

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Ved Prakash,
Special Presiding Officer

Exe. Case No -133/2024, 126/2024
RERA/CC/369/2019, 1184/2020
RERA/AO/83/2019

Naresh Prasad Gupta, Sudha KumariComplainant/Executant(s)

Vs.

M/s Agrani Homes Real Marketing Pvt. Ltd. &Respondent
Others

PROJECT : IOB Nagar, Block - I

For the complainant : In Person
For the respondent : Mr. Shatvik Singh (Representative)

21.02.2025
24.02.2025

ORDER

Shri Naresh Prasa Gupta, husband of the executant, Mrs. Sudha Kumari and her learned lawyer, Shri Vinod Kumar Sinha are present, but members of association of allottees are absent. However, Shri Shatvik Singh, the representative of the respondent promoter appears through virtual mode.

2. The executants submit that as per order of the then Hon'ble Chairman, Shri Naveen Varma passed on 12.09.2022 in RERA/CC/1184/2020 and Hon'ble Member, Shri S.D. Jha passed on 05.10.2023 in RERA/CC/369/2019/RERA/AO/83/2019, have directed the respondent promoter to receive the remaining consideration and deliver possession of flat no. 501 in Block -I of the project to the executant, Smt. Sudha Kumari and flat no. 504 in the same block of the project to the executant, Shri Naresh Prasad Gupta along with car parking spaces within the stipulated period, but in spite of repeated directions and filing of execution petitions, the respondent promoter is not completing the project and flats of the executants and has also not executed the sale deed in their favour, whereon Shri Shatvik Singh,

representative of the respondent promoter has agreed to comply the orders of the Hon'ble Chairman as well as Hon'ble Member and has also agreed to complete the project and flats of both the executants.

3. The executants as well as their learned counsel submit that the so-called association of allottees has no locus standi to create hindrance in completion of the project and flats of the executants as legally it is not registered. They further submit that the members of association of allottees may be prohibited to interfere in the works to be done by the executants and promoter for completion of Block -I of the project and flats of the executants.

4. Learned counsel for the executants further submits that in spite of the order of the Full Bench of the Hon'ble Authority passed on 22.11.2022 in complaint case no. 1026/2021, neither the association of allottees got the registration with respect to association nor made any application before the Authority under section 4 of RERA Act, 2016 for registration of the project for Block -I, after obtaining the views of the State Government. The Hon'ble authority has further directed the association to get the map of the project extended, but it did not comply the same, rather it is creating an uncalled for interference in completion of works by the promoter and delivery of possession of flats to the executants. So, the so-called association of allottees may be debarred from interfering and the respondent promoter who is ready to complete the project and deliver possession of flats to both the executants may be directed to complete the remaining works after receiving the remaining consideration and deliver and execute sale deeds in favour of the executants with respect to their allotted flats and car parking spaces.

5. Though, on previous date, the intervener association of allottees was absent during the hearing, but on previous date i.e. 27.12.2024, learned counsel, Shri Satyadeep Kumar Singh has appeared and submitted that the Full Bench of the Hon'ble Authority, vide its order on 22.11.2022 in RERA/CC/1026/2021, has authorized the association of allottees to complete the remaining works of the allottees, including the present executants who have to make payments of remaining consideration to the association of allottees of Block-I of IOB Nagar.

6. Written statement on behalf of association of allottees have also been received, wherein the association has claimed that it is ready to file application for registration of Block -I as per above order dated 22.11.2022 passed by Hon'ble Bench of the Authority, which is required for further process to complete the remaining construction works as well as for further process of transferring ownership. It is further stated that the present complaint case is filed manifestly as frivolous and vexatious attempts to circumvent the unambiguous and binding order of the Hon'ble Authority and Hon'ble Tribunal. Hence, the association has submitted that these executants may be directed to pay the remaining consideration to the association of allottees, so that the remaining construction of the project Block -I may be completed.

7. Heard and perused the record.

8. The then Hon'ble Chairman, vide order dated 12.09.2022 passed in RERA/CC/1184/2020, had directed the respondent promoter to complete all the remaining works of the project and to provide all the facilities and amenities as per the agreement for sale and brochure of the building/apartment after receiving remaining consideration of Rs. 14,49,750/- as the executant, Smt. Sudha Kumari has paid Rs. 18 lakh out of consideration of Rs. 32,49,750/-.

9. It is further observed that Hon'ble Member, Shri S.D. Jha, vide order dated 05.10.2023 passed in RERA/CC/369/2019/RERA/AO/83/2019, had directed the respondent promoter to hand over the possession of flat no. 504 along with car parking space in Block -I of the project, IOB Nagar, after completing and finishing as per agreement and hand over the said flat to the executant/complainant and to execute the registered sale deed in favour of the complainant after receiving the remaining consideration of Rs. 4 lakh as the complainant has paid Rs. 24,58,760/- out of total consideration Rs. 29,48,374/-, but none of the parties has fulfilled their obligation, so, the building remained incomplete.

10. Later on, the Hon'ble Full Bench of the Authority, vide its order dated 11.10.2022 in RERA/CC/1026/2021, has directed that all cases pertaining to I-Block be clubbed together and numbered as Association of Allottees vs.

M/s Agrani Homes Pvt. Ltd. The Hon'ble Authority, vide order dated 22.11.2022 passed in the above case no. RERA/CC/1026/2021, has further held that the Authority was of the opinion that RERA does not make the registration of association of allottees mandatory before filing a petition under Section 8 of the Act. Nevertheless, it directs the association of allottees to get themselves registered either as a company or as a cooperative society in order to operate a separate bank account etc.

11. The Hon'ble Full Bench in the same order further observes that all the blocks of the project IOB Nagar are being treated as separate projects keeping the interest of allottees on the basis of powers given to the Authority to issue directions as given under section 37 of the Real Estate (Regulation and Development) Act, 2016. The Hon'ble Authority in the same order further notes that the Director of the respondent company had assured to complete the project by 27.07.2022. While disposing of the complaint cases, time was allowed to the respondent with the consent of the complainants to complete the remaining works in I-Block of the project, IOB Nagar. The promoter was also directed to pay the penalty for each day of default thereafter. However, the promoter has not been able to complete the project, hence, the allottees have formed an association and sought to complete the remaining development works.

12. The Hon'ble Authority in the same order has held that as the registration of Real Estate Project IOB Nagar, Block -I has lapsed and since more than 2/3rd allottees of I-Block has filed an affidavit stating therein that they want to construct the remaining works of the project on their own and has pressed to pass an order under section 8 of the RERA Act, 2016. Hence, the Authority was of the view that the promoter's right to construct remaining development works in the project has ceased to exist as per the provisions of section 8 of the RERA Act, 2016.

13. The Hon'ble Authority in the same order further notes that Mr. Alok Kumar, the director of respondent company against whom a number of FIRs have been lodged in respect of other projects and allegations have been levelled regarding diversion of funds, is presently in judicial custody. The Hon'ble Authority, therefore, recalls that the promoters have neither

completed various projects nor have they given refund of the amount after cancellation of flat and even after the direction of the Authority. The Hon'ble authority has taken note of the objection of the allottees and their association and endorsed the proposal of the association of allottees of IOB Nagar, I-Block to get the remaining development work completed.

14. The Hon'ble Authority in the same order has directed that the association of allottees of I Block of project, IOB Nagar would complete the remaining work in Block -I of IOB Nagar. The Hon'ble Authority further notes as per their reply, the respondents have received Rs. 8,93,17,292/- and Rs. 3,24,86,865/- is still due from the allottees. The Hon'ble Authority, therefore, has directed that the value of the development work to be carried out in the project be assessed by a chartered valuer.

15. The Hon'ble Authority has further directed both the respondent and association of allottees to share the cost involved in undertaking valuation of the project as on date by a chartered valuer. The respondent was also directed to share the amount received in the project and the expenditure made so far, as certified by a civil engineer and chartered accountant. The valuer would also determine the estimated resale value of the unsold partly constructed flats. In case, the valuation of construction of Block-I of IOB Nagar is less than the amount taken from the allottees, the respondent would either return the excess amount to the association of allottees or lose their rights on the unsold flats to the extent of the difference between the amount collected for the project and the amount spent thereon. In the event of the valuation being equal to or more than the deposits taken from the allottees, the respondent would retain his rights on three unsold flats, but they would share the proportionate cost for completing the remaining work in these three flats along with other allottees if they are required to raise additional resources to be given to the new promoter.

16. The Hon'ble Authority in the same order has further held that let this matter be referred to the Government for consultation as provided under section 8 of the RERA Act, 2016. The Hon'ble Full Bench of the Authority further directed the association of allottees to make an application for the

registration of the project for Block-I under section 4 of RERA Act, 2016 after the views of the State Government are obtained.

17. The order dated 22.11.2022 passed by the Hon'ble Authority has also been confirmed by the Hon'ble Tribunal on 20.03.2023 in REAT Appeal no. 07/2023.

18. Presently, on the basis of the above discussion, it transpires that the respondent promoter has already failed to complete the remaining work of Block-I of the project, IOB Nagar and the allottees of Block -I of IOB Nagar have also failed to pay the remaining consideration to the promoter to complete the remaining works.

19. This bench of the Authority, however, notes that the association of allottees is also not a registered one, but so far as completion of remaining works of Block -I is concerned, the association of allottees have sufficient number to comply the provisions of RERA Act, 2016. However, in the light of directions issued by the Full Bench of the Authority, the association of allottees have to get the registration of their association at the earliest so that they may open a bank account with respect to the Block -I of the project, IOB Nagar.

20. The present executants have alleged against the association of allottees stating that it has sent demand letter against them for payment of remaining consideration without fulfillment of legal formalities like registration of association etc. So, the association may be directed to act as per law, which is opposed by learned counsel for association submitting that the association is ready to complete all the formalities.

21. Considering submissions and on going through the records, it appears that the respondent promoter is not in a position to complete the project. Hence, the association of allottees, as directed by the Full Bench of the Hon'ble Authority, shall complete the remaining works and at the same time, the respondent promoters are hereby restrained to complete the remaining works of the said project and they shall cooperate with the association of allottees for completion and allottees of Block -I, including the present executants shall pay the remaining consideration to association of allottees to complete the remaining works. However, the association of allottees is also

directed to work as per the provisions of RERA Act, 2016 and to file an application for registration of Block – I of the project, IOB Nagar only after receipt of consultation/approval of the Government of Bihar. The association of allottees shall also submit all the documents along with application for registration as required under section 4 of the RERA Act, 2016, read with Rule 3/4 of Bihar RERA Rules, 2017. The association of allottees shall also follow the process of valuation as per order dated 22.11.2022 passed by Hon'ble Full Bench of the Authority in RERA/CC/1026/2021.

Put up on 28.04.2025 for further hearing.

Sd/-
(Ved Prakash)
Special Presiding Officer