

REAL ESTATE REGULATORY AUTHORITY, BIHAR PATNA

6th Floor, Bihar State Construction Corporation Building, Shastri Nagar, Patna-800023



Dated 27.12.2018

Bench of R B Sinha and Dr S. K. Sinha, Members of the Authority

Complaint Case No.RERA 90/2018

Mr. Raj Kumar, Near Kosi Milk Union,
Ward No.4, Gauravgarh, Kishanpur Road,
Supaul. - Complainant

Vs.

M/s Agrani Homes Real Marketing Pvt.
Ltd., Khanvilla, Near B.D. Public
School, Budha Colony, Patna - Respondent



Present:

For the Complainant - In person

For the Respondent(s) - Ms. Manisha Singh,
Advocate

27.12.2018

ORDER

1. Mr. Raj Kumar has filed a complaint u/s 31 of the Real Estate (Regulation and Development) Act, 2016 against M/s Agrani Homes Real Marketing Private Limited, Patna for refund of the advance deposit made by him for two 3 BHK flats in the real estate project namely- 'SBI Nagar', Dhawalpura, Patna in July 2016. In pursuance to the complaint, the Real Estate Regulatory Authority, Bihar (hereinafter referred as 'the Authority') issued a notice to the M/s Agrani Homes Real Marketing Pvt. Ltd. (hereinafter referred as 'the respondent company') for their response on

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the complaint by 25th October, 2018. The respondent company submitted a written response to the complaint made by Mr. Raj Kumar on 24th October, 2018. Further hearing took place on 6th December and 19th December, 2018.

Case of the complainant

2. In his complaint Mr. Raj Kumar has stated that he had booked two 3 BHK flats in the real estate project 'Agrani SBI Nagar' situated at Mouza-Dhawalpura, P.S.-By-Pass, bearing Thana No.21, District-Patna for a sum of Rs.32.00 lakhs plus applicable service taxes. Against the consideration amount, the complainant had paid Rs.28.00 lakhs to the respondent company on various dates in July 2016 and the balance consideration amount was to be paid at the time of getting possession of the flats. As per the M.O.U. signed between the complainant and the respondent company on 13th August, 2016, the respondent company was to hand over the possession of the flats in the aforesaid project within an estimated period of 3 years with relaxation period of 6 months after approval of the Map.

3. In his complaint, the complainant claimed that he had booked the flats based on the advertisements given on different dates on website of the company and information provided to him in the office of the respondent company. However, after deposit of the advance amount, the complainant has been running from pillar to the post in the various offices of the respondent company to get information regarding progress made in the project. He was always given conflicting information by the different persons /representatives of the company and the correct information was never given by anybody. As the complainant did not get any satisfactory response from any representative of the



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company over long period of time and since the work of the project did not even start after more than two years of making payment of about 80 percent of the cost of the project till August, 2018, the complainant stated that he lost total faith in the company and asked for refund of Rs.28.00 lakhs along with interest without any further delay. As the complainant had paid the entire deposit amount (Rs 28 lakhs) through R.T.G.S. in July, 2016, he asked for the refund of the deposited amount also in his account, details of which he had furnished to the respondent company.

Response of the respondent company

4. In their response dated 24th October, 2018, the learned advocate of the respondent company, Ms. Manisha Singh stated that all the facts regarding the project were disclosed to the complainant before he deposited the initial amount for bookings in the project as stated in the M.O.U. signed by the complainant on 13th August, 2016. She admitted that the complainant had deposited the amount of Rs.28.00 lakhs as stated in the M.O.U. in July, 2016. She stated that the company may refund the amount paid by the complainant as requested by him but the grounds on which the refund has been sought was misplaced and malafide. She claimed that there was no such delay as stated by the complainant and the project was being executed on time. She stated that If there was any delay, the respondent company had valid reasons for the delay- non-availability of sand for two years due to High Court's orders in CWJC 17809 of 2015/Government instructions, Green Tribunal's order dated 9th February 2016 etc. She informed that Fire Clearance has also been obtained and Map was pending for approval.



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Hearing on 6th and 19th December, 2018:

5. On the date of first hearing, the representative for the respondent company submitted that their senior counsel was out of station and since the matter required his presence, in view of the serious issues involved in this case, the case may be adjourned for a week, so that the company may file appropriate statement of facts before the Hon'ble Bench. Accordingly, the next date of hearing was fixed on 19th December, 2018. On the date of next hearing i.e. 19th December, 2018, learned counsel for the respondent company did not submit any additional written statement of facts before the Authority. In course of hearing the complainant, Mr. Raj Kumar reiterated the statement made in his complaint in writing, stating that he ran from pillar to post for nearly two years to ascertain the actual cause of delay in start of the project, but no representative of the respondent company gave him any complete and correct information. All the representatives of the respondent company gave different and at times, conflicting information, which led to his total loss of faith and trust in the functioning of the company. He stated that he was told that the *Bhoomi Poojan* of the project would be done in the month of December, 2017, but nothing was done till August, 2018. Learned counsel for the respondent company, Ms. Manisha Singh though admitted that there had been some delay, but stated that it was due to various genuine reasons like restriction on lifting of sands etc. She, however, could not explain as to how extraction of sand could be reason for delay in the commencement of the project, as Map of the project itself has not been approved till the date of hearing. The map of the project ought to have been approved prior to the signing of agreement and taking of advance. On enquiry



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whether the company kept the customers posted with the developments in the progress of the project, the complainant has stated that he did not get any information from the company on its own and he had to visit the company's offices dozens of times and every time a new person gave a different and conflicting information. Learned Advocate of the respondent company did not produce any documents/emails etc to prove that they had kept the consumers informed about the reasons for delay in the start of the project. She also could not clarify as to why they did not inform the complainant about likely delay in the project at the time of booking of the flat in July 2016 itself when there was already an existing injunction of the Hon'ble Court on extraction of sands, as they claimed in their response to the notice.

ORDER

6. There is no doubt on the facts of the case that the complainant had deposited Rs.28.00 lakhs on various dates in the month of July, 2016 for two 3 BHK flats in the 'Agrani SBI Nagar' project of M/s Agrani Homes Real Marketing Pvt. Ltd., which was to be completed within a period of 3 years with grace period of 6 months after approval of map. It is also a fact that map of the said project has also not been approved till date i.e. even after two and half years of deposit of the about 80 percent of the cost of the flats. Normally The map of the project ought to have been approved prior to the signing of agreement and taking of advance. Further, the respondent company does not have any practice of informing the progress of the projects to the unsuspecting consumers who have been depositing their hard earned money to get the apartments in a reasonable time. The reasons quoted by the respondent company for delay in commencement of the project doesn't hold water as the map of the project has not




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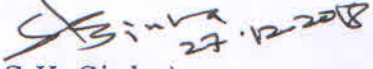


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yet even been approved. Thus, there was no way for the respondent company to commence the construction work without approval of the map. The respondent company has therefore enjoyed the benefits of the deposit of large chunk of money made by the complainant for about two and half years without any corresponding result. We have, therefore, no hesitation in ordering the respondent company to refund the full amount of deposit i.e. Rs.28.00 lakhs along with interest at the MCLR of SBI, applicable as on the date, plus 2% from the dates of deposit until the date of refund to the complainant within 60 (sixty) days of issue of this order.




(R.B. Sinha) 27/12/2018
Member


(Dr. S.K. Sinha) 27.12.2018
Member

