

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Naveen Verma, Chairman &
Mrs. Nupur Banerjee, Member

Case No. RERA/PRO/REG-1107/2019

Authorized Representative of RERA

v.

Jiwansaagaar Reality Pvt. Ltd.

Project – Garden Heights

HEARING THROUGH VIDEO CONFERENCING

ORDER

02-03-2022 Hearing taken up under section 5 (1) (b) of the Real Estate (Regulation and Development) Act, 2016, for rejection of the application for registration of the project ‘Garden Heights’.

The Real Estate Regulatory Authority, Bihar issued a notice to Jiwansaagaar Reality Pvt. Ltd. through its Director Mr. Anil Kishorepuria, on 28.02.2022 as to why the application for registration of the Project ‘Garden Heights’, (Application No. RERAP2311201700006-2), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 18.10.2019, should not be rejected under Section 5 (1) (b) of the Real Estate (Regulation & Development) Act, 2016. The ground for rejection is that the promoter failed to furnish map approved by the competent Authority as the map submitted with the application was approved by Mukhiya Gram Panchayat Barari, Sabour, District- Bhagalpur.

Mr. Kundan Kumar, appeared on behalf of the respondent company and submitted that project ‘Garden Heights’ has two phases. Construction in phase I started in 2015, the project has been registered and has already been completed in year 2019 . The present application is for the registration of phase-II of the project.

The Authority was informed that the project is neither within the jurisdiction of a planning area nor in the municipal limits. On a query whether the promoter has received any advances in this project Phase II without the project being registered with RERA, the promoter admits that advances has been taken from five to six customers in bank account used for marketing purpose other than the project account.

The Bench observed that promoter has violated Section 3 of the RERA Act, 2016 by taking advances without the registration of project and quantum of penalty may be decided after considering the estimated cost of the project and notice may be issued to the promoter in this regard.

The Authority takes note that the area in which the project is is not within a planning area. The promoter can submit the requisite documents as stipulated under Section 4 of the Real Estate (Regulation and Development) Act 2019 and Rule 3 of the Bihar Real Estate (Regulation and Development) Rules 2017 after taking approval from the competent authority.

The Bench takes note of the fact that in response to letter dated 03.03.2021, sent by Secretary, RERA to the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, a letter from that Department dated 18.08.2021 was received stating therein that the matter was under consideration with regard to grant of powers of local authorities in non-planning areas for real estate project. Therefore, Mukhiya of Gram Panchayat lacks the power of approval of building plan in their respective panchayat areas. It also notes that the Urban Development and Housing Department, Government of Bihar, has urged RERA to ensure that the provisions of Bihar Building Bye Laws are being enforced when maps are submitted to it before projects are registered.

The Bench observes that an application filed under section 4 of the Act must fulfil the requirements of sub-section 2

of Section 4 of the Act as well as Rule 3 and 4 of the Bihar Real Estate (Regulation and Development) Rules, 2017.

In the light of facts and circumstances mentioned above the Authority observes that it is apparent that the original building map plan of the proposed project has not been approved by the competent authority in terms of section 4 (d) of the Act and construction of building which are not being regulated cannot be allowed putting the interest of allottees in jeopardy, therefore, the real estate project 'Garden Heights Phase 2' stands rejected as the promoter has failed to submit the requisite documents with the Authority as stipulated by Section 4 of the Real Estate (Regulation and Development) Act, 2016 and Rule 3 of the Bihar Real Estate (Regulation and Development) Rules, 2017, with the liberty that promoter may apply again for the registration of same project in future along with requisite documents and no fees would be charged from them.

Nupur Banerjee
(Member)

Naveen Verma
(Chairman)