

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**  
2nd Floor, BSNL Telephone Exchange Bldg, Patel Nagar, Patna-800023

**Before the Bench of Mr R.B. Sinha, Member**

**CC Nos.CC/706/2019**

**Rachna Dwivedi.....Complainants**

**Vs**

**M/s Grih Vatika Homes Pvt Ltd.....Respondent**

**Present: For Complainants: Mr P N Rai, Advocate**  
**For Respondent : Mr Mohit Raj, Advocate**

**10/08/2021**

**O R D E R**

1. Rachna Dwivedi, w/o Sri Pratyush Dwivedi, a resident of 402, Duplex, Road C, Phase-7, Vijaya Garden, Baridih, Jamshedpur has filed a complaint petition in November 2019 under section 31 of the Real Estate (Regulation and Development) Act 2016 against the respondent company M/s Grih Vatika Homes Pvt Ltd for refund of her booking amount in the Project VIP Residency of the promoter along with due interest thereon and compensation.
2. She has submitted copies of registered agreement for sale dated 18.12.2013, money receipts, letter of cancellation dated 16.3.2016 etc along with her complaint petition.

**Case of the Complainant**

3. In her application dated 19/11/2019, the complainant submitted that she had booked the Flat No.302 with super built up area of 1721 sqft in Delux Block in VIP Residency being developed by the respondent company at the total consideration amount of Rs 63.51 lakh and paid Rs 19.64 lakh as advance money through cheques/cash for which proper receipts were issued by the Respondent Company. Thereafter, the Respondent Company

entered into a registered agreement for sale with the complainant on 18.12.2013. As per the agreement for sale, the project was to be completed by the end of December 2017. When there was no progress in the project until March 2016 and project could not take off, she requested for refund of the deposited money in March 2016. The respondent company thereafter refunded Rs 7.00 lakh and Rs 12.64 lakh was still due to be paid to the complainant/allottee. She has request for payment of the balance booking amount along with 18% interest. She has also claimed for Rs one lakh towards litigation cost and compensation for harassment.

4. In her Petition, the complainant has also informed that she had filed a criminal complaint on 14/06/2017 against Ranjeet Kumar Jha and Grih vatika Homes Pvt Ltd bearing complaint Case No. 2024 of 2017 before ACJM Patna under Section 406, 420, and L20 B of the Indian Penal Code.
5. In pursuance to the receipt of the complaint petition, a Notice was issued to the respondent company to submit reply by 30/01/2020 but the respondent did not file any reply. The matter was therefore, put on hearing.

**Hearing :**

6. The hearing was held on 09/11/2020, 17/02/2021, 18/03/2021, 24/03/2021, 02/06/2021, 25/06/2021 and 09.07.2021. In course of hearing, the complainant was represented by Mr P N Rai, Advocate and the respondent company was defended by Mr Mohit Raj, Adocate. Learned counsel of the Respondent admitted the fact of booking of the flat in the project VIP Residency, registered with the Real estate Regulatory Authority, and execution of the agreement for sale but claimed that the delay in the project happened due to reasons beyond their control. On 09/11/2020 the Bench directed the respondent company to refund at least 50% of the remaining amount before 30/11/2020.

7. However, on 17/02/2021 learned counsel of the complainant submitted that the respondent company has not complied with the order of the Bench. Learned counsel of the respondent submitted that as soon as the complainant withdraws the criminal case from the Civil Court, the respondent company was ready to refund the remaining amount. However, the complainant submitted that as soon as the respondent company refunds the remaining principal amount, she will withdraw the criminal case filed in the Civil Court. The Bench while expressing serious displeasure on the conduct of the respondent company directed them to refund the remaining principal amount within two weeks otherwise heavy penalty will be imposed.
8. However, the respondent company started making payment of the booking amount in installments. On 18/03/2021 learned counsel of the complainant submitted that Respondent has refunded only Rs one lakh on 17/03/2021 and the remaining amount was still due. Learned counsel of the respondent prayed for time to make refund of the balance amount.
9. Finally, learned counsel of the complainant submitted on 09.07.2021 that the respondent company has refunded full booking amount and prayed for interest.
10. Since it has been reported on behalf of complainants that they have got refund of their respective principal amount, the only issue remained to be considered is payment of interest, reimbursement of legal cost and compensation by the respondent company.

### **Order**

11. The Bench expressed its displeasure on the lackadaisical and unprofessional conduct of the promoters and noted that the promoter had delayed the project inordinately without informing the reasons for delay to the allottees. Therefore the allottee was justified in cancelling her booking.

12. The Bench noted that though the allottee cancelled her flat in the project VIP Residency, a RERA registered project, in March 2016, the respondent has not refunded full amount of deposits in last five years. The Bench therefore orders the respondent company to pay interest at the rate of Marginal Cost of Lending Rate (MCLR) of the State Bank of India as applicable for three years or more plus two percent from the date of deposit to the date of refund within 60 (sixty) days of the issue of this order failing which the promoters will be required to pay penal interest @ 9 percent per annum for delay of every day on the amount of interest payable from the date of this order until the date of payment. The allottee is also directed to cancel the registered agreement for sale on the date of receipt of the interest from the promoter.
13. The Bench also allows the legal cost of Rs 20000 to the complainant.
14. As regards the claim of compensation, the complainant, if she so desires, may approach the Adjudicating officer under section 71 of the Real Estate (Regulation and Development) Act 2016.

**Sd**  
**R.B. Sinha**  
**Member**