

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Complaint Case No. RERA/CC/25/2018

Smt Monika Mani.....Complainant

Vs

**M/s Agrani Homes Real Construction Pvt Ltd,.....Respondent
(A unit of M/s Agrani Homes Pvt Ltd through its
Managing Director Mr Alok Kumar)**

Present: For the Complainant -In person

**For the Respondent -Mr Ashok Singh, Sr Adv
Ms Manisha Singh, Adv**

01/11/2018

ORDER

1. Smt Monika Mani has filed a complaint petition under Section-31 of the Real Estate (Regulation & Development) Act, 2016 on 29th June 2018 against M/s Agrani Homes Real Construction Pvt Ltd, a unit of Agrani Homes Pvt Ltd. The case was defended by Smt Monika Mani herself while the respondent was represented by the learned senior counsel Mr Ashok Singh and Ms Manisha Singh, Adv.

Case of the Complainant :

2. In her petition, the petitioner stated that she had booked Flat No.102 in C-Block in Agrani Angel Project of Agrani Homes Real Construction Pvt

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Ltd on Khagaul Road through the sister (Mrs Alka Singh) of its CMD (Mr Alok Kumar) on 11th January, 2016.

3. She alleged that the location/direction of her flat was changed unilaterally by the respondent company two years after booking of the flat. She claimed that though she contacted the respondent company through letters/email regarding agreement for sale to be done for the flat of her choice or refund of the deposited amount in May, 2018, she received no response from the respondent company. Hence she lost her confidence and pleaded for refund of her principal amount along with 12% compound interest per annum.

4. She has sought reliefs :-

- (1) under Section 12 i.e. false advertisement shown by the builder,
- (2) relief under Section 14 i.e. change of plan of the apartment and
- (3) relief under Section 18 i.e. refund of the principal amount along with compensating interest.

As an interim relief, she has claimed refund of the principal amount along with 12% compound interest per annum.

Response from the Respondent :

5. In response to the notice issued on 03rd July 2018 seeking response of the respondent company, Mrs Manisha Singh Advocate responded on

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behalf of the respondent company on 18th August 2018. She stated that this project was conceived by the company in pre-RERA period and so, the amount so paid should be dealt with the general law of the land. However, she stated that she submits to the jurisdiction of the Authority and was filing a show cause notice keeping in mind the aim of the company which was to provide homes at cheap rate. She admitted that Flat No.102 in Block-C in Agrani Angel Project of M/s Agrani Homes Real Construction Pvt Ltd was booked by the complainant on payment of a token amount of Rs 2,69,425/- whereas the price of the flat in question was more than Rs 30 lakh including applicable taxes. She accepted that the amount was paid on 15/16 January, 2016 and stated that the position or direction of Flat No.102 Block-C was changed due to the new bye-laws which came into force.

6. She further submitted that there was negotiation going on since early 2014, measurement of plot was done and accordingly plans were carved out, brochure and floor plans were prepared. However, in the meantime, the new bye-laws came and the entire preparation of the building plan and floor plan along with land escaping of the area was changed in consonance with the provisions made in the bye-laws necessitating complete change in the structural plans. Thus the respondent company claimed that the changes made in the plan/map were due to the reasons beyond their control.
7. She further stated that the complainant had herself accepted that the company had informed her with regard to the change in plan on telephone. As regards her letter/email regarding registration of flat of

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her choice or refund of the amount paid, learned counsel of the respondent stated that it was not possible as the respondent company could not go against the bye-laws and the agreement could not be done without paying 25% of the total price.

The respondent company further stated that they were ready to pay the entire principal amount on any day.

Hearing :

8. In course of hearing held on 05/10/2018, the petitioner reiterated her complaint and stated that the company did not listen to her either for registration of the flat of her choice or refund of the principal amount along with 12% compound interest. She demanded that she should be paid the due interest on the deposited amount by the respondent company from the date of deposit to the date of payment @ 12% compound interest.
9. Learned senior counsel of the respondent company however, claimed that there was no malafide intention of the company and the company had already informed about the change in the plan for the reasons beyond the control of the company. Learned counsel further informed that the entire deposit of the petitioner has been refunded back and there was no reason as to why the representation of the petitioner be admitted by the Authority.

The Bench wanted to know from the learned counsel the date of issue of the Bihar Building Bye-laws to which the learned counsel said that it was issued sometime in 2015/2016.

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10. Further, the Bench enquired as to why the petitioner was not informed at the time of booking or subsequently regarding proposed/likely changes in the plan of the project to which the learned counsel submitted that the petitioner was informed about the changes proposed to be included in the project though belatedly.

Order :

11. The petitioner was aggrieved on two counts – firstly, that she was not accorded the opportunity of registration of the flat of her choice and secondly, that though she asked for refund of the principal amount along with 12% compound interest, she was refunded only the principal amount, that too on the eve of hearing.

12. As regards the issue regarding significant changes in the plan of the project, the argument given by the respondent company does not appear to be convincing as the Bihar State Building Bye-laws were promulgated in December, 2014 whereas the booking of the flat was done in January, 2016. Hence, the brochure of the project should have been changed by the builder after incorporating the changes felt necessary due to introduction of the new building bye-laws by January, 2016 when the booking was done.

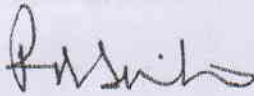
13. As the benefit of the deposited amount was used by the respondent company, equity demands that the principal amount ought to be refunded along with suitable rate of interest. Since the principal amount has already been refunded, the Authority directs the respondent company to pay the interest at two percent above the Marginal Cost of


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Lending Rate (MCLR) of State Bank of India on the deposit from the date of deposit till the date of refund of the principal amount within 60 days of issue of this order.


Member 1/11/2018
(R B Sinha)


Member 01.11.2018
(Dr S K Sinha)