

# REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Case No. CC/239/2019; CC/240/2019; CC/241/2019; CC/242/2019;  
CC/243/2019; CC/244/2019; CC/245/2019; CC/246/2019; CC/248/2019;  
CC/249/2019; CC/250/2019; CC/431/2019; CC/432/2019; CC/978/2020;  
CC/980/2020; CC/302/2021

Nilam Thakur/ Ramesh Chandra Das/ Mr. Anugarh Jha/ Meena Jha/ Lalendra Thakur/ Santosh Kumar/ Kunal Kishore/ Dinesh Chandra Das/ Punam Kumari/ Ashish Kumar/ Manish Kumar/ Nirmala Singh/ Narendra Bahadur Singh/ Sudhir Kumar Sharma/ Kiran Sharma/ Sujata Kumari..... Complainants

Vs

M/s Aryavart Lifespaces Pvt. Ltd.....Respondent

Present: For Complainants : Mr. Chandan Singh, Advocate  
(Complainant no. 1 to 14)  
: In Person  
For Respondent : Mr. Mohit Raj, Advocate

**13.08.2021**

### Order

1. 11 Petitioners namely - Nilam Thakur, Ramesh Chandra Das, Mr. Anugarh Jha, Meena Jha, Lalendra Thakur, Santosh Kumar, Kunal Kishore, Dinesh Chandra Das, Punam Kumari, Ashish Kumar and Manish Kumar have filed complaint petitions in February 2019 under section 31 of the Real Estate (Regulation and Development) Act 2016 against M/s Aryavart Lifespaces Pvt. Ltd, located at 301, 3<sup>rd</sup> Floor, Kanak Braj Complex, Boring Road, Patna for refund of their booking deposits for plots of land in the Project Aryavart Green of the promoter along with due interest.
2. In their separate but identical applications, the Petitioners claimed that they had booked for plots of land in the Project **Aryavart Green**, Nayagaon, Sonapur of the Respondent company in 2014-15 on the basis of promises made by the promoter that the

development works including earth-filling, boundary wall construction, electricity work, works related to drainage system etc will be completed in the Project within a period of two years in all respects. They have claimed that inspite of passage of more than 4 years since payment was made to the promoter, no development work has commenced in the project till date. Further, the allottees were never informed about the reasons for delay in construction.

3. Two more complainants/allottees- Mrs Nirmala Singh and Mr Narendra Bahadur Singh filed their complaints in July 2019 against the respondent company, followed by other two complainants Mr Sudhir Kumar Sharma and Mrs Kiran Sharma in January 2020. Mrs Sujata Kumari joined the group of complainants in March 2021 with similar complaint. All these complainants had also similar complaints.
4. All complainants have sought refund of their deposits along with payment of interest at the rate of 24 percent per annum. They have also sought for compensation on account of the mental and physical harassment suffered by them due to breach of trust and non-fulfillment of the promises made by the respondent company. They have also claimed reimbursement of the litigation cost.
5. The Complainants have submitted the copies of the brochure of the project Aryavart Greens, copies of the money receipts of the payments made to the respondent company etc along with their complaint petitions.
6. In pursuance to the receipt of complaints, the Authority issued notices to the Respondent Company through their directors Mr Priyambad kumar Singh and Mr Anurag Kumar Agarwal in February 2019, to submit their response on the issues raised in the

complaint petitions by the Complainants/allottees. However, no response was furnished by the respondent company and their directors in the stipulated period.

7. Accordingly, a notice was issued to both parties to come for personal hearing on 4<sup>th</sup> July 2019.

### **Hearing**

8. Hearings were held on 04.07.2019, 7.8.2019, 17.10.2019, 11.12.2019, 17.01.2020, 31.01.2020, 03.03.2020, 22.01.2021, 04.03.2021, 09.03.2021, 25.03.2021 and 02.06.2021.

9. In course of hearing, most of the complainants were represented by Mr Chandan Kumar, Advocate while the Respondent company was represented by Late Durga Narayan, Advocate and Adv Mohit Raj. On the first date of hearing, Learned Counsel of the Respondent Company admitted the receipts of deposits from the complainants and committed to refund the deposits of the Petitioners in suitable installments as the Project Aryavart Greens was delayed due to unavoidable circumstances.

10. On direction of the Bench, the respondent company submitted a copy of the consent letter from the 14 customers/petitioners in August 2019 agreeing to the refund of the principal amount of deposits in several monthly installments. However, a few complainants reported that they missed some installments but respondent paid them back later on.

11. In March 2021, Learned counsel of the Complainants confirmed the refund of the principal amount of deposits to each petitioner. He claimed that six out of 14 petitioners also demand suitable interests while two other complainants Mr S K Sharma and Mrs Kiran

Sharma who had filed their complainants in January 2020 demanded penal interest as the respondent company had not refunded the deposits on their own and had not kept the allottees in confidence during all these years. They claimed that they suffered physical and mental torture due to the callous attitude of the promoters.

12. In March 2021, the MD of the respondent company submitted an affidavit, claiming that they had settled their issues with the complainants and have refunded the full deposits to the complainants along with token amount of interest. However, a few complainants claimed before the Bench that the MD of the Respondent Company was pressurizing them to withdraw their complaints. They further stated that the respondent was very careless and evasive all these years and availed the economic benefits of their deposits for several years. They claimed that the respondent didn't refund the amount unless they came to the RERA.

13. The Bench thereafter directed the petitioners to either file their self affidavits to withdraw their claim for interest or appear personally before the Bench during the course of hearing to withdraw their claim for interest. One of the complainants withdrew his claim for interest, which was accepted by the Bench. Son of another complainant wished to withdraw the claim on behalf of his father but he was directed to get his father to file an affidavit within two weeks. No affidavit was however filed until 11<sup>th</sup> June 2021.

14. The Bench directed the respondent company to file their plan for refund to all other allottees who were interested in getting their deposits back due to inordinate delay in commencement of the

project. In an affidavit, MD of the Respondent Company stated on 8<sup>th</sup> March 2021 that they had approximately 213 allottees in 2017 which reduced to 114 as on date because of prudent policy of refund, the company had been following since 2018. He claimed that 24 more allottees had been issued post-dated cheques till date. Thus they have about 90 allottees still left in the project and he was in regular touch with them. The MD claimed that their application for registration of the project was pending with the RERA and after approval, they would launch the project.

15. The Complainants however reiterated that they visited the office of the promoter regularly after making payment but they were never given correct picture and there was no developmental work on the site. The complainants/allottees were never informed of reasons for the delay in construction/development work. They demanded penal rate of interest as the promoter had availed the economic benefits of the deposits of the allottees for more than 5 years and had caused mental and physical harassment to them. They also demanded cost.

### **Order**

16. The Bench expressed its displeasure on the unethical and unprofessional conduct of the promoters and directed them 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 to the complainants/allottees 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 issue of this order until the date of payment.

17. The Bench also allows the cost of Rs 10,000 to each complainant.

18. As regards compensation for mental and physical harassment, the complainants may, if they so desire, approach the Adjudicating officer under Section 71 of the Real Estate (Regulation and Development) Act 2016.

Sd

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