

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

**Case No. CC/135/2021**

Manoj Kumar Priyadarshi.....Complainant

Vs

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

Project: IOB Nagar Block H

**INTERIM ORDER**

**2/08/2022**

This matter was last heard on 03-02-2022 along with batch cases before the Double Bench and was reserved for order on 24-02-2022. However, the pronouncement of order on the date fixed was deferred on the request of a number of allottees and particularly the Association of Allottees of H block. Subsequently the batch cases were heard at length and both the parties raised various issues which were material to the adjudication of the instant case and hence orders were deferred. However while detailed orders were passed in the batch cases, this matter was inadvertently left out and hence orders are being issued now.

The case of the complainant is that he booked a Flat measuring 612 sq. feet, bearing Flat No: 407 in "H" Block of the project "IOB Main Phase" for a total consideration money of Rs. 14,78,929/-. The complainant has stated that at the time of booking, the complainant paid Rs 1.50 lakhs vide cheques dated 17.02.2013 and 01.05.2013 and that he has already paid Rs. 8.30 lakhs (approx) to the respondent company and also availed a housing loan from LIC Housing Finance. The complainant has alleged that as per the agreement for sale dated 16.08.2013, the respondent company had promised to handover possession of the said Flat by December 2015 but the possession has

not been handed over even after lapse of so many years. It has also been alleged that there has been no development in the project till date. Therefore, the complainant has filed the instant case praying for refund of the principal amount with interest.

The Bench recalls that in hearing of other batch of cases on 15-02-2022, the learned counsel for the association of allottees prayed before the Bench to defer passing orders in cases as the allottees were in two minds- whether to allow the present promoter i.e. M/s Agrani Homes to carry out the remaining development work or get the work done by a new promoter. The President of the society/association also requested for a clear cut plan from the respondent company for the completion of the project. Upon hearing such submissions, the Bench allowed the prayer of the association of allottees and granted them time to take a final decision and submit before the Authority.

The Authority recalls that in the batch cases learned counsel Manas Prakash had appeared on behalf of 36 allottees and had submitted that a new promoter namely M/s Winsome Infrastructure is ready to complete the remaining work in the project and as per Section 8 of the Act, the association of allottees may be considered among the alternatives to complete the project.

A reply on affidavit has been filed by the respondent wherein they had stated that if the allottees who have defaulted in making payment clear the dues, they can complete the project. The respondent company, in its submission placed before the Bench on 03.02.2022, assured to complete the work of H Block in one year i.e. by 03.02.2023. The learned counsel for the association of allottees, on the other hand, submitted that the matter should be decided under Section 8 of the Real Estate (Regulation & Development) Act, 2016.

The Authority notes that detailed orders were passed in respect of completion of the project and disposal of unsold flats after valuation of the project.

Since the complainant is seeking refund of the deposited amount with interest, the question of who would make the refund has to be decided.

The principal amount of Rs. 8.30 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 plus five percent would have to be refunded to the complainant.

The Authority notes that normally it is the responsibility of the Directors of the respondent company to arrange the necessary resources to enable refund to the complainant and other aggrieved allottees.

However , in this matter the project has been handed over to the association of allottees under section 8 of the Act, 2016. The association may indicate the status of valuation of the project and whether remaining work is being completed by a new promoter . The association of allottees may be made a party as to whether they along with the new promoter would make the refund to the complainant and sell his flat. The respondent company would also indicate whether they are willing to make the refund in case they are permitted to sell the flat.

A copy of this order may be sent to both the parties.

Put up for further hearing on 4.8.2022.

Sd/-

**Nupur Banerjee**  
**(Member)**

Sd/-

**Naveen Verma**  
**(Chairman)**