

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Double Bench of Mr. Naveen Verma, Chairman**

**& Mrs. Nupur Banerjee, Members**

**Case No.CC/1756/2020**

**Pinki Kumari.....Complainant**

**Vs.**

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

**Project: I.O.B. Nagar Block- 'K'**

**O R D E R**

**20/01/2022** The matter was last heard before the double bench on 06-01-2022.

The complainant's case is that she had booked a 3 BHK flat in Jan, 2018, measuring 1350 sq. ft. in Agrani Khagaul City Danapur and paid Rs.15,00,000/-as total consideration amount of flat and She further states that, when she enquired about the status of the project then the company replied that project got cancelled and asked to shift in another project i.e. IOB Nagar by paying outstanding amount. She further submitted that the respondent had after making the outstanding payment of Rs.4 lakh confirmed her booking in IOB Nagar and allotted Flat No.805, Block- K, measuring 1322 sq.ft. at 8<sup>th</sup> floor. She further states that she had asked for the execution of agreement for sale on various occasions to respondent company but no proper response to that has been communicated so far and as per assurance also possession of flat has not been handed over within stipulated time. So, she has requested for the Possession of flat.

The complainant has placed money receipts on record dated 22/01/2018for Rs.1,00,000/-, 31/01/2018 for Rs.5,30,000/- &Rs.4,70,000/- and 17/05/2018 for Rs.4,00,000/- totaling to Rs.15 lakh, issued by the respondent company in respects of payments made.

The respondent has not filed any specific reply in this case but during the course of hearing on 06-01-2022where in the batch of cases,

this case was also listed, Mr. Alok Kumar, MD of the respondent company had submitted that the respondent company is ready to offer plots to the complainants in Prakriti Vihar project. However his proposal was not accepted by the complainant who reiterated his request for refund.

It is apparent from the record that notwithstanding the fact that the project was not registered, the promoter went ahead with new bookings in 2018. This is a blatant violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016. Suo motu proceedings may be initiated against the respondent company under section 59 of the Real Estate (Regulation and Development) Act, 2016.

The Bench observes that the registration of the Project- Prakriti Vihar has been rejected by the Authority. The Authority can consider the request for permission to sell the plots and arrange money to refund the amount to the complainants and other allottees only if the respondent submits a written application in this regard.

The Bench notes that, a petition has been filed on 14-01-2022 on Rs. 10 stamp paper duly notarised wherein Mr. Alok Kumar has made certain prayers and also mentioned about various other projects. In the petition, on page 9 under the heading “Agreement and Registry Fund”, Mr. Alok Kumar has stated that registration of some flats are pending as it was restrained by an order of the Authority. Mr. Alok Kumar has given on oath to pay Rs. 63 lacs to the Authority after the ban on registration is revoked by the Authority. Mr. Alok Kumar has also furnished list of vacant flats in different projects and has sought permission from the Authority to sell these flats and pay money to the aggrieved allottees.

The Authority notes that 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. Taking into consideration the prayer of Mr. Alok Kumar regarding lifting of ban on registration, the Authority decides to consider the matter on case to case basis, only in respect of projects where there are no complaint cases pending, on the condition that the amount received after registration would be deposited in RERA for making further payments to the aggrieved allottees. In so far as sale of vacant flats are concerned, the lien taken by the Authority can be lifted on case to case basis, but such sale shall be duly monitored by the Authority, and would be considered only in respect of projects where there are no complaint cases pending,

on the condition that the amount received after registration would be deposited in RERA for making further payments to the aggrieved allottees. The respondent company shall initially receive the consideration amount of the flats and will then transfer the same to the Authority for purpose of releasing it to the aggrieved allottees.

The Bench observes that the application of registration of Project “I.O.B. Nagar Block -K” has been rejected by the Authority by order dated 02.09.2021.

Since, the application for registration of the aforesaid project has been rejected, although the complaint sought relief for the possession of flat, the Bench hereby directs the respondent company and their Directors to refund the principal amount of Rs.13,00,000/- (Thirteen Lakh) along with interest calculated on the date of booking at the marginal cost of fund based lending rate (MCLR) of State Bank of India applicable for two years to the complainant within 60 days from the date of order.

With these directions and observations, the matter is disposed of.

**Sd/-**  
**Naveen Verma**  
**(Chairman)**

**Sd/-**  
**Nupur Banerjee**  
**(Member)**