

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Bench of Mr. Naveen Verma, Chairman, &
Mrs. Nupur Banerjee, Member**

Case No. RERA/CC/289/2019

Barun Kumar Jha Complainant

Vs.

M/s Agrani Homes Pvt. Ltd.Respondent

Project: Patliputra Enclave

04.01.2022

ORDER

The matter was last heard before the double bench on 30.11.2021. The complaint was filed on 7.3.2019. This matter was heard along with numerous other cases pertaining to the same promoter till a decision was taken in June 2021 to take up cases project wise. An interim order was passed in the matter on 23.11.2021.

The case of the complainant is that he booked a 2 BHK flat, having an area of 945 sq. ft. in January 2018, in Block A of the proposed project "Patliputra Enclave" of respondent company and deposited Rs. 6,75,000/- (Six Lakhs Seventy-Five Thousand Only) through cheque. The complainant has paid Rs.6,00,000/- (Six Lakhs) vide cheque no. 926226 & 926227 dated 15.01.2018, for which money receipt No.6276 dated 02.02.2018 was issued and Rs. 75,000/- (Seventy-Five Thousand) vide cheque no. 926229 dated 25.05.2018, for which money receipt No.141 dated 03.07.2018, was issued. However, money receipt no. 141 dated 03.07.2018, was issued in the name of Project 'Agrani

Shiv Dhyan' with which the complainant has no concern and has requested to issue correct money receipt through email dated 04.09.2018 and 25.09.2018. Since the respondent failed to issue correct money receipt and no development/ construction of project took place, therefore he applied for cancellation of flat on 05.11.2018, and requested for refund of booking amount along with interest and compensation.

The complainant has placed on record copy of KYC dated 17.01.2018, whatsapp chat with the sales executive Prashant from 25.07.2018 to 01.10.2018, cancellation letter 05.11.2018, and receipt dated 02.02.2018 and 03.07.2018.

The Bench took note that the complainant was present on the last date of hearing and had submitted that he booked a flat in the proposed project "Patliputra Enclave" of respondent company and deposited Rs. 6,75,000/- (Six Lakh Seventy Five Thousand Only) as an advance through cheque. Since then no development/construction of project took place, complainant prayed for refund of booking amount along with interest.

Perused the records of the case. The respondent has filed its reply on 2.05.2019 stating therein that, they were ready to pay the actual amount which the complainant has deposited in the company. Further, the respondent has filed its reply on 16-02-2021, 18-02-2021 & 05-03-2021 in response to batch of cases where this case was also listed but no specific reply has been made therein related to this project.

The Bench notes that a number of interim orders were passed in the batch cases listed as Suman Kumari and others versus M/s Agrani Homes Real Services Pvt Ltd which have been reiterated by the complainant at various occasions. These orders have not been complied in full. Legal

Cell of RERA is requested to take follow up action for implementation of such interim orders that have not been complied.

The Bench notes that the respondent company have themselves withdrawn their application for registration of Project “Patliputra Enclave” and the Authority has since rejected their application by its letter dated 23.06.2021.

The Bench observes that the promoter has not given any response on the matter of violation of Section 3 of RERA Act as mentioned in the Interim order. The Bench directs the Registration Wing to initiate proceedings under section 59(2) of the Act.

The Bench took note that on 05.07.2021, respondent was directed to submit information/ document within a week failing which penalty of Rs. 1,00,000/- was to be levied for every day of delay upon the respondent company and a penalty of Rs. 50,000/- per day on each Director for every day of delay.

The Bench notes that the respondent company has not complied with the directions issued on the last date of hearing and, therefore, the respondent company is directed to pay the cumulative penalty, calculated at the rate indicated above in the order sheet of 5.7.2021 for non-compliance of the order of the Authority within a fortnight of this order. The Bench directs that action under sections 40(1) and 40(2) of the Act may be initiated against the respondent company to recover the amount of penalty if they fail to deposit the whole amount of penalty along with applicable interest within a week of this order .

The Authority directs the respondent company and their Directors to refund the principal amount of 6,75,000/- to the complainant along with interest at the rate

of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for two years from the date of taking the booking to the date of refund within sixty days of issue of this order. The complainant is at liberty to approach the Adjudicating Officer for his claim of compensation.

With these directions, the matter stands disposed of.

Sd/-

Nupur Banerjee
(Member)

Sd/-

Naveen Verma
(Chairman)