

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Bench of Mr. Afzal Amanullah, Chairman and Mr. R.B. Sinha Member

Complainants cases Nos- - CC/396/400/401/402/411/417/418/425/426/429/435/455/456/457/458
/477/503/213/216/289/293/310/175/302/275/231/378/111/271/263/352/311/312/267/229/230/225
/226/269/270/276/281/284/287/292/306/307/323/363/502/354/373/520/523/526/531/537/545/559
/563/575/576/112/532/639/646/649/650/652/653/655/659/660/662/663/664/665/666/668/670/675
/676/679/680/682/683/685/686/688/689/690/691/692/693/694/695/697/713/714/716
/720/722/725/726 /728/730/731/732

Suman Kumari and others..... Complainants

vs.

M/s Agrani Homes Pvt. Ltd. Respondent

10.02.2021

Proceedings/ Interim Order

The proceedings were held online through video conferencing mode. Most of the complainants have joined. Mr Kishore Kunal Advocate, Mr Rakesh Roushan Singh Advocate and Mr Puneet Kumar Advocate are present on behalf of a few complainants and represented their clients in course of hearing. Respondent Company is represented by Mr. Alok Kumar, Director, Mr Padum Singh, Director of the Company and Mr Amit Narayan Advocate. Mr Navin Kumar Sinha, Advocate and Mr Ajeet Kumar, Advocate also appeared on behalf of the Ruben Patliputra Hospital Pvt Ltd.

At the Outset, the Chairman mentioned that the Respondent company has been changing their counsels very frequently and had changed at least 4 Advocates in last five months since September, 2020. Further the new counsel Mr Amit Narayan has not even submitted his vakalatnama till date.

The Bench thereafter started the proceedings and recalled the hearing held on the previous date and requested the Respondents to submit the Action taken reports on the directions given by the Bench on 25.01.2021. To start with, the Bench directed the Learned counsel of M/s Ruben Patliputra Hospital Pvt Ltd (Ruben Hospital) to let the Bench know on the action taken by them on three directions given by the Bench on 25th

January 2021. Learned counsel Mr Navin Kumar Sinha of Ruben Hospital sought one week's time to file their response as he has been engaged today and he has not gone through all documents related to the case. He also said that his client was not aware of the pending cases with RERA at the time of execution of the registered agreement for sale in February 2020. He further stated that Mr Alok Kumar had only informed about the outstanding amounts in two loan accounts of Indian Overseas Bank. However when the Bench informed the learned counsel that his statement was factually incorrect as his client Ruben Hospital was very much aware of the pending cases in RERA as is clearly evident from the Registered Agreement for sale which acknowledges that said property was being sold as a result of RERA. As regards the excess payment of Rs 41.08 lakhs to IOB, Anisabad for closure of the cash credit account of Indus Ventures (MD- Mrs Vijaya Raj Laxmi Wife of Mr Alok Kumar), Learned counsel of Ruben Hospital took the plea that they were forced by the IOB to pay excess amount. When the Bench reminded the Learned counsel that the excess amount was the amount of interest on the principal amount of Rs 3.90 lakhs and had arisen because Ruben Hospital didn't pay the principal amount within the prescribed period, Learned counsel didn't have any cogent answer. However, when he tried to take the shield/excuse of COVID-19 pandemic for delay in making payment, the Bench enquired from the Learned counsel whether his client could show the bank accounts of the Ruben Hospital to confirm that they have earned lesser revenues during pandemic than earlier years. Thereafter, Learned counsel withdrew his statement. When the Bench enquired from Learned Counsel the circumstances under which Ruben Hospital have been using the residential building at 15, Patliputra Colony as a Private Hospital without ownership and approval of the Patna Municipal Corporation as required under Bihar Municipal Act 2007, Mr Ajeet Kumar Advocate stated that the said premises have been used as a COVID facility on the basis of Government orders permitting them to use the hospital for treatment of COVID patients and agreed to furnish the copy of the Government order on the next date of hearing. The Chairman specifically enquired from the Learned Counsel of Ruben Hospital whether they have made full payment of the consideration amount to the seller, whether the registration of sale deed has been done and whether the residential building located at 15, Patliputra Colony was being used as a Private Hospital, Learned

Counsel of Ruben Hospital confirmed that they have not made full payment of the consideration amount, that they have not yet got the registry of the property done in their favour and that they have been using the residential building at 15, Patliputra Colony as a Private Hospital treating the corona patients. Many complainants alleged that Ruben Hospital was illegally earning revenue from the Residential building by using it as a commercial private hospital without having even ownership of the building.

The Bench expressed its displeasure over the conduct of the top management of the Ruben Hospital as they have neither appeared before the court during last four hearings nor followed any commitments given by their representatives/advocates in course of hearing. Ruben Hospital has also not filed a single response to the directions given by the Bench in last five months. Further, in flagrant violations of the orders passed by the Bench on 25th September 2020, Ruben Hospital released Rs 4.31 crores to IOB, Anisabad on 28th September 2021. The Bench further showed its anguish on the conduct of the Ruben Hospital and said that they have known since beginning that the property was being sold by the respondent company under directions of RERA to pay back the dues of the consumers/allottees of the company, as is evident from the preamble of the Agreement for sale. In spite of that, they have released funds to all concerned without ascertaining the directions/orders of the Authority.

The Bench thereafter requested Mr Alok kumar, Managing Director of the Respondent Company to inform the Bench on action taken by him in pursuance to the directions given in last hearing. Mr Alok Kumar informed that he would be able to deposit Rs 2 crores in 2-3 days as he has already arranged it. He said that he had gone to Bank to check the balance today but the fund has not yet come. He further informed that another Director Mr Padum Singh is attending the hearing while other directors Ms Alka Singh, Mr Rana Ranvijr Singh, Smt Vijaya Raj Laxmi and Mr Keshav Shanker have resigned from the company. Mr Alok Kumar further informed that he had got six registered deeds of absolute sale/purchase of land at Patna City and Permanandpur, deposited with the Authority. He however admitted that he had not submitted the affidavit as required by the Authority, to enable the Authority to sell these properties. He further admitted that he was not able to submit other 8-10 deeds of absolute

sale/purchase of about 15 bighas land at Permanandpur, Sonapur. A few complainants alleged that these deeds might not be available with him as there was high probability that he would have mortgaged them in favour of banks to get money.

The Bench noted that the Respondent company has also submitted a petition requesting for permission for sale of the land at different places on specious grounds, saying that he would be able to get more money by selling these properties than the Government would get by selling through auction. The Bench felt that by submitting this petition, he has virtually withdrawn his earlier petition wherein he had himself offered these lands to the Authority for selling them to pay back deposits of the complainants along with interest. Most of the Complainants however contested the claim of the respondent and said that he was an unreliable person and couldn't be trusted again as he has illegally diverted hundreds of crores of rupees from several Projects without taking any action to complete them. Mr Punit Kumar, Advocate claimed that severe action should be taken against the Respondent company and Ruben Hospital for their failure to comply with the orders of the Bench. He said that it was high time that the bank accounts of all directors of Agrani group should be frozen with immediate effect. Mr Kishore Kunal, Advocate also stated that the promoter of the respondent company could not be trusted any more. He requested that his petition regarding the sale of land at Permanandpur may kindly be considered as it would be able to satisfy nearly two hundred complainants. The Bench agreed to look into petition and take appropriate action. The Respondent company has also requested approval for compromise on the complaint petitions of 180 allottees of the Project Prakriti Vihar at Permanandpur, Sonapur. The Bench however noted that the Respondent company had purchased the land at Permanandpur after diverting the funds/deposits from other projects and interests of allottees of such projects ought also be protected as they have been suffering for longer period.

The Bench thereafter heard the individual complainants, most of which sought refund of the principal amount along with interest without further delay. In most of the cases, the projects have either been abandoned, cancelled or inordinately delayed. The Complainant Mr Subhash Chandra Shrivastava, a Blood Cancer patient, informed that

he was not given Rs 5.00 lakhs on 25th January 2021 as claimed by Mr Alok Kumar in course of hearing on last date. Even Mr Kishori Prasad CC/425 said that he didn't receive any email from Mr Alok Kumar, as committed by him. Mr Suman Kumar Dubey (CC-271), Mr Ashutosh Kumar (CC-284), Mr Barun Jha (CC-289), Smt Neelam Pathak (CC-730), Mrs Anamika Srivastava (CC-531) and others requested for early resolution of the case and prompt refund of their principal and interest amount.

After hearing the complainants and the respondents and their lawyers and after due consideration, the Bench feels it necessary to issue interim orders under section 36 of the Real Estate (Regulation and Development) Act 2016 to protect the interests of complainants. Accordingly, we order that:-

- (1) The registered agreement for sale executed on 6th February 2020 for sale of property located at House No-15, Patliputra Colony, Patna between Mr Alok Kumar and M/s Ruben Patliputra Hospital Pvt Ltd is put on hold until further orders as Mr Alok Kumar has not kept his promise given to this Bench that the entire proceeds from the sale of the property will be kept in a designated bank account for payment/refund of deposits along with interest to the complainants, whose deposits had been illegally diverted by Mr Alok Kumar as MD of M/s Agrani Group of Companies to purchase the said property in his personal name.
- (2) Mr Alok Kumar had also illegally given the property (House No-15, Patliputra Colony, Patna) created from the proceeds of the deposits of the Allottees/Complainants as **guarantee** for a Cash Credit loan of his wife as MD of M/s Indus Ventures, a partnership firm for Rs 4.50 crore from Indian Overseas Bank, Anisabad. Mr Alok Kumar and his wife Mrs Vijaya Raj Laxmi are directed to deposit Rs 4.31 crores immediately with the Authority.
- (3) Ruben Hospital is directed to **stop** unauthorized use of the residential building of Mr Alok Kumar located at House No-15, Patliputra Colony, Patna as a private Hospital for treatment of COVID-19 patients forthwith until further orders or till the approval of competent authority is accorded for use of the residential building as Private Hospital, whichever is earlier.

- (4) All moveable and immoveable properties of Mr Alok Kumar, his wife Mrs Vijaya Raj Laxmi and his son Kumar Shaswat (minor), alias Shaswat Kumar are brought under the lien of Real Estate Regulatory Authority, Bihar with immediate effect. Similarly all moveable and immoveable properties of Mr Padum Singh, Director of the Company and his wife Mrs Pratibha Singh are brought under the lien of Real Estate Regulatory Authority, Bihar with immediate effect. No transactions will be permitted under any power of attorneys executed by them in favour of any person.
- (5) All bank accounts (saving Bank account/current account/Fixed Deposits/ Spl TDRs etc)/ Bonds/ Mutual fund deposits/investments/ Insurance funds deposits /investments/private equity/placements of Mr Alok Kumar, Mrs Vijaya Raj Laxmi, Kumar Shaswat (minor) alias Shaswat Kumar, Mr Padum Singh alias Padam Singh alias P singh and Mrs Pratibha Singh (including their HUF accounts) are frozen with immediate effect.
- (6) All moveable and immoveable properties of other present and/or previous directors Mr Rana Ranvir Singh, Mrs Alka Singh, Mrs Shikha Singh, Mr Keshav Shankar, their spouses, dependent children and all their Power of attorney holders are also brought under the lien of Real Estate Regulatory Authority, Bihar with immediate effect. All bank accounts (saving Bank account/current account/Fixed Deposits/ Spl TDRs etc)/ Bonds/ Mutual fund deposits/investments/ Insurance funds deposits/investments of Mr Rana Ranvir Singh, Mrs Alka Singh, Mrs Shikha Singh, Mr Keshav Shankar, their spouses, dependent children and all their Power of attorney holders (including their HUF accounts) are also frozen with immediate effect until further orders.
- (7) A fresh notice be issued to all previous/present directors -Mr Rana Ranvir Singh, Mrs Alka Singh, Mrs Shikha Singh, Mr Keshav Shankar and Mrs Vijaya Raj Laxmi to remain present during the hearing on the next date and all future hearings until further orders.
- (8) Ruben Hospital will also explain the circumstances under which they have been using the residential building at 15A, Patliputra Colony as a Private Hospital without making full payment of the consideration amount, without registration of

sale deed/ownership and without approval of the Patna Municipal Corporation as required under Bihar Municipal Act 2007.

(9) Mr Alok Kumar, Director is once again directed to hand over/deposit all original deeds of Absolute sale/purchase of land at Permanandpur, Sonapur, Varanasi, House No-A/15, Yogipur, Lohiyanagar, Kankarbagh, Patna, flat No-A/403, Awadh Apartment, Bhootnath Road, Kankarbagh, Patna and the plot of 7-8 kathas of land, near Maulana Engineering College, Danapur, Patna with the Authority immediately along with an affidavit that they were surrendering them for auction/sale for refund of the deposits of the complainants.

(10) Mr Alok Kumar is also directed to submit the original copies of registered development agreements executed by Agrani group of companies and/or their directors with land-owners including for land at Sampatchak executed with Late Smt Kunti Devi for which he had paid Rs 3.85 crore to the land-owner. with an affidavit that they were surrendering them for recovering amount of nuns/advance paid on cancellation of such development agreement for refund of the deposits of the complainants.

(11) Mr Alok Kumar had also been directed by the court on 16th October 2019 to keep the entire funds received from sale of Patliputra properties in a designated bank account and pay to the complainants as per the criterion prescribed by the Authority. However, Mr Kumar has admitted that he has made payment of Rs 2.00 crore only out of Rs 4.05 crore received by him to the complainants, as directed by the Authority. Mr Alok Kumar is directed to deposit the balance amount of Rs 2.05 crore in form of Demand Draft to the Authority immediately for refund of deposits to the complainants.

Put up on 17.02.2021 at 3.30 PM.

Sd/-

(R.B. Sinha)

Sd/-

(Afzal Amanuallah)