

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Double Bench of Mr. Naveen Verma, Chairman
& Mrs. Nupur Banerjee, Member

Case No. CC/396/2019

Suman KumariComplainant

Vs

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

Project: Agrani P.G. Town

ORDER

19-05-2022 This matter was last heard on 26-04-2022.

The case of the complainant is that she booked a Flat bearing No. 301 on 3rd Floor in the project in Block H measuring 1300 sq ft, the total consideration of which was Rs. 15,50,000/-. Against the total consideration amount, the complainant has paid a sum of Rs. 13,50,000/- vide NEFT dated 28.03.2017, 03.04.2017, 10.04.2017, 09.05.2017, 10.05.2017 and Andhra Bank cheque no. 000004 dated 11.04.2017, SBI cheque no. 279817 dated 13.04.2017 and Bank of India cheque no. 054426 dated 13.06.2017. As per the agreement, the remaining amount of Rs 2 lakhs was to be paid two months prior to the handing over of the possession of the flat.

The complainant has stated that she paid a sum of Rs 14,10,747/- under a one time payment scheme but due to insincerity of the respondent and as the project was not approved by the Real Estate Regulatory Authority she decided to cancel her booking and requested for refund. However, as alleged, the respondent company

failed to respond and hence the complaint has been filed praying for refund of the entire deposited money with interest.

The complainant has placed on record copy of Memorandum of Agreement dated 09.09.2017 entered into between the complainant and the respondent company, KYC form and money receipts issued by the respondent company against the payments made by the complainant.

No specific reply has been filed by the respondent company in the instant case. However, the respondent company has been present on all the hearings. Various petitions and affidavits along with lists of allottees, their dues amount, their refunds have been filed by the respondent company. The respondent company has also filed a list of cancellation of bookings.

Perused the records of the case. The Bench notes that even though the complainant has stated that she has made payment of Rs. 14,10,747/- under a one time payment scheme, but the money receipts filed by the complainant exhibit that only a sum of Rs. 13,50,750/- has been paid by the complainant. Further the complainant has stated that she applied for refund with the respondent company but has not filed any cancellation letter to such effect.

During the course of hearing the complainant has submitted that an offer for an alternative flat/land was given by the respondent company and the complainant prayed for time to take decision on the same and file written submissions to this effect. The complainant however has reiterated her request for refund of the deposited sum with interest.

A petition u/s 37 of the Real Estate (Regulation & Development) Act, 2016 r/w Regulation 12(6) has been filed by the learned counsel of the respondent company on 05.04.2022 for amending/modifying/vacating the interim order dated 10.02.2021. In his petition, the learned counsel has referred to the interim order dated 10.02.2021 passed by the Authority wherein the Authority had frozen all the bank accounts of all the Directors of the respondent company, their relatives and other family members besides impounding the sale deeds/land deeds/developments agreements. The respondent company expressed its inability to execute the sale deeds/conveyance deeds, make refund of the amount to the aggrieved allottees and carry out the work of various projects due to the passing of the said order.

A copy of the aforesaid petition was served to the complainant for filing reply. However no reply has been filed by the complainant.

On the last hearing, the learned counsel for the respondent company orally submitted before the Bench that due to endorsement of the letter No. 354/21 dated 17.02.2021 by the Authority to the Insurance Regulatory and Development Authority (IRDA), right to life of Sri Padum Singh, one of the Directors of the respondent company is getting affected as he is not been able to avail facilities of health insurance. The Bench recalled the interim order dated 10.02.2021 and observed that there was no specific reference to deny the benefits of health insurance to any of the Directors or their family members in the said order. However, on the last occasion the Bench, considering the health issues ordered that the endorsement of letter no. 354/2021 be withdrawn to the extent that there is no bar by

the RERA in availing the benefit of health insurance of any of the Directors or family members of the respondent company and to that extent, a Corrigendum to that letter was issued accordingly.

The learned counsel for the respondent company also prayed to modify the other directions issued in the said interim order dated 10.02.2021. The Bench is of the opinion that such plea of the respondent company can be considered only if specific petition is made on a case to case basis as these interim directions were issued in the batch cases after hearing the matters of various complainants.

On careful perusal of the entire records of the case and after hearing the submissions of both the parties over a period of time, the Bench notes that various prayers by the respondent company are collective in nature and does not specifically pertain to this complainant or the project in question. The Bench cannot pass any order or make any observation on de-freezing of project bank account or allowing registration of the sale deeds as there is a continuing apprehension of diversion of deposits made by allottees given the previous conduct of the respondent company.

The Bench can consider the pleas of the learned counsel of the respondent only after hearing all the complainants in the various matters listed along with the batch cases so that their views are taken into consideration. The prayer of the respondent then has to be shared by mail with all such complainants whose matters are pending so that they are given an opportunity to submit their response.

The Bench notes that final orders might have been passed in some of the matters which were listed along with the batch cases.

The prayer can then be considered project wise on a case to case basis after hearing both the parties.

List these matters accordingly and after hearing all such complainants, a final decision would be taken.

The records available in the Authority have been verified. A sum of Rs. 5 lakhs has been paid to the complainant by way of Demand Draft No. 408232 dated 20.03.2021 drawn on Punjab National Bank by the Authority out of the money received from the respondent company vide Demand Draft no. 796841, which has been duly received by the complainant on 26.03.2021 and an Indemnity Bond to this effect has also been executed by the complainant.

Since in the instant case, the relief of the complainant is restricted to seeking refund of the deposited sum with interest, the Bench would not go into further details and the Bench hereby directs the respondent company and their Directors to refund the remaining principal amount of Rs. 8,50,750/- 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 plus one percent from the date of taking the booking within sixty days of issue of this order.

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

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)