

First bite of realty watchdog

SANJEEV KUMAR VERMA

Patna: The Real Estate Regulatory Authority (Rera) of Bihar on Friday delivered its first judgment in a case related to return of money a customer had given to a city builder for buying a flat in a project that didn't take off.

The bench of Rera Bihar members R.B. Sinha and Subodh Kumar Sinha directed the builder to pay interest to the customer for the period during which the customer's money was with the builder. The bench also directed the builder to clear all the customer's dues.

The complainant, Dr Nawal Prakash Deepak, had

filed his complaint with Rera on May 15 this year against Agrani Homes Real Marketing Pvt Ltd.

Deepak had booked a flat in the Agrani Deffodils City project in Rupaspur area of Patna. He had entered into an agreement with the company after paying Rs 15 lakh as advance amount on May 26, 2016.

The developer had promised to hand over possession of the flat within five years with relaxation of six months after approval of the map by the Patna Municipal Corporation. When there was no development in the project even after months of making the advance payment, Deepak sent an e-mail to the company in April 2017 seeking details of

the progress in the project. When he didn't get any reply, Deepak withdrew from the project on July 14, 2017 and requested refund of the full amount along with the due interest.

The company, however, refunded only Rs 13 lakh between October 23 and November 9, 2017. After being served further legal notices, the company refunded Rs 1 lakh more.

Deepak, in his complaint to Rera, stated that in spite of two legal notices to the company, he didn't get refund of Rs 1 lakh. The company, presenting its case before Rera, said that the project was pending with the fire department for ap-

proval and after getting it the map would be submitted to the PMC for approval of the map as well as to the department of forest and environment for green clearance. During the hearing the Rera bench sought to know from the company about the normal time taken for approval of such a map.

The company said that it was not definite. To this, the bench observed that under such circumstances it was necessary for the company to state so in the agreement, which was not done. After hearing both sides, the bench in its judgment ruled that even maps had not been submitted to the competent authority for approval in

two years, which indicated a careless attitude on behalf of the builder and hence deposits made by the complainant needed to be refunded in full. The bench also ruled that the rate of interest the builder would have to pay would be equal to the marginal cost of funds-based lending rate of SBI plus 2 per cent on the deposit amount of Rs 13 lakh which should be paid from the date of receipt of the fund by the builder till September, 2016.

The rate of interest for Rs 1 lakh would be charged from May 2016 till March 2018, and the rate of interest on the remaining Rs 1 lakh would be the same from May 2016 till actual realisation of the

amount. During the hearing the builder's lawyer also contended that the project was commenced before Rera provisions came into effect and hence the provisions of the Real Estate (Regulation and Development) Act, 2016 didn't apply to the project.

The bench, however, turned down this point and observed that since the project was still going on after May 1, 2017, the date on which all sections of the new real estate law became effective, the project was covered under the Act and the jurisdiction of Rera over the project was confirmed.

The builder's lawyer agreed.

■ **Know builder's worth.** See Page 11