

REAL ESTATE REGULATORY AUTHORITY, BIHAR, PATNA

Before Mr R.B.Sinha & Mr S.K. Sinha, Members of the Authority

Case Nos.CC/96/2018

Renu Sharma.....Complainant

Vs

M/s Agrani Homes Pvt LtdRespondent

Present: For the Complainant: In person

Mr Ravindra Kr Sharma

For the Respondent : Mr Alok Kumar, MD

Late Durga Narayan, Advocate

Mr Mohit Raj, Advocate

Ms Manisha Singh, Advocate

29/01/2020

O R D E R

1. Mrs Renu Sharma W/o Mr Ravindra Kumar Sharma, resident of Kali Mandir Road No-8, Sanjay Gandhi Nagar, Hanumman Nagar, Kankar Bagh, Patna -800026 has filed a complaint petition on 4th October 2018 under Section 31 of the Real Estate (Regulation & Development) Act, 2016 against M/s Agrani Homes Pvt Ltd for not having given possession of Flat No. G/04, Ground floor, Block-D, IOB Main Phase, Sarari, Danapur, Patna booked by her in February 2013. She has enclosed a copy of the Agreement for sale along with money receipts issued by the Respondent Company to her for the payments made.

2. As per the registered Agreement for sale signed by the Developer with her on 4th February 2013, she had paid Rs 7,21,630 (Rupees seven lakhs twenty one thousand, six hundred and thirty only) through two cheques Cheque No-267345 dated 2nd January 2013 for Rs 5,00,000 and Cheque no-267346 dated 25th January 2013 for Rs 2,21,630 at the time of booking against the total consideration value of Rs 28,00,000 (Rupees twenty eight lakhs only) excluding service tax of Rs 86,520. As

per the agreement, the promoter had committed to construct and hand over a 1300 sq ft super built up area Flat No G/04, Ground floor, Block-D in the Project IOB Main Phase, Patna with one reserved car parking by December, 2014. She claimed that she had paid Rs 24,61,630 till date to the developer.

3. In her Petition, the complainant has stated that she was paying a rent of Rs 10,000 per month from December 2014 and the EMI of home loan of Rs 17321 to LIC Housing Finance Ltd. She has also complained of loss of mental peace due to financial crunch her family had to face as a result of inordinate delay in handing over the possession of the flat.
4. In pursuance to the receipt of the complaint petition, a notice was issued to the Respondent Company through their MD Mr Alok Kumar on 11th October 2018 for submitting its response within 15 days of receipt of the notice.

Response of the Respondent Company:

5. The Respondent Company however did not give any response to the notice issued to them. Accordingly they were called for hearing at 11 AM on 20th February 2019.

Hearing

6. On the first date of hearing, the complainant was represented by the her husband Mr Ravindra Kumar Sharma whereas the Respondent Company was represented by Ms Manisha Singh, Advocate. In course of hearing, the Learned counsel of the Respondent company submitted that the Complainant's apartment was almost ready. All the internal fittings and fixtures were installed and the flat was ready from inside. As far as external work of the Tower was concerned, it would be completed very soon.
7. On the next date of hearing on 25/03/2019, the Managing Director of the respondent company assured that the flat allotted to the complainant would be completed in all respect and handed over to the complainant

by 30th April 2019. When the flat was not handed over within given time-line as assured by the MD of the respondent company, on 2nd May 2019, the Bench directed the Learned counsel of the Respondent Company to apply for completion certification of D Block and hand over the possession of the flat to the complainant within a month. However, there was hardly any progress made in handing over possession of the flat. On the next date, the husband of the complainant informed that he has received a letter from the respondent company, asking him to pay the remaining amount of Rs 4,24,890 as finishing work was going on. He stated that the project was not yet complete as occupancy certificate has not yet been obtained by the promoter from the competent authority. The project did not have independent transformer and sewerage facilities.

8. As MD of the Respondent company had committed to complete the work and hand over the apartment by 30th April 2019, the Bench again directed on 19.06.2019, 22.08.2019 and 18.10.2019 to complete the flat and hand over the possession of the flat soon. It was still not known whether the respondent company had even applied for issue of occupancy certificate for the D Block, let alone have obtained the occupancy certificate from the competent authority before handing over possession of the flat. They were directed to obtain the completion/occupancy certificate within three months after completing the entire building.

Issue for consideration :

9. There is no doubt that there has been inordinate delay in completion of the project D block in the IOB Nagar, Sarari, Danapur, Patna. The project, which was to be completed by December 2014, has not yet been completed. In this connection, it may be stated that the Map of the IOB Nagar Main Phase was sanctioned by Danapur Nagar Parishad vide plan case no 43276/22/R-B+G+6/02/18-09-12/NPK. Further, a Project Duration Planning sheet sent by the respondent company to the complainant in July 2015 clearly indicated that the structure of the building up to 5th floor and brick work upto 3rd floor had already been

completed by July 2015. The Company had then assured that the apartment would be handed by 20th November 2015. The flat has not yet been handed over to the complainant. Thus, there has been inordinate delay of more than sixty months till now. The promoter has not obtained the completion/occupancy certificate from the competent authority even now. He has not yet even filed the papers for issue of completion/occupancy certificate.

10. Keeping in view urgent requirements of the complainant viz her husband had retired in the interim period and they have been paying paying a rent of Rs 10,000 per month and the EMI of home loan of Rs 17321 to LIC Housing Finance Ltd, it is of utmost importance that the possession of the flat is handed over to them without further delay.

Order:

11. It is therefore ordered that the Respondent company should get the flat of the complainant ready, obtain completion/occupancy certificate and hand over the possession of the flat to them without any further delay. The Promoter is also directed to adjust the remaining amount payable by the complainant against the interest payable to the complainant at the rate of seven percent per annum on the amount deposited by the complainant with effect from 1st January 2015 till the date of handing over possession and thereafter raise demand on the complainant, for the balance amount remaining, if any, left to be recovered from her after adjustment of interest payable to her.

Sd
(R.B.Sinha)
Member

Sd
(S.K.Sinha)
Member