

**IN THE COURT OF ADJUDICATING OFFICER,
REAL ESTATE REGULATORY AUTHORITY(RERA), BIHAR, PATNA**

**RERA/CC/592/2019
RERA/AO/153/2019**

Smt. Ranju Kumari, w/o Sri Anjani
Kumar, r/o Marva Park, Flat No.202
Awing, Navi Daman, District-Daman,
U.T. of Daman and Diu-396210

... Complainant

Versus

1. M/s Agrani Homes Real Marketing
Pvt. Ltd., House No.15, Ward
No.1FA, Patliputra Colony, District-
Patna.
2. Sri Alok Kumar, s/o Sri Padum
Singh,
3. Sri Pradeep Kumar,
- Both Directors, Agrani Homes
Real Marketing Pvt. Ltd.,
Khan Villa, South of B.D. Public
School, Budha Colony, District-
Patna-800001.
4. Sri Rana Ranvir Singh, s/o Sri Ram
Chandara Singh, r/o-Village-
Jalpura (Tapa),P.S.-Chandi,
District-Bhojpur (Bihar).

... Respondents

Present:

**Sri Ved Prakash
Adjudicating Officer**

Appearance:

For Complainant

- In Person

For Respondents

- Mr. Ankit Kumar, Advocate

ORDER

10-02-2020

This complaint petition is filed by the complainant,
Smt. Ranju Kumari against the Respondent No.1, M/s Agrani

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Homes Real Marketing Pvt. Ltd. through its Authorised Signatory and Director, Respondent No.2, Sri Alok Kumar, Respondent No.3, Director, Sri Rana Ranvir Singh and Director, Respondent No.4, Sri Pradeep Sharma, u/s 31 read with Section-71 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the "Act, 2016") for refund of her principal amount 14,96,000/- along with accrued interest and compensation for her mental and physical harassment, consequent to non-delivery of possession of the flat allotted to her by the Respondents.

2. In nutshell, the case of the complainant is that the complainant, Smt. Ranju Kumari has booked one 3 BHK flat No.206 in Block-D in 2nd floor having super built up area 1300 s.ft. on total consideration of Rs,18,37,125 in project "S.B.I. NAGAR" of the Respondents, M/s Agrani Homes Real Marketing Pvt. Ltd. in Mauza-Dhawalpura, Near By-Pass, Patna. She has paid Rs.4,96,000/- through R.T.G.S. of I.D.B.I. Bank, Daman, and Rs.10.00 lacs through cheque no.000009 of D.C.B. BANK, Daman. Both the parties have executed M.O.U. on 14-11-2015. The Respondents have agreed to hand over the flat within 3 years with grace period of 6 months, after approval of Map from P.M.C. and the time may be deemed to be extended in the event of non-availability of building materials or delay due to Government Policies affecting the industry or due to Force Majeure. It is further

case that Sri Viresh Kumar Singh, in-charge of "S.B.I. NAGAR" project informed to the complainant that delivery of flat will be given to him before December, 2018, but still the project has not started. Hence, she has requested the Respondents to cancel the booking and refund her principal amount paid to them, but in spite of repeated requests, the Respondents have failed to refund the amount. Hence, she has filed this case against the Respondents with the above reliefs.

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3. On appearance, the Respondents have filed reply pleading *inter-alia* that they are ready to refund the principal amount in 2 or 3 instalments. The Respondents have made assurance to RERA, Bihar Full Bench that they will refund the principal amount to the complainant and in light of their assurance, the case may be disposed of.
4. On basis of the pleadings and submissions of the complainant and learned lawyer on behalf of the Respondents, the following points are formulated to adjudicate this case:-
 - (1) Whether the complainant is entitled for refund of her principal amount Rs.14,96,000/- along with accrued interest against the Respondents?
 - (2) Whether the complainant is entitled for compensation for her mental and physical harassment against the Respondents?
 - (3) Whether the complainant is entitled for litigation cost against the Respondents.

Points No.1:

5. Admittedly, the complainant, Ranju Kumari has filled up and signed Booking Form with the Respondents for booking a 3 BHK flat No.206 on 2nd floor in Block-D of project "S.B.I. NAGAR" at By-Pass Thana, having super built up area 1300 sq.ft. on total consideration of Rs.18,37,125/-. It is also admitted case that the complainant has executed a Memorandum of Understanding (M.O.U.) on 14-11-2015 with the Respondents, M/s Agrani Homes Real Marketing Pvt. Ltd. through its Director, Sri Rana Ranvir Singh for sale/purchase of flat no,206 on 2nd floor in Block-D in project "S.B.I. NAGAR" measuring super built up area 1300 sq.ft. on consideration of Rs,17,75,000/- along with applicable Service Taxes extra, situated at Mauza-Dawalpura, P.S.-By-Pass bearing Thana No.21, District-Patna. It was also agreed that the Respondents shall hand over the possession of the flat within 3 years with grace period of 6 months after approval of Map from P.M.C., provided the time of completion shall be deemed to have extended in the event of non-availability of building materials or delay due to Government Policies affecting the industry or due to Force Majeure. The complainant has paid Rs.14,96,000/- through cheques to the Respondents, in which Rs.4,96,000/- has been paid through R.T.G.S. and Rs.10.00 lacs has been paid through cheque no.000009 dated 07-09-2015 of DCB

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Bank, Daman Details of payment also finds place in Schedule of Payment attached with M.O.U. executed between the parties. The complainant has also filed photocopy of receipt no.252 dated 17-06-2015 of Rs.1,51,000/-, receipt no.409 dated 19-08-2015 of Rs.3,45,000/- and further receipt no.440 dated 07-09-20-15 worth Rs.10.00 lacs. It shows that the complainant has paid Rs.14,96,000/- out of total consideration of Rs.17,75,000/- along with extra applicable taxes, but in spite of repeated assurances, the Respondents have failed to get even Bihar, RERA, registration.

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6. The Respondents have also not produced approved Map of the project, which may show that they have not applied and got approval of Map from P.M.C. and from that date the computation of the period 3 years and 6 months may be judged for calculating the completion time of the project. However, the complainant cannot be forced to wait indefinitely for delivery of possession of the flat. It may be requirement of the complainant to reside at Patna along with his family, which has frustrated due to negative attitude on the part of the Respondents. The learned lawyer for the Respondents during hearing of this case has taken repeated adjournments on the matter of refund of principal amount to the complainant, which was also not objected by the complainant, in view of the fact that her amount may be received from the Respondents, but when her husband realised that the Respondents are making incorrect statements

towards refund of the principal amount through their learned lawyer, so he started hammering to discuss on merit of the case, otherwise the Respondents may be able to carry on the case for year to year. In such view of the matter, it is clear that the complainant cannot be forced to remain silent spectator and wait for indefinite period for refund of her amount, hence, as per her request the case was heard on merit. It is also to be made clear that in the above circumstances, since there is fault on part of the Respondents, they are bound to refund the principal amount along with interest to the complainant without further delay and deduction. Hence, I came to the conclusion that the Respondents have to refund Rs.14,96,000/- to the complainant without any delay and deduction.

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7. The complainant has claimed compound interest on principal amount paid to the Respondents, but it appears from the record and submission of learned lawyers for the Respondents that the Respondents are running other projects including the project in hand and levying of compound interest will hamper development of the present project and other projects including interest of other consumers. So, instead of levying compound interest, I think, simple interest on principal amount of the complainant may justify the end, as there will be no more effect on complainant, as she is repudiating herself from the project. As per Rule 17 and 18 of Bihar Real Estate (Regulation and Development), Rules, 2017, 2% above the

M.C.L.R. of S.B.I. for a loan of 3 years or more has to be paid by the Promoter to the Allottee. The present M.C.L.R. of S.B.I. is 8.20% and if 2% is added, it will come to 10.20. In such view of the matter, the Respondents have to pay simple interest @ 10.20% on principal amount Rs.14,96,000/- to the complainant.

8. Details of the payment of principal amount made by the complainant and the principal amount refunded by the Respondents along with accrued interest may be seen through a chart as under:-

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Date of Payment by the Complainant	Amount paid by the complainant Rs	Date of refund	Amount of Refund Rs.	Amount of Interest Rs.
17-06-2015	1,51,000.00	10-02-2020	1,51,000.00	71,520.90
19-08-2015	3,45,000.00	10-02-2020	3,45,000.00	1,57,350.70
07-09-2015	10,00,000.00	10-02-2020	10,00,000.00	4,51,338.35
TOTAL	14,96,000.00		14,96,000.00	6,80,209.95

On calculation of simple interest @ 10.20% on principal amount Ra.14,96,000/- will come to Rs.6,80,209.95 till today. Hence, the Respondents have to refund principal amount R.14,96,000/- along with simple interest @ 10.20% on the principal amount Rs.6,80,210/- till day. Accordingly, point No.1 is decided in positive in favour of the complainant and against the Respondents.

Point No.(2):

9. The complainant has also claimed compensation applicable under the Act, 2016. As per Section 72 of the Act,

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2016, the Respondents have been benefitted with the amount of R.14,96,000/- paid by the complainant till the amount is refunded to the complainant. The Respondents have used the above amount in their business without giving delivery of the said flat to the complainant. Now, due to delay in delivery of possession, the complainant has cancelled booking of the flat allotted to him and she will not get another flat of same area in the same locality at the same rate, which was available to her in the year 2015. The present rate of flat in the said locality has not come on record from either side, but naturally the rate of flats would have gone very high in comparison to the rate available in the year 2015. Moreover, the act of the Respondents has caused mental and physical harassment to the complainant. So, taking all situations in mind and the amount paid by the complainant, I think, Rs.3,00,000/-, which is about 20% of the principal amount Rs.14,96,000/- paid by the complainant, will be appropriate amount to be paid by the Respondents to the complainant as compensation for her physical and mental harassment. Hence, Point No.2 is decided in positive in favour of the complainant and against the Respondents.

Point No.3:

10. The complainant has visited repeatedly to the office of Respondents and she has consulted to the Respondents as well as their staffs several times for refund of her advance principal

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amount, but neither the Respondents nor their staffs have given any heed to her request till filing of the complaint case in this Court. Complainant and her husband visited from Daman, which is far away from Patna. I think, the complainant would not have incurred more than Rs.30,000/- for conveyance to the office of the Respondents, A.O. Court in RERA, Bihar, Court Fee, paper work etc., which must be paid by the Respondents. Accordingly, I find and hold that the complainant is entitled for Rs.30,000/- as litigation cost against the Respondents. Hence, Point No.4 is decided in positive in favour of the complainant and against the Respondents.

Therefore, the complaint case of the complainant is allowed on contest with litigation cost of Rs.30,000/- (Rupees thirty thousand only) against the Respondents. The Respondents are directed to refund the principal amount Rs.14,96,000/- (Rupees fourteen lacs ninety six thousand only) along with accrued simple interest till today Rs.6,80,210/- (Rupees six lac eighty thousand two hundred and ten only) @ 10.20% per annum on principal amount Rs.14,96,000/- (Rupees fourteen lacs ninety six thousand only). The Respondents are further directed to pay simple interest @ 10.20% per annum since tomorrow on the remaining principal amount till total refund. They are further directed to pay Rs.3,00,000/- (Rupees three lacs only) as compensation to complainant for her physical and

mental harassment. The Respondents are directed to comply the order within 60 (sixty) days, failing which the complainant is entitled to enforce the same through process of the Court.

Sd/-
(Ved Prakash)
Adjudicating Officer
10-02-2020