

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

RERA/CC/ 1304/2020

RERA/AO/375/2020

Mr. Vinod Kumar

.....Complainant

Vs

M/s Grih Vatika Homes Pvt. Ltd.

Respondent

Project: URMILA VATIKA

27/11/2025

ORDER

Hearing taken up. None appears on behalf of the Respondent. However, learned counsel for the Complainant Shri Vinod Kumar is present who prays to dispose of the case on the basis of the materials available on record. This is a case of the year 2020 i.e. one of the oldest cases of more than five years.

2. This case was initially filed for a direction to the respondent to pay the principal due amount of Rs. 3,20,640/- with the compound interest of 18%, which was paid by the complainant from the date of application as well as Rs. 2,00,000/- for mental harassment. It was also for a direction to the respondents to pay the penalty/ compensation, interest as well as irreparable loss and litigation cost of Rs. 25,000/- due to delay in handing over the possession of the flat with reasonable cost and also for a direction for other relief or reliefs to which the complainant is entitled to.

3. As per order dated 12.12.2023 the prayer of the complainant is restricted only to the extent of compensation.

4. As per complainant, he booked a flat from Grih Vatika Homes Pvt. Ltd, Patna in his project named Urmila Vatika (Flat No. 503), situated at 70 feet road, Sipara, Patna in May 2015 amounting total Rs. 22 lakhs including GST charges and other charges. Even after 2 years and repeated requests agreement not

signed by the said company. After that, Complainant requested to cancel the booking (letter dated 10.04.2017) and refund the booking advance amount of Rs. 3,20,640/- (Money receipt no. 630 dt. 31.05.2015, 635 dt. 08.06.2015 and 646. Dt. 17.07.2015 for which they had handed over two cheques (bearing no. 022814 dt. 28.07.2017 for Rs. 1,60,640/- and 022813 dated 16.07.2017 for Rs. 1,60,000/- of Bank of India which was dishonored (Return Memo of Bank 103531/064001/10 and 103531/064001/20 dt. 31.07.2017) due to fund insufficient. The complainant had tried to communicate regularly for refund but they stopped entertaining and not responded via any mean (telephone, email or personal visit). A notice under section 138 of NI Act was sent to the Director, Grih Vatika Homes Pvt. Ltd. on 30.08.2017 regarding dishonored cheque but reply received to him Situation compels to the complainant to file a case in civil court under NI Act. 138 and IPC 420 (Case No. 4372/2017, Civil Court, Patna Sadar) in 2017. Till date after 19 hearings/ appearances, they neither responded nor appeared before court. It is requested for refund of principal amount of Rs. 3,20,640/- along with compensation for mental and physical harassment for last five years.

5. A reply on behalf of the respondent was filed stating therein that the complainant had already filed a criminal case against the respondent before the civil court, Patna. The present case is bad in law barred by the res judicata. The averments made by the complainant in his complaint petition are misleading, confusing and contrary to the true fact and circumstances of the present case. Presently this case has been filed by the complainant for seeking refund of the paid amount along with interest and compensation, which is contrary to section 18 of the RERA Act,

2016 as it cannot be done. This case is for withdrawal of money from the project. The promoter shall compensate the allottees in the case of any loss caused by him due to defective title of land, on which the project is being developed or has been developed in the manner as provided under this Act and it is also barred by limitation. He shall be liable to pay such compensation to the allottees in terms of agreement for sale. The complainant has booked the flat no. 503 of 2.5 BHK having area of 1170 Sq. ft. on the fifth floor in the said project named as Urmila Vatika in the year 2015 and the total consideration amount was Rs. 22,00,000/-. The complainant had paid the total amount of Rs. 3,20,640/- in three instalments. The respondent Authority is always ready to refund the actual amount in four instalments against cancellation. The respondent is always ready to give the flat and also offering to the complainant for the registration of agreement for sale but the complainant is withdrawing his booking himself. The respondent company will deduct the service charges as well as applicable charges as per the terms and condition of the company. The above mentioned flat was booked in the year 2015 as well as complainant paid Rs. 3,20,640/- in 2015, therefore, the entire occurrence has been occurred before the enactment of the RERA as such this court is not the correct forum to adjudicate this case.

6. As per pleadings on record, this case is restricted only to the extent for compensation. It is admitted fact that both the parties entered into development agreement for which the complainant was paid Rs. 3,20,640/- for the flat mentioned in the development agreement but it was not completed within the time stipulated in the agreement for sale. The respondent has not denied that he has completed the flat and handover possession of the aforesaid flats

within stipulated period and as such it should be considered as breach of agreement. Case filed in Civil Court does not matter in this case as relief and jurisdiction is totally different.

7. So far refund of the amount is concerned, these matters have to be decided by the RERA Authority. In such situation it clears that, the complainant is entitled to get compensation for litigation cost as well as mental harassment due to delay made by the respondent.

8. Considering the aforesaid facts and circumstances, the complainant is entitled to get compensation for litigation cost of Rs. 25,000/- and is also entitled for compensation of mental agony and harassment caused to him for which Rs. 25,000/- is also awarded.

9. The respondent is directed to pay the aforesaid amounts within 60 days from the date of issue of this order.

10 With the aforesaid observations and directions this case is disposed of.

Sd/-

(Vinod Kumar Tiwari)

Adjudicating Officer
RERA, Bihar