

# REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

**Before the Full Bench of Mr. Afzal Amanullah, Chairman, Mr. R.B. Sinha & Mr. S. K. Sinha, Members.**

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**

**16.10.2020**

**Proceeding**

The proceedings were held online through video conferencing mode. Most of the complainants have joined. Mr Kishore Kunal Advocate and Mr Puneet Sidharth Advocate have filed their vakalatnamas on behalf of a few complainants and represented their clients in course of hearing. Respondent is represented by Mr. Vinay Lakhani and Mr. Ankit Kumar, Advocates and Mr. Alok Kumar, Director of the Company. Mr Ajeet Kumar, Advocate also appeared on behalf of the Ruben Patliputra Hospital Pvt Ltd.

At the Outset, the Bench noted that the Respondent company has submitted a compliance report on the orders given by the Bench, through email yesterday afternoon. Mr Kishore Kunal, Advcoate has also filed a detailed rejoinder to the response of the Respondent Company. The Complainants Mr Barun Jha, Mr Ashutosh kumar and others have also filed their detailed response to the reply of Mr Lakhani submitted earlier.

In the last hearing on 07.10.2020, the respondent had been directed to submit a detailed plan for return of the money to the complainants, which should specify how and by what time, the complainants will be able to get their money back. In his compliance report, Mr Alok Kumar has submitted a vague proposal, categorizing complainants into six groups without any objective criterion. The so-called Action plan doesn't give time-bound programme of refund of the deposits with reasonable interest, stating that he would refund most of the complainants either after selling their partially constructed flats or after getting the registration certificate of the projects from the Authority. In very few cases, he has requested the Authority to use the funds available with Ruben Hospital to refund the deposits of the complainants. Mr Alok kumar has also submitted an affidavit on behalf of Mr Padum Singh regarding his assets in which he has declared the joint ownership with Alok Kumar and Vijaya Raj Laxmi of the plot of 7-8 kathas land, near Maulana Engineering College, Danapur, Patna. He has expressed his inability to

give further detailed information as he had handed over the Patliputra building during Pandemic and his computers and other records were not available with him .

Learned Counsel of the Ruban hospital in his deposition reiterated that the deal for the Patliputra Colony properties was for Rs. 12 crores and that they have paid Rs. 9,41,52,897.53 already and Rs. 2,58,47,103 remains to be paid. He also mentioned that out of the remaining amount, Rs. 1.89 crores has to be paid to the concerned bank, as per agreement for sale. He however agreed to pay the remaining amount of Rs 2,58,47,103 as per the direction of the Bench. On a query to the effect whether they have paid more than the stipulated Rs 3.90 crore in one of the loan accounts of Mr Alok Kumar in Indian Overseas Bank, Anisabad as required in the Registered agreement of sale dated 7<sup>th</sup> February 2020 executed between the Ruben Hospital and Mr Alok Kumar, Learned Counsel sought a week's time and committed to file a detailed response before the next date of hearing. We also reiterated that the first charge of the money from proceeds of sale of Patliputra Colony property is of the consumers who are the complainants in this case.

Mr Kishore kunal, Advocate stated that that the claim of the Respondent company, that the system of approval of the building plans by empanelled architects was stopped in December 2012, was factually incorrect as the respondent itself had sought release of installments from allottees, based on sanction of the MAP by the competent Authority during the intervening period. He further claimed that the stay order issued by the Patna High Court on 10.05.2013 was limited to the projects which were being developed on roads with width less than 20 ft only. Hence a very limited number of projects were affected by the stay order. He further claimed that the Respondent company had continued to take booking deposits and installments from consumers/allottees during 2012-13, 2013-14 and 2014-15. Had the approval of building plans been stopped w.e.f. 13.12.2012 and the work of construction been stopped as per stay order of the Patna High Court dated 10.05.2013, the Respondent should have stopped the collection of booking deposits and further installments from consumers/allottees but they didn't do so.

He further claimed that the Authority has full powers to adjudicate on refund of the deposits paid by the Complainants along with a reasonable interest and that thereafter, the complainants would seek compensation from Adjudicating officer for the mental agony and harassment they have undergone. He claimed that respondent had diverted the funds deposited by the complainants for construction of their apartment/flats from their projects to other associated companies/projects unauthorisedly and requested the Court to ask the ED/CBI to investigate the matter. He claimed that the respondent company had closed their registered office at Patliputra colony, Patna but new address is not known to anyone. Even the mobile number of Mr Alok Kumar remains either switched off or out of coverage area. The complainants are not able to contact Mr Alok Kumar.

Mr Punit Sidharth, Advocate for the Complainants in CC/575 and CC/576 sought two-three weeks time to file his response to the reply given by the respondent.

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 stated that he was suffering from kidney failure and now his condition has further deteriorated as he has been found to be suffering from blood cancer also. He said 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) expressed his willingness to get a substitute flat of similar size in any nearby project, if handed over to him soon. Another Complainant claimed that she was also in need of funds as her daughter was getting married in December 2020. Mr Vinay Lakhani, Advocate verified the claims of each complainant and requested them to send documents by email to Mr Alok Kumar for rectification of the records, wherever there were discrepancies in the records of the Respondent Company. Mr Alok Kumar MD stated that his office was closed and the building handed over to Ruben Patliputra Hospital during pandemic and since then, he was outside the state. Hence, he was not in position to verify the details.

In course of hearing, the Bench enquired from Mr Alok Kumar, MD as to why he sold plot of land of 34.375 decimals to his mother in November 2019 and a flat to one of his directors Mr Keshav Shankar in March 2020, particularly when the Full Bench of the Authority had started hearing in October 2019 in this case. He said that he hadn't sold any properties to his mother and Mr Shankar. However, the Authority is in possession of documents of Registration Department of Bihar Government which indicate that such transactions have taken place. The Bench also enquired from Mr Alok Kumar regarding details of the transactions involving two mortgage deeds of 25 flats and 7 flats in December 2015 and July 2015 respectively, located at Jaganpura, Phulwarisharif/Danapur with Indian Overseas Bank, Kankarbagh Branch, Patna. Mr Alok kumar feigned ignorance about the transactions. The Authority is in possession of documents of Registration department of Bihar Government which confirms the transactions entered into by Mr Alok Kumar and IOB.

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 within a week. The Authority will release a sum of 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 sum 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 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 7<sup>th</sup> February 2020 between Mr Alok kumar and M/s Ruben Hospital within two weeks.
- (3) Mr Alok Kumar had also been directed by the court on 16<sup>th</sup> 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.

- (4) In his report dated 6<sup>th</sup> October 2020, Mr Alok Kumar has shown that he had paid Rs 3.85 crore to the land-owner for land at Sampatchak. He had also admitted that he would get back Rs 2 Crore from the legal heirs of Late Kunti Devi, the land-owner. In course of hearing, he has committed to try to get back Rs 2.00 crore during next days from the heirs of Late Kunti Devi. He is directed to collect the amount within two weeks and deposit it in form of a demand draft with the Authority for refund of deposits to the complainants.
- (5) The Bench had directed that affidavits of movable and immovable properties of all Directors of the Agrani Group of Companies should be submitted by next date. However affidavit of only Mr Padum Singh was filed along with the Compliance report. The Bench levies a cost of Rs 25000 on each of other directors- Mr Ran Ranvir Singh, Ms Alka Singh and Mr Keshav Shankar for the repeated non-compliance of its orders
- (6) The Bench has gone through the affidavits filed by Mr Alok Kumar, Mrs Vijaya Raj Laxmi and Mr Padum Singh. The Bench has however not found following assets in their affidavits:
- House No-A/15, Yogipur, Lohianagar, Kankarbagh, Patna
  - Details of investment of Mr Alok Kumar and Mr Padum Singh in several Agrani group of companies viz. Agrani Homes Pvt Ltd, Agrani Homes Real Marketing Pvt Ltd, Agrani Homes Real Services Pvt Ltd, Agrani Homes Real Constructions Pvt Ltd, their associated companies viz Agrani Pharmaceutical Private Ltd, Agrani E-Commerce Pvt Ltd, Agrani Infotech Pvt Ltd, Agrani Meals Pvt Ltd and any other companies/firms/organizations etc
  - Details of investment of Mr Alok Kumar in seven flats located at Jaganpura, Phulwarisharif/Danapur, which were mortgaged to IOB, Kankarbagh Branch on 23<sup>rd</sup> July 2015 vide Deed no 6670, valued at Rs 3.00 crore by the Bank.
  - Details of investment of Mr Alok Kumar in **twenty five flats** located at Jaganpura, Phulwarisharif/Danapur, which were mortgaged to IOB, Kankarbagh Branch on 26<sup>th</sup> December 2015 vide Deed No 11612, valued at Rs 3.00 crore by the Bank.
  - Details of investment of Mr Alok Kumar in residential land of 88.57 decimals at Mauza- Sarari, Plot Nos 1410,1411,1412,1413,1376,1422 & 1423 purchased by him along with Mr Shiv Kumar for Rs 3.60 crores on 31<sup>st</sup> March 2012 from Mr Saurabh Kashyap vide Deed of absolute sale No-13705 dated 11<sup>th</sup> April 2012
  - Details of investment of Mrs Vijaya Raj Laxmi in Agrani Pharmaceutical Pvt Ltd, Agrani Meals Pvt Ltd and Indus Ventures;
  - Details of investment of Mrs Vijaya Raj Laxmi in Flat No-A/403, Awadh Apartment, Bhootnath Road, Kankarbagh, Patna
- (7) In view of significant liabilities of the directors of Agrani group of companies towards the complainants, all moveable and immoveable assets (land, building, flats/apartments/bank accounts, Fixed Deposits, jewellerys etc) of Alok kumar and other directors and their dependent

family members are brought under the lien and control of the Authority. They will not be entitled to sell their properties, without obtaining a No Objection Certificate (NOC) from the Authority.

- (8) Mr Alok Kumar, Mr Padum Singh and Mrs Vijaya Raj Laxmi shall not sell any of their property without getting a No objection Certificate (NOC) from the Authority. IG Registration may also be requested that all DSRs/Sub DSRs may be directed to NOT register any sale of properties by any one of them. Authority may therefore inform IG Registration accordingly.
- (9) Other directors of the Agrani Group of Companies Mr Rana Ranvir Singh, Ms Alka Singh and Mr Keshav Shankar are also prohibited from selling any of their properties and IG Registration may be advised to direct all DSRs/Sub DSRs accordingly.
- (10) The conduct of Mr Alok Kumar of selling land/flat to close relatives/functionaries(plot of land of 34.375 decimal sold to mother - Mrs Pratibha Singh by Mr Alok Kumar on 28<sup>th</sup> November 2019 vide Deed No 14043; a flat at Jaganpura, Phulwarisharif sold to Mr Keshav Shankar, another Director by Mr Alok Kumar on 5<sup>th</sup> March 2020 vide Deed No 4339), after commencement of hearing by the Full Bench of the Authority in October 2019 is not acceptable and entire proceeds of the transactions should be deposited with the Authority forthwith for refund to the Complainants.
- (11) Mr Alok Kumar and other directors of the Agrani Group of Companies are directed to bring back back all loans/advances (Mr Alok Kumar- Rs 7 Crores, Rs 2.60 crores to Agrani Pharmaceutical Ltd, Rs 2.60 crores to Indus Ventures, Rs 15 lakhs to Mr Rana Ranvir Singh etc) given to other sister/associates/related parties within 15 days.
- (12) Branch Managers of Indian Overseas Bank, Kankar Bagh Branch (H-23, Doctors Colony) and Anisabad Branch (Balamichak, Magadh Plaza) to be present on the next date of hearing with details of transactions with Agrani group of companies, their associate/sister concerns including partnership firms like Indus Ventures etc;

Put up on 11.11.2020 at 3.30 PM

Sd/-

(S.K. Sinha)

Sd/-

(R.B. Sinha)

Sd/-

(Afzal Amanuallah)