

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

**Before the Full Bench of Mr. Naveen Verma, Chairman, Mr. R.B. Sinha,
Member and Mrs. Nupur Banerjee, Member**

Case No.CC/1069/ 2020.

Md Irshad Ahmed Siddiqui Complainant

Vs.

Agrani Homes Pvt. Ltd. Respondent

Project: IOB Nagar, Sarari (L Block)

ORDER

31.8.2021:

This matter was last heard by the Full Bench and was heard on 15.6.2021 and on 29.6.2021.

The Director of the respondent company Mr Alok Kumar and his learned counsel had assured the Authority that the desired information and documents would be filed within a week.

The Full Bench could not sit after that date initially due to non availability of one of the Members and subsequently due to its pre occupation in other cases. The Full Bench notes that despite being given a period of two months, no additional documents have been filed on behalf of the respondent company . It appears that the promoter has nothing to offer to these allottees.

The Authority, thus , has no option but to dispose this matter on the basis of available records.

The Authority notes that the Respondent company has not submitted the audited accounts which could have indicated how the funds collected from the allottees of Block K and L have been used. The directions given on the last date were issued to the Respondent Company under Section 35 (1) of the RERA Act read with Rule 24 (1) (a) of the Bihar Rules. Since the promoter has failed to comply with the directions of the Authority, a penalty of Rs.1,000/- for every day of default from the date of order will be imposed on the respondent company till the required information is submitted.

The case of the complainant is that he had made a one time payment of Rs 12.70 lakhs in 2018 for an apartment in IOB Nagar L Block. He has submitted a copy of the registered MOU with the promoter indicating that he had paid Rs 6.00 lakhs before the agreement and he has submitted evidence of having paid Rs 6.70 lakh subsequently. However,

as no construction was undertaken , he has sought refund of his investment with interest.

During the course of hearing, the learned counsel for the complainant submitted that he is willing to adjust his claim for refund against booking of a plot in the project Prakriti Vihar of the same promoter.

Perused the records. No rejoinder has been filed by the respondent. However, the Director of the respondent company along with his learned counsel have been present on the dates of hearing and have not challenged the submission of the complainant. Mr Alok Kumar, Director of the company has indicated before the Authority on the last hearing that he was willing for such an adjustment.

The Authority notes that the project Prakriti Vihar has not been registered as yet. It directs the Registration Wing to process the matter of registration at the earliest keeping in view that the land for the project is allegedly owned by the promoter and there is a possibility of giving relief to some allottees through that project. The Authority notes that the respondent Director had also sent a communication to this effect.

It is apparent that the promoter has been booking apartments even during the pendency of numerous complaints against him and knowing fully well that the project has not been registered by RERA. Such blatant violation of Section 3 of the Act cannot but attract a heavy penalty. Suo motu proceedings may be initiated against the respondent company under section 59 of the Real Estate (Regulation and Development) Act, 2018.

The Authority directs the respondent company to calculate the amount of interest at the rate of the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for two years plus two percent from the date of taking the booking to the date of order and adjust this amount along with the principal of Rs 12.70 lakh paid by the complainant against the booking of a plot in Prakriti Vihar if that project is registered by RERA.

Sd/-
Naveen Verma
(Chairman)

Sd/-
R B Sinha
(Member)

Sd/-
Nupur Banerjee
(Member)