

**REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR**

**Before the Bench of Mr. Afzal Amanullah Chairman & Mr R.B.Sinha,  
Member**

**Complaint Case Nos. CC168/169/170/171/172/187/203/209/264/  
279/293/372/723/807/812/863/942/967/987/1114/1115/1117/1  
130/1150/1153/1160/1179/1180/1192/1230/1252/1424 of 2019**

Ajay Krishna & Ors ..... Complainants

vs.

M/s Agrani Homes Pvt. Ltd..... Respondent

**23.03.2021**

**PROCEEDING**

The proceedings were held through online video conferencing mode. Most of the complainants have joined online. Mr Rupak Kumar Advocate representing a few complainants, is present. The Respondent company is represented by Mr. Alok Kumar, Director of the Company and Mr Sanjay Singh, Advocate.

This proceeding is regarding construction and handing over of flats in Block-D and Block-J of IOB Nagar and Agrani Ashoka.

At the Outset, the Bench recalled the proceedings of hearing held on the last date (12.03.2021) and stated that at the instance of the Learned Counsel of the Respondent Company, the Bench had given a short adjournment for submitting the plan for development of the Project Agrani Ashoka within stipulated period. The Bench informed that they have received a petition barely few hours ago in which the respondent company has submitted their proposal for proposed course of action for D Block of IOB Nagar, Agrani Ashoka, and J Block of IOB Nagar. Besides, the respondent company has also submitted their proposal for E, H & I Blocks for consideration of the Bench. The Bench thereafter requested Mr Sanjay Singh to present his proposal submitted in the petition.

Mr Sanjay Singh, Learned Counsel of Respondent Company stated that there are three major issues regarding D Block i.e. installation of lift from basement, connection of sewerage pipes to the main-line and construction

of common room and washroom for guards. So far as lift is concerned, he stated that as the lift was a high speed banded one of Johnson, there were technical difficulties in its installation from the basement. He said that if they had installed the local unbranded lift. It would have been done from the basement. However, as the allottees desired that only branded lift should be installed, they installed high speed lift of Johnson. As regards sewerage pipes connection is concerned, the Learned counsel stated that presently the main-line of sewerage pipes is 500 metres away. It is likely to be laid further. Once it comes near the campus, the sewerage line of the Block D would be connected to the main-line. So far as common room and washroom for guards are related, the Respondent company plans to have rooms and washroom for guards at a centralized place besides Block E & F which are presently used for storing raw materials. He further informed the Bench that the respondent company would submit its application for OC/CC to the Municipal Authorities within a week. Mr Kaushalendra Singh a complainant, stated that it was incorrect to say that the installation of branded lift from basement was not possible as technicians/ engineers of Johnson had only suggested that it was feasible to do so. He further said that the Association of Allottees has submitted a petition to the Bench listing the issues that need to be addressed/sorted out by the promoter. He said that majority of allottees are interested in taking the possession of the flats as most of the work in D Block have been completed. Another complainant Mr Bam S. Chaudhary supported the request, stating that they should be given possession as they are paying EMI and house rent per month. The Bench also felt that inordinate delay in handing over the possession of the flat is increasing the cost of the flats for the allottees.

As regards Agrani Ashoka, Learned Counsel Mr Singh stated that most of the flats in the project are ready for possession and only common items/areas like lift, DG Set, railing on the stairs, completion of boundary wall, pathway to main road, allocation of parking space etc are remaining to be completed. He stated that prima-facie enough funds are available with the complainants to complete the work in Agrani Ashoka project. He further assured that if additional funds are required, respondent would sell his flat available in the project to fund the construction work in the project. Mr Dineshwar Dubey, a complainant claimed that the promoter has not done anything to install the lift in the Project, to which Learned Advocate of Respondent company stated that they have given advance of Rs 2 lakhs to the lift company for installation of lift. Mr Dubey however claimed that this payment was made more than two years ago and no further development has taken place since then. Another complainant stated that they have

submitted a proposal for formation of society to the Authority for approval and the same kindly be done. The Bench confirmed the receipt of the proposal. However the Bench stated that the Association of Allottees should either be registered as a non-profit company under section 8 of the Companies Act 2013 or as a society under Society of registration act 1860 or as a trust under Trust Act 1882 or as a cooperative society under Cooperative societies Act. On the request of Mr Dubey, the promoter Mr Alok Kumar agreed to request M/s Sarveshwara Realtors to take up the work of Agrani Ashoka on the pattern of D and E Block of IOB Nagar.

Learned Counsel Mr Sanjay Singh stated that adequate funds are also available with the allottees for completion of J Block. The complainants however contested the claim of the Respondent Company and stated that there was very little or negligible progress in the construction work in J Block in last five and half months since approval of the extension of the Project on 9<sup>th</sup> October 2020. They claimed that no work was going on since early January'21 and there was no likelihood of the project getting completed by July'2021. They claimed that the promoter was adopting delaying tactics by changing their stand/views frequently. The Bench noted that the entire internal (Plaster work on 4 floors, doors/windows, wiring, plumbing, flooring, kitchen/bathrooms tiling etc) and external finishing work ( external plaster work, access to road, boundary wall, putty, painting, transformer/DG set etc) remains to be done, which is not likely to be completed in next few months. They claimed that the promoter was intentionally delaying the project and needs to be severely penalized because he was not fulfilling his obligations under the Act. They stated that the Promoter had committed that they would complete the project from their own funds and only at the time of handing over possession of flats, they would take the funds from allottees. However, they are not fulfilling the commitment made. Learned Counsel of the Respondent claimed that several allottees have significant dues for making payment to the promoter. The Association of allottees however stated that they have lost trust and faith in the promoter and they wouldn't pay any further money to him. Keeping in view the overwhelming opinion against the promoter, Learned Counsel Mr Singh offered to get the construction of the J Block completed through M/s Sarveshwara Realtors, the firm which had completed the work of D Block and undertaking the work of E Block of IOB Nagar. The Bench directed the complainants / Association of allottees to consider the proposal and come back after necessary due diligence. The Association of allottees was also directed to consider other options available as well, so that further time is not lost.

The Bench reiterated that they had approved, on fervent request of the MD of the Respondent company Mr Alok Kumar, extension of the D block upto 30<sup>th</sup> October 2020, J Block upto July 2021 and Agrani Ashoka upto 30<sup>th</sup> April 2021 in its hearing on 9<sup>th</sup> October 2020 on specific commitment of the MD Mr Alok Kumar to the Bench that they have arranged the financial resources for completion of all three projects. He stated that there was no caveat at the time of approval of these proposals that the projects would be completed only when the remaining funds would be released by the allottees.

Learned Counsel Mr Singh invited the attention of the Bench to the proposals submitted by the Respondent Company for getting the remaining work done in E, H & I Blocks through another agency. The proposals were endorsed by large majority of allottees in each Block. Mr Alok Kumar MD stated that the work of E Block was likely to be completed soon. He pleaded that the Bench should allow the same agency M/s Sarveshwara Realtors to undertake the remaining work in H & I Blocks also. He proposed that a meeting over Zoom may be arranged with the Association of allottees, promoter and M/s Sarveshwara Realtors for completion of remaining items of work in each Block in which detailed discussions could take place before approval of the proposal by the Bench. The Bench directed the Association of allottees of each Block, promoter and M/s Sarveshwara Realtors to do the due-diligence of the remaining items of work, the cost involved, funds available, time schedule, capacity of the firm to undertake the work etc before organizing the virtual meeting over zoom.

The Bench also reiterated that time is of essence in a real estate project and any delay in completion of the project enhances the cost of the flats for the allottees on account of EMI and payment of house rent. The Respondent will have to bear atleast partially, increased interest cost paid by the allottees. At the same time, all allottees should also be prepared to pay their installments at the time of taking over the possession and registration of their sale deeds.

The Bench heard the complainants and respondent counsel of the Respondent Company. After detailed discussions and hearing all shades of opinions, the Bench orders that

#### **D Block**

1. The promoter must submit their application for Completion Certificate (CC)/Occupancy Certificate (OC) of the D Block to the Municipal authority within a week.

2. As construction of D Block is inordinately delayed, the promoter is directed to handover the possession of the flats to allottees for initial fit-out works/occupation, so as to protect the interests of consumers, on payment of 90 percent of the total consideration amount of the flat.
3. The Promoter or its agencies shall review, undertake and complete the remaining items of works, as suggested by the Association of Allottees of D Block within a month.

### **Agrani Ashoka**

4. The Promoter shall complete the remaining items of work viz installation of lift, DG set, railings in the stairs, boundary wall, remaining internal/ external finishing work of the Project either through M/s Sarveshwara Realtors, the firm which has undertaken the work of D and E Blocks or any other Promoters which have been undertaking RERA registered projects with due approval of the Bench.
5. Each Allottee shall make payment of 90 percent of the total consideration amount of the flat within two weeks of the completion of work.
6. Allottees of Agrani Ashoka may please get their society /association of allottees registered expeditiously with standard bye-laws/articles /memorandum either under the Companies Act 2013, or Society of Registration Act or Cooperative Societies Act or Trust Act.

### **J Block**

7. The Respondent Company shall coordinate with Association of allottees in arranging a meeting with M/s Sarveshwara Realtors for undertaking the work of construction of J Block and completing in a time-bound manner on an agreed payment schedule.
8. Association of allottees may also do the due diligence with other promoters/builders, which have been developing RERA registered projects in the state.

### **E, H & I Blocks**

9. Association of allottees should be formed in each block and duly get registered under an applicable law. They should then enter into an agreement with either through M/s Sarveshwara Realtors, the firm which has undertaken the work of D and E Blocks or any other Promoters which have been undertaking a RERA registered project with due approval of the Bench. The Agreement should inter-alia

indicate the specific items of work to be completed, technical specifications, time period, payment schedule etc.

### **General**

10. The Bench directs Mr Alok Kumar MD to file an affidavit regarding the number of flats in each Block of IOB Nagar, Agrani Ashoka and any other ongoing Projects of Agrani group of companies still available with the Respondent company or any directors present/past of the companies. In view of inordinate delay and huge outstanding liabilities of the Companies, the Bench directs that all such flats of promoters/Directors in each Block of IOB Nagar, Agrani Ashoka and any other Projects are brought under the lien of the Real Estate Regulatory Authority, Bihar, until further orders.

Put up on 15.04.2021 at 3.30 P.M.

Sd/-

**(R. B. Sinha)**

Member

Sd/-

**(Afzal Amanullah)**

Chairman