

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
/676/679/680/682/683/685/686/688/689/690/691/692/693/694/695/697/714/716 /720/722/725/726
/728/730/731/732

Suman Kumari and others..... Complainants

vs.

M/s Agrani Homes Pvt. Ltd. Respondent

25.01.2021

Proceedings

The proceedings were held online through video conferencing mode. Most of the complainants have joined. Mr Kishore Kunal Advocate, Mr Dheerj Kumar Roy, advocate and Mr Puneet Kumar Advocate are present on behalf of a few complainants and represented their clients in course of hearing. Respondent is represented by Mr. Alok Kumar, Director, Mr Padum Singh, Director and Smt Vijaya Raj Laxmi Director of the Company. Mr Ajay Kumar, Finance Manager also appeared on behalf of the Ruben Patliputra Hospital Pvt Ltd.

At the Outset, the Bench 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 had gone twice to Dhanbad to collect the funds from the heirs of Late Smt Kunti Devi, land-owner of the Sampatchak land but failed to get any funds as one of her sons has filed first information report (FIR) against him. He further informed that two other Directors Mr Padum Singh and Smt Vijaya Raj Laxmi are attending the hearing while other directors Ms Alka Singh, Mr Rana Ranvijr Singh and Mr Keshav Shanker are not attending as they are non share-holding directors. The Bench expressed its displeasure and directed all directors to remain present on each date of hearing as there was no such distinction

between Share-holding and non share-holding directors in the Companies Act as regards to the liabilities of the company.

Mr Ajay Kumar, Finance Manager of the Ruben Patliputra Hospital Pvt Ltd informed that their Advocate was unwell and hence couldn't attend the hearing today. He said that his company was prepared to deposit the balance amount with the Authority, provided the property at 15A Patliputra Colony was registered in favour of the hospital. He however didn't respond to the query of the Bench as to why the Ruben Hospital paid Rs 4.31 crores to the Indian Overseas Bank, Anisabad when the Respondent company had desired them to pay Rs 3.90 crores to the IOB, Anisabad Branch in the agreement for sale executed on 6th February 2020. The Bench noted that based on the records submitted by IOB, it is apparent that the additional amount of Rs 41 lakh was paid to the Bank primarily on account of interest due to delay in making payment by the Ruben Hospital. It was noted that as per the agreement for sale, total consideration amount was required to be paid within three months but the Ruben Hospital has made inordinate delay in making the payment of consideration amount.

The Bench expressed its displeasure 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 also desired to know as to how a residential property was being used as a commercial establishment like a Private Hospital by the M/s Ruben Patliputra Hospital Pvt Ltd endangering the lives of residents in adjoining areas, without getting the registration done and without obtaining the approval of the competent Authority under Bihar Municipal Act 2007. The Bench also felt that the Respondent Company has also cheated the consumers and misled the Authority by going back on their written commitment given in November 2019 that the proceeds from the sale of property would be used to pay back the deposits of the allottees. However, only two crores have been refunded to the consumers. The Bench reiterated that the first charge on the proceeds of sale of Patliputra Colony property is

that of the consumers/allottees who are the complainants in this case as the said property was purchased through diversion of their deposits/funds from other projects.

The Bench noted that the Respondent company has submitted a petition requesting for permission of registration of the flats in D block, IOB Nagar and IOB Phase 1 as a few consumers were ready to make payment of their dues. The Respondent company has however not responded to the query sent by the Advocate of the Authority as to whether the Respondent Company has obtained the completion certificate (CC)/occupancy certificate (OC) of the concerned projects. 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 Complainants Mr Ashutosh kumar and others have also filed their detailed response to the petitions of Mr Alok Kumar submitted earlier.

Mr Kishore kunal, Advocate stated that he was trying to evolve a compromise through exchange of plots in the Project Prakriti Vihar for funds/deposits made by the allottees. It would lead to resolution of the complaint of about 250 allottees. Mr Dheeraj Kumar Roy requested for expeditious orders on the complaint petition of his client (CC/352) as he has got the principal amount of the deposit from the Respondent Company. Mr Punit Kumar, Advocate for the Complainants in CC/354 and CC/523 requested for early refund as the complainants were retired senior citizens.

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 of CC/426, Mr Subhash Chandra Shrivastava, a Blood Cancer patient, informed that he was given Rs 5.00 lakhs only by the Respondent on 22nd January 2021, when Hon'ble Chairman had directed for refund of the full amount in course of hearing on 16th October 2020. Mr Alok Kumar stated that another installment of Rs 5 lakh was sent today, i.e. 25th January 2021. He thus claimed that Rs 10 lakhs have

been refunded back to him. The Complainant begged that he was in urgent need of funds as he was not able to get due medical treatment due to lack of money. Mr Kishori Prasad (CC/425) informed that he has not yet got any response from the Respondent Company. The Bench stated that they have received a communication from respondent company in his case and directed the staff of the Authority to forward the relevant letter to the complainant. Mr Alok Kumar also agreed to send the letter at the email address of the complainant. 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 consideration, we order that:-

- (1) Ruben Hospital will pay the remaining Rs 2,58,47,103 (Rupees two crore, fifty eight lakhs, forty seven thousand, one hundred and three only) to Real Estate Regulatory Authority, Bihar in form of a Demand draft without any further delay. The Authority will thereafter release Rs 5 lakh or 50 percent of the deposit, whichever is lower, to the complainants on first come first served basis, based on the date of filing of their complaints with the Authority (depicted as per serial number of the complaint case), after paying the remaining amount due to the Complainant CC/426, who is suffering from Blood Cancer/Kidney failure. Initially, only principal amount of each complainant will be paid.
- (2) 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 ownership and approval of the Patna Municipal Corporation as required under Bihar Municipal Act 2007.
- (3) M/s Ruben Hospital Pvt Ltd has paid Rs 4,31,08,752.53 in the IOB loan account of M/s Indus Ventures (Proprietor- Mrs Vijaya Raj Laxmi) as against Rs 3.90 crore stipulated in the agreement of sale executed on 7th February 2020 between

Mr Alok kumar and M/s Ruben Hospital. Therefore M/s Ruben Hospital should bear the burden of additional amount of Rs 41,08,752.53 paid to the Bank and pay that amount to RERA for distribution among the consumers whose deposits had been diverted by the Respondent company for purchase of the property in 2015.

- (4) Mr Alok Kumar, Director is directed to hand over/deposit all original deeds (Sixteen in number) of Absolute sale/purchase of land at Patna City and Permanandpur, Sonapur with the Authority along with an affidavit that they were surrendering them for auction/sale for refund of the deposits of the complainants, within a week. He 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 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.
- (5) 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 within a fortnight for refund of deposits to the complainants.
- (6) Mr Alok Kumar is also directed to submit the original registration document for land at Sampatchak executed with Late Smt Kunti Devi for which he had paid Rs 3.85 crore to the land-owner.
- (7) The Bench also directs Mr Alok Kumar to deposit/hand over the original registered deeds of the 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 shown by them in their property details, with the Authority immediately.

- (8) The Bench directs Mr Kishore Kunal, Advocate to submit his proposal regarding settlement of Complainants through distribution of land at Permanandpur, Sonapur instead of refund of the principal and interest amount, within a week after consultation with other Advocates, keeping in view the interests of all consumers/complainants.
- (9) The Bench levies a cost of Rs 25000 each on directors- Mr Rana Ranvir Singh, Ms Alka Singh and Mr Keshav Shankar for the repeated non-compliance of its orders for remaining present during the course of hearing. They should also remain present on the dates of hearing in future. The Bench had earlier levied a cost of Rs 25000 on each of aforesaid directors for the repeated non-compliance of its orders regarding filing of the details of immovable/movable property. They are directed to deposit the cost forthwith, failing which drastic action will be taken against them.

Put up on 10.02.2021 at 3.30 PM.

Sd/-

(R.B. Sinha)

Sd/-

(Afzal Amanuallah)