

**REAL ESTATE REGULATORY AUTHORITY, BIHAR, PATNA**

**Before Mr R.B.Sinha & Mr S.K. Sinha, Members of the Authority**

**Case Nos.CC/204/2019**

**Jaya Srivastava.....Complainant**

**Vs**

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

**Present: For the Complainant: In person**

**For the Respondent: Mr Durga Narayan, Advocate**

**31/10/2019**

**ORDER**

1. The complainant Jaya Srivastava, D/o Late Rameshwar Prasad, a resident of C/403, Lekhraj Parisar, Road No.3, East Patel Nagar, Patna has filed a complaint petition on 17<sup>th</sup> January 2019 under section 31 of the Real Estate (Regulation and Development) Act 2016 against M/s Agrani Homes Pvt Ltd for not giving possession of flat no.505, D-Block, IOB Nagar, Sarari, Danapur, Patna, booked by her in August 2012.

**Case of the complainant:**

2. The complainant has submitted that she had booked a Flat No.505, D-Block, IOB Nagar main phase with super built up area of 960 sqft on 13/08/2012 at a total consideration amount of Rs 20,45,000. As per registered agreement for sale, the flat was to be completed by December, 2014 but till date the flat is still incomplete. She has already paid Rs 14,51,506/- towards construction of the flat till date She wants to get the flat as soon as possible as she has been paying EMI for the home loan taken by her as well as incurring cost of monthly rent. She has also claimed a lumpsum compensation of Rs

10,00,000 along with interest for the delayed period at the rate of 18 percent per annum.

3. She has enclosed a copy of the registered agreement for sale, executed on 29/12/12 between the complainant and the respondent company and copies of money receipts issued by the respondent company for the deposits made by the complainant.

**Response of the Respondent Company:**

4. The respondent company was served with a show cause notice under Section 12, 13, 18 and 19 of the Real Estate (Regulation & Development) Act, 2016 and Rule 36 of the Bihar State Real Estate (Regulation & Development) Rules, 2017 on 15<sup>th</sup> February 2019 to submit their response on the complaint petition within two weeks but the respondent did not reply. Since the respondent company did not reply to the notice, the matter was fixed for hearing on 10/05/2019.

**Hearing :**

5. The matter was heard on 10/05/2019, 08/07/2019, 05/08/2019, 27/08/2019 and 06/09/2019. During the course of hearing on 05/08/2019, learned counsel of the respondent company submitted that they have given 31/12/2019 as the date of completion of this project to the Authority and the project was registered with the Authority. They further assured that promoter would be able to complete the project within stipulated period. The Complainant however stated that they have been suffering for last seven years and their financial position was in precarious position as they have been paying huge EMI as well as monthly rent for the residential accommodation. She stated that she was prepared to take the possession of the flat and complete rest of the finishing works in the flat herself. On 27/08/2019 learned counsel of the respondent company committed that possession of the flat would be given to

the complainant within a week and on 06/09/2019 they informed the Bench that possession of the flat has been given to the complainant.

**Issues for consideration :**

6. There are two issues for consideration before the Authority : Firstly whether the project has been completed and completion certificate (CC)/occupancy certificate (OC) have been obtained from the competent authority. Secondly, whether there has been inordinate delay in completion of the project.
7. As regards the first issue, it is an admitted fact that the project has not been completed and necessary approvals (CC/OC) from the competent authority have not been obtained. Secondly, as per agreement for sale, the booking of the flat was done in August 2012 and construction of the project was to be completed by December 2014. However, the project has not been completed as yet. The complainant has taken the possession of incomplete flat due to his precarious financial position though he was made aware of statutory provisions of the law which stipulated that the possession of the flat was to be handed over only after issue of the CC/OC by the competent Authority.
8. As the possession of the incomplete flat has been given by the respondent company to the complainant, the only issue left for consideration of Authority was to determine the rate of interest required to be paid by the respondent company on the deposit made by the complainant from the date of deposit till the date of possession. The complainant has demanded interest at the rate of 18 percent per annum for the period of delay. Though there has been inordinate delay in completion of the project, the project is nearing completion. As high rate of interest would go against the interests of other allottees, it is felt payment at a reasonable rate of interest to the complainant would suffice as she would get the advantage of appreciation in the prices of the flat as well.

**Order :**

9. The Bench therefore orders the respondent company to adjust the interest @ MCLR of State Bank of India (SBI) as applicable for three years on the total amount deposited by the complainant from the dates of deposit to date of handing over possession of the flat, against the balance amount due to be paid by the complainant and pay or recover the remaining amount within sixty days of issue of this order.
  
10. As regards compensation, the Complainant is directed to file their petition before Adjudicating officer under section 71 of the Real Estate (Regulation & Development) Act 2016.

Sd  
(S.K. Sinha)  
Member

Sd  
(R.B. Sinha)  
Member