

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

**Before the Double Bench of Mr Naveen Verma, Chairman
and Mrs Nupur Banerjee, Member**

Case No. RERA/CC/821/2019

Saroj Kumar Choudhary.....Complainant

Vs

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

Projects: Suraj Suman

Present: For Complainant: In person

For Respondent : Mr. Pravin Kumar, Advocate

ORDER

2/12/2021: The matter was last heard along with the batch of cases
6/12/2021 before the double bench on 24/11/2021.

The case of the complainant is that the complainant booked a Flat bearing flat no. 501, Block – B, admeasuring 1245sqft. The total consideration of the flat was Rs. 37,10,000/- as per the KYC. Accordingly, the complainant paid Rs. 51,000/- against which money receipt dated 13/07/2017 was issued, Rs. 3,20,000/- against which money receipt dated 30/07/2017 was issued, Rs. 1,50,000/- against which money receipt dated 21/10/2017 was issued and Rs 50,000/- against which money receipt dated 07/06/2018. The complainant has filed the case seeking a refund of the amount paid with 18% compound interest.

The complainant has placed on record money receipts dated 13/07/2017, 30/07/2017, 21/10/2017 and 07/06/2018, Know Your Customer form, Application Form and application for cancellation dated 25/07/2019 for refund.

Perused the records of the case. The respondent company has filed no reply. The Bench notes that Mr. Alok Kumar, MD of the respondent company has attended all the previous hearings virtually except the hearing conducted on 24/11/2021 and orally authorized Mr. Pravin Kumar to represent the respondent company. A penalty of Rs. 10,000/- was imposed upon the respondent company for his non-appearance, which has not been deposited by the respondent company.

In previous hearings, the MD of the respondent company submitted that a number of FIRs have been lodged against him by the landowner Manish Kumar with whom Mr. Alok Kumar later has entered into a compromise wherein the landowner is ready to return the amount of around Rs. 1 Crore to the company.

The Bench was also informed that the respondent company was unaware of the development agreement executed between landowner and M/s Hira Panna Infra Projects Pvt. Ltd and upon learning the same, the respondent company canceled two agreements out of 4 agreements with the landowner.

The Bench has taken note of the submissions of the parties. A penalty of Rs. 20,000/- was imposed upon the respondent company vide interim order passed on 07/10/2021 for not furnishing copies of FIRs filed against the respondent company along with the compromise agreement with the landowner, which has also not been deposited till date.

The Bench observed that the liability to refund the amount to the allottees is upon the respondent company and it is for them to arrange the money from whatever sources they desire.

It is apparent from the documents filed by the complainant that notwithstanding the fact that the project got rejected, the promoter went ahead by receiving money from the complainant. 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.

After perusing the records and hearing the submissions of both the parties, the Bench hereby directs the respondent to refund

the amount paid by the complainant, i.e., Rs. 5,71,000/- with interest at the rate of marginal cost of fund-based lending rates (MCLR) of State Bank of India as applicable for three years from the date of taking the booking till payment within sixty days of issue of this order.

As far as the penalty of Rs. 30,000 (10,000 + 20,000) imposed upon the respondent company is concerned, the Bench notes that if the said amount is not paid within the period of 60 days as stated above, the same shall be recovered as arrears of land revenue as enumerated u/s 40(1) of the Act.

With these directions, the matter is disposed of.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)