

# REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Bench of R. B. Sinha and Dr S. K. Sinha, Members of RERA, Bihar

Complaint Case No-CC/94/2018

Awanish Pandey .....Complainant

Vs

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

Present: For the Complainant:- In person  
For the Respondent:- Ms Manisha Singh, Advocate

27/02/2019

## ORDER

1. Mr Awanish Pandey, a resident of Maulabagh, Eidgah Road, Behind SB College Main Gate, Ara has filed a complaint petition on 03/09/2018 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 against M/s Agrani Homes Pvt Ltd for refund of the amount of deposit along with due interest as the Apartment booked by him was already booked to another party. In pursuance to the receipt of the complaint, a notice was issued to the Respondent Company M/s Agrani Homes Pvt Ltd through their Managing Director Mr Alok Kumar on 11/10/2018 for giving their response within 15 days of receipt of the notice. Ms Manisha Singh, Learned counsel for the respondent company filed the response on behalf of the developer. Thereafter hearings were held on 08/01/2019 and 05/02/2019.

### Complaint of the Petitioner

2. In his complaint, the Petitioner has stated that he had booked a ready to move in apartment (Apartment No.G-06 C-Block) in the project "IOB Nagar", Sarari, Danapur, Patna at the cost of Rs 43 lakhs. The Complainant stated that he had paid Rs 7.5 lakh as booking amount for the aforesaid apartment. However, even after lapse of 1.5 years, no sale agreement was made by the promoter. He has stated that he has been chasing the builder to get his refund but they have not been giving any satisfactory response. He

has also submitted copies of the two money receipts – one dated 25/10/16 for Rs 4.5 lakh and the other dated 04/02/17 for Rs 3 lakh.

3. The Complainant stated that after pursuing the builder several times for signing the agreement for sale, he came to know that his booking was against a cancellation, proposed to be done by a previous buyer. Since the other party has not yet cancelled the agreement, the agreement for sale was not being signed. Hence, it was an uncertain situation wherein he was not sure of getting the apartment even after paying nearly 20% of the estimated cost of the apartment. Resultantly he asked the builder to refund his deposits. Even then after several calls and messages, he has just been returned only Rs one lakh in June, 2018.

### **Response of the Respondent Company**

4. In her response dated 10th November 2018, Ms Manisha Singh, learned counsel for the respondent company stated that the Complainant had booked a ready to move in flat in IOB Nagar against cancellation. She stated that the Complainant was informed at the time of booking that this flat was earlier allotted to one Indian Overseas Bank Official who intended to sell this apartment. In this way, it was a secondary purchase and a tripartite agreement would be executed in between the promoter, the Complainant and the original Allottee. She submitted that a sum of Rs 1.5 lakh has already been paid to the Complainant and the remaining amount would also be paid within a period of six weeks.

### **Hearing on 8<sup>th</sup> January and 5<sup>th</sup> February 2019**

5. On the date of hearing on 08/01/2019, the Respondent Company handed over a cheque bearing No.451756 dated 31/01/2019 for Rs 6 lakh to the Complainant. Learned counsel for the Respondent Company also committed that she would ensure that the cheque would be honoured on presentation in the bank. On the date of next hearing on 05/02/2019, it was confirmed that the amount has been paid to the Complainant.

### **Issues for consideration**

6. It is a matter of fact that the Complainant had paid a sum of Rs 7.5 lakh to the Respondent Company in October, 2016 (Rs 4.50 lakhs) and February, 2017( Rs 3.00 lakhs). Though the Complainant has claimed that he was not

informed about the fact that his booking was against a (would be ?) cancellation, the Respondent Company claimed that the Complainant was very much informed about the fact at the initial stage itself. However, copies of application (Know Your Customer application dated 25.10.2016) and two money receipts did not indicate that the booking was against cancellation. Further, there is no reason for the Respondent Company to do a booking against anticipated cancellation. Notwithstanding the dispute on this issue, it is an accepted fact that the respondent company availed the benefits of the amount of deposit for nearly two years.

### **Order**

7. It is, therefore, ordered that the Company should pay the interest at the rate of MCLR of SBI, as applicable for two years or more plus one percent from the date of deposit to the date of refund. The payment of interest should be made within thirty days of issue of this order.

**Sd**  
**(R. B. Sinha)**  
**Member**

**Sd**  
**(Dr S. K. Sinha)**  
**Member**