

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Hearing Before the Bench of Hon'ble Chairman, Mr. Naveen Verma, & Hon'ble
Member, Mrs. Nupur Banerjee, RERA , Bihar**

Case No. :- RERA/CC/882/2019

Bikash Kumar.....Complainant

Vs

M/s Agrani Homes Pvt. LtdRespondent

Project: SURAJ SUMAN

Present: For Complainant: In person

For Respondent : Mr. Pravin Kumar, Advocate

02-12-2021

06-12-2021

Order

This matter was last heard at length along with batch of cases on 24/11/2021.

The case of the complainant is that the complainant booked a 3BHK flat in the Project Agrani "Suraj Suman" having area 1245 sq.ft for which he paid Rs.7,32,007 the details of which as follows:- Rs. 5,00,007 through bank transfer on several dates in June 2018, for which money receipt no. 147 dated 09/07/2018 and Rs. 2,32,000 by account transfer for which money receipt no. 177 dated 27/08/2018 was issued. The complainant applied for cancellation of the booked flat on 26.09.2019. The complainant has filed the case seeking refund of the amount paid with interest.

The complainant has placed on record, aadhar card and pan-card of the complainant, money receipts dated 27.07.2018 and 09.07.2018 and booking application form, cancellation application dated 26.09.2019

Perused the records of the case. No reply has been filed by the respondent company. The Bench notes that Mr. Alok Kumar, MD of the respondent company has attended all the previous hearings virtually except the hearing conducted on 24-11-2021 and orally authorized Mr. Pravin Kumar to represent the respondent company. A penalty of Rs. 10,000/- was imposed upon the respondent company for his non-appearance which has not been deposited by the respondent company.

In previous hearings, the MD of the respondent company submitted that a number of FIRs have been lodged against him by the landowner Manish Kumar with whom Mr. Alok Kumar later has entered into a compromise wherein the landowner is ready to return the amount of around Rs. 1 Crore to the company.

The Bench was also informed that the respondent company was unaware of the development agreement executed between landowner and M/s Hira Panna Infra Projects Pvt. Ltd and upon learning the same, the respondent company cancelled 2 agreements out of 4 agreements with the landowner.

The Bench has taken note of the submissions of the parties. A penalty of Rs. 20,000/- was imposed upon the respondent company vide interim order passed on 07.10.2021 for not furnishing copies of FIRs filed against the respondent company along with the compromise agreement with the landowner, which has also not been deposited till date.

The Bench observed that the liability to refund the amount to the allottees is upon the respondent company and it is for them to arrange the money from whatever sources they desire.

It is apparent from the documents filed by the complainant that notwithstanding the fact that the project was not registered, the promoter went ahead with bookings and accepted payments in 2018. This is a blatant violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016. Suomotu proceedings may be initiated against the respondent company under section 59 of the Real Estate (Regulation and Development) Act, 2016.

After perusing the records and hearing the submissions of both the parties, the Bench hereby directs the respondent to refund the amount paid by the complainant i.e. Rs. 7,32,007/- with interest at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for two years from the date of taking the booking till payment within sixty days of issue of this order. The complainant is at liberty to approach the Adjudicating Officer for his claim of compensation.

As far as the penalty of Rs. 30,000 (10,000 + 20,000) imposed upon the respondent company is concerned, the Bench notes that if the said amount is not paid within the period of 60 days as stated above, the same shall be recovered as arrears of land revenue as enumerated u/s 40(1) of the Act.

With these directions, the matter is disposed of.

Sd/-
Nupur Banerjee
Member

Sd/-
Naveen Verma
Chairman