

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Mr. Naveen Verma, Chairman &

Mrs. Nupur Banerjee, Member

Case No. RERA/Pro/Reg-10/2022

Authorized Representative of RERA

vs.

Real Green Homes Pvt. Ltd

Project – R.N HEIGHTS

Order

24-03-2022

Real Green Homes Pvt. Ltd. through its Director Mr. Rajiv Nayan filed an application for registration of real estate project R.N HEIGHTS as New Project before ,Real Estate Regulatory Authority, on 10.01.2022.

Real Estate Regulatory Authority Bihar issued a show cause notice to Real Green Homes Pvt. Ltd. through its Director Mr. Rajiv Nayan, on 08.03.2022 as to why the application for registration of the Project R.N HEIGHTS, (Application No.: RERAP2311201700008-7), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar on 10.01.2022. should not be rejected under Section 5 (1) (b) of the Real Estate (Regulation & Development) Act, 2016. The ground for rejection was that the applicant failed to furnish ITR for preceding 3 years, balance sheet of year 2020-2021, Profit and loss account of year 2020-2021, Cash flow of year 2020-2021, Audited report of year 2020-2021, Notes to account for year 2020-2021 , Directors report of year 2020-2021.

The matter was last heard on 11.03.2022, under section 5 (1) (b) of the Real Estate (Regulation and Development) Act, 2016, for rejection of the application for registration of the project R.N. Heights wherein Learned counsel Sharad Shekhar appeared on behalf of the promoter and submitted that he would submit all the requisite documents within two days.

On the date of hearing , learned Counsel Sumit Narayan intervened on behalf of some persons claiming to be landowner of part of the land , hereinafter referred to as the intervenor, and submitted that there is a dispute over the title of the land as one of the co-sharers whose share is one fourth of the total land had alienated part of the property before the development agreement. He also stated that a title suit no. 1029/2021 is pending in Danapur Civil Court, and further a complaint has also been filed by them in RERA on 08.01.022 under section 5(2) of the Real Estate (Regulation & Development) Act, 2016 and requested to keep the registration of project R.N Heights on hold till a decision is taken on the complaint.

Mr. Sharad Shekhar, learned counsel for the promoter submitted that intervention of a third party at the stage of registration is not maintainable as the development agreement has been made between landowner and promoter which is duly registered and according to the development agreement map has been sanctioned.

Perused the records. As per the documents submitted by the promoter the Map of the project was approved by Danapur Municipal Council on 21/7/2021 for land Thana no. – 17, Khata no. – 177 and plot nos. – 542 and 549. It has been issued to Gajendra Prasad, son of late Shiv Dhar Prasad, who had executed the Development Agreement submitted along with the application for registration of the aforesaid project.

The Authority observes that along with the application for registration development agreement executed between Gajendra Prasad alias Gajendra Singh and Rajiv Nayan of Real Green Homes on 23/2/2021 for the Land - Thana No. 17, Khata No. – 177, Plot No – 542 and 549. Total Area – 118.5 Decimals (51618 sq ft) Plot 542 – 29 Decimals , Plot 549 – 89.5 Decimals has been enclosed. The Development Agreement mentions that the landowner Gajendra Prasad alias Gajendra Singh got this land as ancestral property. Land Revenue Receipt dated 27/11/2020 has been issued in the name of Gajendra Prasad and it has been issued for Khata Nos – 177 and 216 and Plot Nos. – 518, 542, 549 and 711, area – 214.7502 decimals.

The Authority has seen the contents of the petition filed by Vinod Kumar in which names of four others – Om Prakash, Vijay Mahto, Subodh Kumar and Satendra Kumar for rejection of application of RN Heights . Their contention is that the landowner orally partitioned the plots 542 and 549 on 14/02/2010 after which his daughter Sarita Kumari got 11 Kattha of land. She sold ten kattha land to Vinod Kumar, Om Prakash, Vijay Mahto, Subodh Kumar and Satendra Kumar. The petitioner has also submitted four registered sale deeds executed by Sarika Kumari on different dates in 2019. In the complaint it has been submitted by the intervenor that their permission has not been taken by the promoter and if third party right is created after registration , it would not be in the interest of the allottees if title is subsequently proved to be defective.

The Authority observes that it is for the competent authority to satisfy itself on the issues of title and possession over the land before the map/plan of a project is sanctioned and that the intervenors, Vinod Kumar, Om Prakash, Vijay Mahto, Subodh Kumar and Satendra Kumar who are claiming to be landowner of part of land ought to have raised the issue of title before the competent authority.

The Real Estate (Regulation and Development) Act, 2016 mandates that the promoter will submit a declaration on affidavit stating whether the title and possession of part land is under dispute or not and that the promoter will solely take responsibility if any defective title arises in future.

The Authority directs the Registration Wing to examine whether such an affidavit / declaration has been given by the promoter or not. The promoter is also directed to state on oath whether as alleged by the interveners -Vinod Kumar, Om Prakash, Vijay Mahto, Subodh Kumar and Satendra Kumar , Title Suit no. 1029/2021 is pending in Danapur Civil Court or not and whether they had disclosed this fact while filing the application for registration.

The Authority holds that the request by the learned counsel for the intervenor of keeping the decision on registration in abeyance till the issue of title is settled is not envisaged under Real Estate (Regulation and Development) Act, 2016 (referred as the Act hereafter) , as these facts along with other details would be uploaded on the promoter's web page even if the project gets registered and that

prospective home buyers would take informed decisions , with full knowledge even if a title suit is indeed pending before the court of competent civil jurisdiction. The Act, on the other hand, prescribes that the Authority has to take a decision on the application for registration within thirty days.

The Authority, therefore, rejects the plea of the intervener and directs the Registration wing to process the application for registration if the promoter has submitted the statutory documents/ disclosures as mandated by the Act and Bihar RERA Rules , 2017.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)