

Real Estate Regulatory Authority (RERA), Bihar

Before Mr R.B.Sinha & Mr S.K. Sinha, Members of the Authority

Case Nos. SM/349//2019

Authorised Representative of RERA.....Complainant

Vs

**M/s Gardenia Newtech Developers Ltd through their partner Mr
Arun Kumar Ojha.....Respondent**

**Present: For the Authority :- Mr Sumit Kumar, Advocate
Ms Shivi, Advocate
For the Respondent :- Mr Jai Ram Singh, Advocate**

04/07/2019

O R D E R

1. The Real Estate Regulatory Authority (RERA), Bihar, Patna had issued a suo motu show cause notice under Section 35 & 38 of the Real Estate (Regulation & Development) Act, 2016 against M/s Gardenia Newtech Developers Ltd through their partner Mr Arun Kumar Ojha for contravention of Section 11(2) of the Real Estate (Regulation & Development) Act, 2016.
2. In the notice it was stated that an advertisement was published in the newspaper Hindi Hindustan on 26/01/2019 for booking of pre-leased shops in the project "Gravity Mall" registered with the Authority vide RERA Registration No.RERAAP00117-1/156/R-2152018/668 dated 25/10/2018. It was brought to the attention of the Authority that in the said advertisement, the registration number of RERA was printed in such a small font that it was not legible to anyone. In this connection, attention was invited to Section 11(2) under Chapter 3 "Functions & Duties of the Promoter" of the Act which states that "*the advertisement and*

prospectus issued or published by the promoter shall mention prominently the website address of the Authority wherein all details of the registered project have been entered and includes registration number obtained from the Authority and such other matters incidental thereto”.

3. The respondent company was directed to state as to why a proceeding under Section 38 and 61 of the Real Estate (Regulation & Development) Act, 2016 be not initiated against them for contravening the provisions of Section 11(2) of the Act.

Response of the Respondent Company:

4. In their response, the authorized signatory of the respondent company M/s Gardenia Newtech Developers Ltd stated that their project “Gravity Mall” was registered with the Authority vide Regn No. RERAAP00117-1/156/R-2152018/668. They further stated that due to heavy load of advertisement on the Republic Day, the size of the advertisement was reduced by the newspaper and inadvertently the registration number and other details which were prominently mentioned in the original font was proportionately reduced which was not legible in the published advertisement. They have however, stated that once it came to their notice, appropriate steps were taken by them for proper display of information as required under Section 11(2) of the Act and the amended advertisement was published on 02/02/2019. However, the copy of the newspaper dated 2nd February 2019 was not attached with their response.

Hearing:

5. On the first date of hearing i.e. 26/02/2019 in which the respondent company was represented by their learned counsel Mr Jairam Singh, time petition was given requesting for two weeks’ time to submit their response. On the next date of hearing i.e.29/03/2019 learned counsel of the respondent company submitted his response before the Bench. In his response, he reiterated the earlier stand

submitted by the respondent company and admitted that in the advertisement on 26/01/2019, RERA registration number was mentioned below the advertisement but in very small font which was not at all readable. He claimed that another advertisement was published on 02/02/2019 in which RERA registration number was legible. He further claimed that the respondent has not violated any provision of Section 3 & 4 of the Act and have committed that the company would not violate any provision of the Act in future.

Order:

6. Section 61 of the Act stated that if any promoter contravenes any other provisions of the Act other than that provided under Section 3 & 4 or Rules or Regulations made thereunder, he shall be liable to a penalty which may extend up to five percent of the estimated cost of the project as determined by the Authority.
7. On receipt of the notice, as the respondent company had published another advertisement within three days showing the RERA Registration no. prominently, it is felt that leniency should be shown to them. Accordingly, a token penalty of Rs 10,000 (Rupees ten thousand only) is levied on the respondent company. They are further directed to be cautious in future and follow the provisions of the Act, Rules and Regulations meticulously.

Sd

(R.B. Sinha)
Member

Sd

(S.K. Sinha)
Member