of above direction issued by the Authority after the matter was posted for order.

In its reply, the respondent company has referred to an order dated 10.02.2021 passed by the Authority wherein the Authority had frozen all the bank accounts of the respondent company, Directors of the company and their relatives. The respondent company has stated that since the passing of the said order, the respondent company has become financially crippled and are unable to carry out the work in the project and address the grievance of the complainant and other allottees. The respondent company has also stated that due to such order, the Banks have put a ban on the disbursement of loan amount to the allottees which in turn is affecting the work of the respondent company. The respondent company has prayed for De-freezing of account no. 165902000000331 (IFSC IOBA0001659), Branch IOB Kankarbagh Patna, belonging to AGRANI P.K. VILLA.

A letter to the concerned Bank Branch for de-freezing the project account has been issued to the Branch Manager, Indian Overseas Bank, Kankarbagh Branch in the light of prayer of the respondent company.

The Bench also notes that the complainant has reiterated his request for refund of the amount of Rs 17.25 lakhs with interest.

Taking note of the prayer and the submissions made above, the Bench is of the view that if the respondent company is willing to carry out the project and address the grievance of the complainant and other aggrieved allottees the promoter may submit an application for the extension of the registration.

So far as the relief sought by the complainant in this case is concerned, the Bench hereby directs the respondent company and its Directors to refund the principal amount of Rs. 17.25 lakhs to the complainant along with interest at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years from the date of taking the booking within sixty days of issue of this order.

The complainant is at liberty to press for his claim for compensation before the court of Adjudicating Officer.

With these observations and directions, the matter is disposed of.

Sd/-

Nupur Banerjee
(Member)

Sd/-

Naveen Verma
(Chairman)