

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Bench of Mr. Naveen Verma, Chairman, Mr. R.B. Sinha, Member and Mrs. Nupur Banerjee, Member

Complainants cases Nos-CC/396/2019, 111/2018, 112/2018, 175/2018, 213/2019, 2016/2019, 225/2019, 226/2019, 229/2019, 230/2019, 231/2019, 263/2019, 267/2019, 269/2019, 270/2019, 271/2019, 275/2019, 276/2019, 281/2019, 284/2019, 287/2019, 289/2019, 292/2019, 293/2019, 302/2019, 306/2019, 307/2019, 310/2019, 311/2019, 312/2019, 323/2019, 352/2019, 354/2019, 363/2019, 373/2019, 378/2019, 400/2019, 401/2019, 402/2019, 411/2019, 417/2019, 418/2019, 425/2019, 426/2019, 429/2019, 435/2019, 455/2019, 456/2019, 457/2019, 458/2019, 477/2019, 502/2019, 503/2019, 520/2019, 523/2019, 526/2019, 531/2019, 532/2019, 537/2019, 545/2019, 559/2019, 563/2019, 575/2019, 576/2019, 639/2019, 646/2019, 649/2019, 650/2019, 652/2019, 653/2019, 655/2019, 659/2019, 660/2019, 662/2019, 663/2019, 664/2019, 665/2019, 666/2019, 668/2019, 670/2019, 675/2019, 676/2019, 679/2019, 680/2019, 682/2019, 683/2019, 685/2019, 686/2019, 688/2019, 689/2019, 690/2019, 691/2019, 692/2019, 693/2019, 694/2019, 695/2019, 697/2019, 700/2019, 701/2019, 702/2019, 704/2019, 708/2019, 710/2019, 711/2019, 712/2019, 713/2019, 714/2019, 716/2019, 720/2019, 722/2019, 725/2019, 726/2019, 728/2019, 730/2019, 731/2019, 732/2019, 735/2019, 740/2019, 750/2019, 751/2019, 792/2019, 793/2019, 794/2019, 808/2019, 809/2019, 813/2019, 816/2019, 817/2019, 821/2019, 823/2019, 824/2019, 827/2019, 828/2019, 829/2019, 832/2019, 833/2019, 836/2019, 837/2019, 838/2019, 840/2019, 841/2019, 842/2019, 843/2019, 846/2019, 847/2019, 848/2019, 852/2019, 854/2019, 855/2019, 856/2019, 857/2019, 859/2020, 860/2020, 861/2020, 865/2020, 866/2020, 879/2020

Suman Kumari and others..... Complainants

vs.

M/s Agrani Homes Pvt. Ltd. Respondent

04.06.2021

Proceedings

The operative part of the proceedings held online through video conferencing mode is as follows :

The learned lawyer for the respondent submitted that the proceedings are being conducted on the presumption of diversion of funds by the respondent company. The Bench pointed out that given the observations of the statutory auditors on the annual accounts of the respondent company for the financial year 2017-18, large number of

complaints for refunds , the fact that construction has not even started in several projects after taking full payment in many cases some years back and admittedly the respondent has no liquid assets including funds available, it is not unreasonable to assume that the money taken by the respondent company from home buyers for unapproved projects has been diverted for some other purposes/projects. It was also noted that the respondent companies have not submitted the audited annual accounts of the Agrani group of companies for the financial years 2018-19 & 2019-2020 and annual statement of accounts of each registered projects for the financial years 2018-19 & 2019-2020, required under Section 4 (2) (l) (d) of the RERA Act 2016 till date, which by itself is also a serious offence under the Companies Act .

An audited balance sheet would give the true and fair picture of assets and liabilities of the respondent company and also enable the Authority to come to a definite conclusion on the use of funds collected from the homebuyers.

The Bench directed the respondent to submit, without any delay further delay, the quarterly progress reports, project wise , as prescribed in Section 11(1) of the RERA Act . In addition he was directed to furnish the details of amount collected, used and lying unspent, project wise duly certified by the Chartered accountant in practice in terms of Section 4 (2) (l) (d) of the RERA Act and Rule 4(2)(b) of the Bihar Real Estate (Regulation and Development) Rules 2017, hereafter referred as the Bihar RERA Rules .

The respondent was also directed to submit project wise statement of assets created from the funds received from the allottees, the liabilities and the details of cases for refunds in relation to that project, including those involved in cases filed before RERA immediately and not later than one week from the date of hearing. Copies of such statements would also be sent by the respondent to all the concerned applicants who are petitioners before the Authority.

The Bench noted non-compliance of its earlier directions to furnish the annual audited accounts and gave one week's time to the respondent to furnish the financial details of the promoter as prescribed in Rule 16(c) of the Bihar RERA Rules . The Bench pointed out that non-compliance of its directions would be viewed seriously and the Authority would not hesitate to invoke the provisions of the RERA Act and Bihar RERA Rules to enforce its directions .

The views of the applicants as well as their learned counsels were taken in respect of Plan 1 which was submitted by the respondent earlier. According to this proposal all the development agreements with landowners would be cancelled and then the promoter would be able to return the money received from landowners in form of nuns which is expected to be around Rs 13.75 crore and would be deposited in RERA to be further refunded to the allottees. The Bench noted that preliminary enquiry done by the Authority has indicated that the landowners may not have any money left with them and this may not be able to address the issues of the complainants. Many complainants and the learned lawyers for the complainants expressed doubts on the transparency of the procedure to be adopted and sincerity of the respondent to deposit the money.

After hearing both the parties the Bench directed that while the process of giving statement of project-wise assets and liabilities is underway, the Authority may allow the respondent to proceed with Plan 1 on the following conditions:

- i) the names , addresses of the landowners , project wise , would be given to RERA who will be summoned to appear as allottees on the assigned date of hearing ;
- ii) A representative of RERA would be associated in all discussions so that the money gets transferred directly to RERA
- iii) Shri Sanjay Singh, learned lawyer for the respondent kindly agreed to be associated in this process
- iv) The complainants can also nominate one person on their behalf, if they so desire .

In reference to Plan 2 involving sale of land in village Dhawalpura, it was pointed by one complainant Shri Nawal Kishore Prasad that the market value of land at Dhawalpura is much more than what was quoted by the respondent. The Bench requested him to assist RERA in fetching the best price, and also observed that any other person can also volunteer in this process. The respondent would give all support in this exercise. The respondent was also directed to submit a certified copy of the agreement for sale entered into by them with Mr Ajay Singh for Dhawalpura land so that the same could be treated as benchmark.

Some complainants expressed their willingness to take equivalent plot of land at Dhawalpura/ Permanandpur, Sonapur in lieu of cash refund. The Bench directed that all the complainants who are willing to adjust their refund claim against land may send their willingness by email to RERA .

The Bench decided that henceforth cases would be bunched and heard project wise in which landowners would also be associated as allottees. The respondent would give information about the year of initiation of the projects within one day so that the cases can be listed for hearing.

As these matters have been pending for quite sometime it was decided that the matter would be heard daily, project- wise, starting from 15 June .

List the cases concerning IOB Nagar Block K and Block L on 15.6.2021. The respondent would ensure that all relevant information for these projects is submitted to RERA with copy to the complainants by 11.6.2021.

Sd/-

(Navin Verma)

Sd/-

(R.B.Sinha)

Sd/-

(Nupur Banerjee)