

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Full Bench of Mr Naveen Verma, Hon'ble Chairman,**

**Mr R.B. Sinha Hon'ble Member & Mrs Nupur Banerjee, Hon'ble Member**

**Case No. CC/1126/2020, CC/1055/2020, CC/1424/2020, CC/1439/2020, CC/1448/2020, CC/1487/2020, CC/1511/2020, CC/1665/2020, CC/1781/2020, CC/1798/2020, CC/135/2021, CC/907/2020, CC/1024/2020, CC/1160/2020, CC/1199/2020, CC/1335/2020, CC/1780/2020, CC/1782/2020, CC/146/2021, CC/420/2021, CC/168/2018, CC/169/2018, CC/170/2018, CC/171/2018, CC/172/2018, CC/187/2018, CC/209/2019, CC/293/2019, CC/723/2019, CC/758/2019 AO/187/2020, CC/942/2020, CC/1076/2020, CC/1130/2020, CC/1498/2020 AO/480/2020, CC/1582/2020 AO/533/2020, CC/1583/2020, CC/15846/2020 AO/534/2020, CC/11585/2020 AO/535/2020, CC/11586/2020 AO/536/2020, CC/1587/2020, CC/1713/2020 AO/583/2020, CC/1714/2020 AO/584/2020, CC/1770/2020 AO/617/2020, CC/613/2019, CC/649/2019, CC/688/2019, CC/6689/2019, CC/690/2019, CC/691/2019, CC/730/2019, CC/751/2019, CC/833/2019, CC/863/2019, CC/866/2019, CC/1009/2020, CC/1140/2020, CC/11530/2020, CC/1579/2020, CC/1615/2020, CC/1756/2020, CC/11762/2020, CC/30/2021, CC/166/2021, CC/377/2021, CC/311/2019, CC/352/2019, CC/417/2019, CC/692/2019, CC/695/2019, CC/713/2019, CC/731/2019, CC/794/2019, CC/816/2019, CC/909/2020, CC/914/2020, CC/1047/2020, CC/1068/2020, CC/1069/2020, CC/1077/2020, CC/1096/2020, CC/1097/2020, CC/1141/2020, CC/1261/2020, CC/1395/2020, CC/1779/2020, CC/67/2021, CC/314/2021, CC/368/2021 & CC/369/2021**

**Ajay Kumar Mishra/Savitri Devi/Meera Gupta/Sanjay Kumar Gupta/Amit Raj Kamal/Mithilesh Kumar/Chhaya Lal/Karali Patra/Seema Kumari/Shivendu Kumar Mishra/Rita Singh/Lalan Prasad Singh/Punam Mishra/Bineeta Kumari/Vijay Kumar Pandey/Aryan Pushpjeet/Rajiv Kumar/Santosh Kumar/Navneet Sharma/Kumar Gaurav/Baijoo Mistri/Bam Shankar Chaudhary/Koushendra Kumar/Ran Avay Kumar/Sudhir Kumar Singh/Babita Devi/Kumari Anjana/Dineshwar Dubey/Dhananjay Kumar Singh/Subodh Kumar/Anuj Kumar Sinha/Rekha Kumari.....Complainant**

**Vs**

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

**Present:**                      **For Complainant:**                      In person  
Mr Manav Prakash, Adv (Block H)  
Mr BK Sinha, Adv (Block I)  
Mr Rajesh Kumar, Adv (Block J)  
Mr Ravi Kumar, Adv(Block K&L)  
Mr Kunal Kishore (Block L)  
Mr Manoj Kr Singh, Adv (Block L)  
   **For Respondent:** Mr Sanjay Singh, Adv  
Mr Alok Kumar, MD

**29/06/2021**                      **PROCEEDING THROUGH VIDEO CONFERENCING**

Hearing taken up. Some of the complainants and their learned counsel Mr Manav Prakash, Adv (Block H), Mr BK Sinha, Adv (Block I), Mr Rajesh Kumar, Adv (Block J), Mr Ravi Kumar, Adv(Block K&L), Mr Kunal Kishore (Block L) are present. Mr Sanjay Singh, learned counsel of the respondent company and its Managing Director Mr Alok Kumar are also present.

The Authority initiated the hearing block wise, taking into account various directions passed by the Full Bench on 4 June ,2021. It noted that on 15.6.2021 , one last opportunity was granted to the respondent company to comply with the directions and submit the requisite documents within one week. The respondent company was also directed to give information on a duly sworn affidavit stating the years for which the audited accounts are not ready and by which period they will submit the statutory financial statements before the Authority.

The Authority expressed displeasure that the respondent has failed to comply with any of the directions issued. Mr Sanjay Singh Learned Counsel of the Respondent Company sought one week's time to furnish their comprehensive response on each order/direction given by the Full Bench keeping in view the detailed information required to be submitted. The Bench observed that some of the directions were given on 4 June 2021 ; some could have been easily complied and if at all the respondent company wanted time to give the desired information, they should have submitted a written request within a day or two of the order, rather than making oral submissions on the

date of hearing, causing inconvenience to scores of complainants who have been waiting for a long period to get relief from RERA.

The Authority took stock of its directions given to the respondent company in respect of various blocks and requested the complainants/allottees to respond.

### **G Block, IOB Nagar**

On the previous date of hearing, respondent company was directed to submit, within a week, the plan of action, funds received from the allottees along with utilization thereof till date, availability of financial resources and date by when Block- G, IOB Nagar would be completed.

Learned counsel of the respondent company prayed for further one weeks' time to submit the details and comply with the orders passed by the Authority and undertook that they intend to continue with the project.

The Authority expressed its displeasure on the fact that none of the questions raised by the Authority and information sought have yet been answered. The list of projects undertaken with dates of commencement of each project, the data of deposits collected from bookings for each project, the funds spent or refunded, the funds available as on date in each project, names of the landowners of each project etc were called for, from the respondent company on 4<sup>th</sup> June 2021 within a week. All these information would be readily available with the promoter but no information has been furnished.

Learned counsel of the respondent company, however, submitted that the information sought by the Authority and the data have to be collected from various sources and one week is very little time to collect and give the details as ordered dated 15/06/2021 and requested that a period of 7 days may be granted.

The Authority observed that the registration for this block had lapsed in December 2019 and the map approved in 2012 needs to be revalidated, and that these issues may also be addressed by the respondent company.

### **H Block, IOB Nagar**

The following directions were given when the matter was heard last on 15 June, 2021:-

The respondent is directed to submit on oath, within a week, the time line for resuming and completing the project, indicating clearly how they would be able to raise the financial resources for this purpose. The allottees are also directed to arrange for the balance amount due from them, if any, and submit to the Authority how they would wish to make payment of their dues so that further construction could commence.

Mr. Manas Prakash, learned counsel for five complainants submitted that he had filed written statement in which he has mentioned 21 cases to be clubbed with other cases. While mentioning the provisions of Section 8 of the RERA Act, he strongly opposed that the promoter be allowed to continue construction as registration of this project had already lapsed on 31/12/2019. The Learned Counsel for the respondent stated that there are 54 flats in the project , of which more than 30 allottees have formed an association and that they desire that further construction of this project be undertaken by builder with whom discussions are underway and are likely to submit a concrete proposal soon. He mentioned that and casting upto G +6 and brick work up to 3 floors have been partly done.

The learned counsel, Mr. Manas Prakash further stated that the respondent promoter had registered one apartment to Ms Rekha Kumari for a consideration of Rs 8 lakh on 2.11.2020 , during the hearing of these cases.

The respondent company is directed to submit the factual statement on oath in this regard.

One of the complainants Mr Manoj Priyadarshi requested for refund of his deposited money and submitted that the builder is willing to do so by sellinghis flatand that RERA may grant him the necessary permission. The Authority directs that this case may be transferred to the learned A.O. where he can seek refund along with interest.

The complainant MsPurna Verma (CC 144/20) submitted that she was not in agreement with the association of allottees. The Authority observed that most of the allottees wanted to get the project completed and if any allottee wants refund, their case would be transferred to the learned Adjudicating Officer.

The Authority directs the promoter to submit proposal to sell such flats whose allottees want refund.

The association of allottees are allowed 15 days time to submit their firm proposal about completing the project, in terms of Section 8 of the Act, in the event of the registration not being extended further.

### **I Block, IOB Nagar**

The Authority took note of the following directions given by it in respect of this block:-

The Full Bench of the Authority, after perusal of the submissions on behalf of the complainants and the respondent, takes note of the facts that the applications for extension of registration in respect of G, H and I Blocks are pending. The Authority observed that Blocks G, H, I and J are part of the same project. The Director of the respondent company submitted that they had applied for extension of registration. The Registration Wing is directed to place this matter together with the complaint cases on the next date of hearing so that a consolidated view can be taken.

The Authority directs that the Director of the respondent company would arrange a meeting with the Association of allottees of each block and attempt to arrive at a mutual agreement on the modalities for completion of the project.

Decision on the applications will be taken after the Director of the respondent Company is able to satisfy the Authority that they have arranged sufficient resources to resume work in the project in respect of Block G, H and I. The allottees are also required to inform the Authority stating clearly that the work could be done either by the promoter, through the association of allottees or by a third party.

The Authority observed that plans for G, H & I blocks have already lapsed a year ago and the application for extension is still pending. The question of fresh approval of the map and plan would be necessary the approval was given in 2012 and are no longer valid.

General Secretary of the Association of allottees of I Block submitted that he had filed an application that they are ready to get the project constructed and pay up to 90% of the amount due in proportion to the work done.

Mr B K Sinha, learned counsel of the Association submitted that they have filed representation in response to the order dated 23/03/2021 in which they have given suggestion to complete the project. As per direction of the Authority they attempted to hold a

meeting with the MD of the respondent company but latter did not turn up and requested the Authority to take action against the respondent company. He further submitted that the complainants are waiting for completion of the project and getting flats.

President of the Association submitted that the MD of the respondent company assured that the project will be completed in two levels and in four steps but till date nothing has been done and requested that action under Section 8 of the RERA Act may be taken . In the light of the order dated 15/06/2021 passed by the Authority, the Association is ready to get the project completed by another builder/agency.

MD of the respondent company submitted that the issue was discussed with the Association which wanted details of the construction plan. Everything was finalized regarding flow of fund for construction and opening of a joint bank account.

The President of the Association submitted that the promoter has not yet given any proposal and his intention is mala fide and they were being harassed for the last 10-12 years.

The Authority observed that the Association and majority of allottees wanted to get the project completed.

The Authority while observing that the role of the association is vital under Section 8 of the RERA Act, directed that after contacting and discussions with the builder/agency complete proposal with construction plan should be submitted before the Authority within two weeks in the event of the registration not being extended further.

### **J Block, IOB Nagar**

On the previous date ,the following directions were given:-

Having regards to the submissions and facts of the case, Full Bench functioning as Authority is constrained to observe that the promoter has failed to comply with the order of the Authority and therefore, in terms of Section 63 of the RERA Act, a penalty of Rs.1,000.00 (Rupees One Thousand only) for everyday for the default after 8.11.2020 i.e. one month of the order of 9.10.2020 is imposed till 10.4.2021 when the second phase of lockdown had started.

The Authority is satisfied that the present case is a fit case for initiation of action under Section 7 (1) of Act for revocation of the registration in view of the repeated default of the respondent company. The Registration wing of RERA is directed to issue a show cause notice to the promoter under Section 7 (2) of the Act as to why the registration of the promoter should not be revoked.

Notwithstanding the undertaking given by the respondent Company before the Bench, the allottees are also directed to fulfill their duties prescribed under the Act. Every allottee is directed to arrange necessary resources to make payment so that construction work be completed in terms of Section 19 (6) of the RERA Act. The allottees are also advised to submit their proposal for carrying out the remaining pending works in the event of registration of the promoter being revoked so that appropriate consultation could be undertaken with the State Government. The Authority will continue to have its lien on the unsold flats in the J Block until further orders.

Mr Rajesh Kumar, learned counsel of the association of allottees of J Block submitted that two meetings were held with the promoter and that the MD of the respondent company had arranged Rs 10 lakh and assured that the project would be completed in 4 parts. He said that the association of allottees desire that the same promoter may complete the work for which joint bank account would be opened specifically for J Block and these funds will be used for construction work in J Block only.

Mr Rajesh Kumar, learned counsel submitted that the registration of J Block has been extended till 15/07/2021 and hence the respondent proceed with the construction work.

The Authority directed that if the association wants to get the project completed with the respondent company then it should give it in writing and a bank account be opened in a day or two in the joint name of the association and MD of the respondent company.

The Authority observed, that in the event of the registration being revoked or lapsed as per Section 8 of the Act , the association of allottees and the respondent company would need to get the plan

validated by the competent authority. The Association of allottees and MD of the respondent company and the association should give specific plan under Section 8 of the RERA Act. The Association should also take the responsibility of completing the project with the MD of the respondent company with a written agreement between them and submit to RERA.

The complainant Mr Kashi Nath submitted that against 70 % of dues having been paid, only 50% of work has been done and that penalty be imposed on Mr Alok Kumar and recovery proceedings initiated against him for repeatedly violating his undertakings given to RERA.

The complainant Shobha Kumari referred to her application dated 13/06/2021 giving her proposal and submitted that another application was sent on 27/06/2021.

Legal Cell is directed to put up these applications separately.

### **K & L Block, IOB Nagar**

After hearing the following directions were given on the previous date:-

In exercise of the powers conferred under section 37 of the RERA Act, the Full Bench functioning as Authority, directs the respondent company to submit list of his share of unsold flats or flats held by Directors of the Company or by their close relatives in all completed/incomplete projects of the various Agrani group of companies. The Authority directs Mr Alok Kumar, Director of the respondent company to file an affidavit on the ownership of land on which K & L Blocks are to be constructed along with the copy of the registered sale deed or development agreement with the land-owner, as some complainants alleged that some of these lands are actually owned by the respondent.

The respondent company has failed to provide the audited statement of accounts for the last two financial years as prescribed under the Companies Act to the Authority despite having been given many opportunities to do so. The audited balance sheet would have given the correct information about the assets and liabilities, project wise. Director of the respondent company has failed to explain how the funds collected from the allottees of Blocks K and L have been used



because the Company does not have resources either to give the refunds or start the construction. It is clear that the money deposited by these home buyers have been diverted elsewhere.

In terms of powers conferred under Sec 35(1) of the RERA Act read with Rule 24 (1) (a) of the Bihar RERA Rules, the Full Bench functioning as Authority directs the promoter – the respondent company to submit the following documents within two weeks from the date of order:-

- i) Bank statements showing the entire trail of transactions from the date of receipt of money from allottees since 2010 or date of 13 incorporation of the respondent company, whichever is earlier along with their linkage with the audited annual accounts of the companies;
- ii) Affidavits showing details of all assets, physical or financial, acquired by the Directors (Past/Present) of the company and their close relatives, either in individual capacity or as partners or Directors in various companies, year wise starting from 2010;
- iii) Income tax returns of all individuals mentioned in ii) above, year wise starting from 2010;
- iv) Details of salary drawn by the Directors and officers and the source of such operating surplus, year wise;
- v) Agenda papers and minutes of all meetings of the board of directors of all companies in which large transactions of Rs 5.00 lakh or more with Directors/related parties were either reported or approved;
- vi) Copies of financial statements for the FY 2018-19 & 2019-2020 filed before UP RERA and to Registrar of Companies. The Authority, using powers under Section 35(1) directs Secretary RERA to process the appointment of a multi-disciplinary team consisting of a senior retired police officer preferably from CBI/ED/EOW/SFIO, a firm having forensic auditor and a senior bank officer with experience of audit to make a thorough inquiry into the affairs of the respondent company so that the financial trail of the money received from the allottees since inception of the Respondent company get established.

During the course of hearing, the following submissions were made :-

**K Block :**

The complainant Neelam Pathak wanted to know whether the development agreement with the landowners is existing or has lapsed. She submitted that large numbers of buyers wanted refund of their money.

The promoter is directed to submit the list of the buyers/allottees and names of the land owners of the project.

The Authority observed that allottees in each block should form an association and come out with a concrete plan for future course of action so that the Authority is able to take a call.

The Authority observed with regret that while it understood the plight of the allottees and was taking all possible actions under the RERA Act some complainants were not maintaining the decorum and using intemperate language during the quasi-judicial proceeding. Such allottees would not be permitted to present their case and if they persist with such behaviour, their cases would be summarily dismissed.

The Authority referring to its previous orders stated that the submission of each complainant has been noted and that appropriate orders would be passed soon.

**L Block :**

Mr Kishore Kunal, learned counsel of the complainants suggested that notice should be sent to the land owner(s) of L Block to appear to which the Authority agreed and directed the MD of the respondent company to give details of development agreement, land purchased and names and other details of the land owners so that the land owners could be called for hearing.

Mr Ravi Kumar, learned counsel of the complainant Sudhir Kumar Srivastava (CC/595/2020) submitted that the promoter has taken Rs 6 lakh out of the total consideration amount of Rs .13.29 lakh but could not hand over the flat which is violation of Section 13. He referred three other cases (CC/688/2019, CC/689/2019 and CC/691/2019) wherein Mr Alok Kumar, MD of the respondent

company had assured in February that every month Rs 10 lakh will be refunded but actually did nothing in this regard.

The Authority made it clear that the respondent company has applied for registration but no registration for K & L blocks have been given and directed the MD of the respondent company to get the map approved by the competent authority and apply for registration. By order dated 17/06/2021, two weeks' time was given to the respondent to comply.

Mr Ravi Kumar, learned counsel of the complainant submitted that his client want refund of the deposited money but the MD of the respondent company Mr Alok Kumar has stated that RERA has frozen his bank accounts due to which he is not able to make refund.

The respondent company is directed to submit a comprehensive proposal in this regard, showing the total amount to be refunded and the total assets available with him.

The complainant Raghuvansh Narayan submitted that his case be separated from others and orders passed on his representation.

Legal cell may put up his case separately.

### **Other matters**

Two matters, not linked with the batch cases, were inadvertently listed for hearing.

The complainant Mr Pankaj Jha (CC/758/2020) submitted that he is applicant for Shiva Project of the respondent company which is situated in Danapur and is a single tower project with only 12 flats out of which the builder's share is 6 flats. He further submitted that he paid Rs 27 lakh out of the consideration amount of Rs 31 lakh in March, 2018. The building is constructed and partly interior works have been done. He had requested for possession of his booked flat before the learned AO and the matter has been transferred to the Authority.

The MD of the respondent company is directed to submit the names and contacts of other allottees including the landowners and assist in forming an association of allottees in respect of Shiva Project.

Another complainant (CC 690/20) Mr Chaudhary submitted that his case referred to N Block of IOB Nagar and he was seeking refund of his investment.

Legal Cell is requested to ensure that these two matters are delinked with the batch cases and listed separately, along with other complaints of these two projects , if any.

The Authority directs the Registration Wing to immediately put up the matter of extension of registration of Block G, H and I. Registration Wing is also directed to put up the pending application for registration in respect of K & L Blocks.

Mr Alok Kumar, MD of the respondent company submitted that they have given the details of 8 projects. The Authority observed that they have not given the details as required regarding names of the land owners, development agreements which might have lapsed, date of commencement of the project, assets and liabilities of the respondent company, its Directors and other associates with the company and details of altogether 50 projects undertaken by the respondent company. The Authority warned the respondent company that heavy penalty would be imposed under Section 61 of the RERA Act if they do not furnish the requisite information within the stipulated time period.

The Authority allows one week time to the respondent company to submit necessary information/documents. If the respondent company fails to comply with the directions, the Authority would pass appropriate orders on the basis of available material.

List this matter on 15 July, 2021 for further directions/ orders.

Sd  
R.B. Sinha  
Member

Sd  
Nupur Banerjee  
Member

Sd  
Naveen Verma  
Chairman