

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Bench of Mr. Naveen Verma, Chairman &
Mrs. Nupur Banerjee, Member**

Case No. RERA/PRO/REG.69/2021

Authorized Representative of RERA

v.

AB Devcon Pvt. Ltd.

Project – DEVCON CITY

HEARING THROUGH VIDEO CONFERENCING

23-02-2022

7-03-2022

ORDER

M/s Devcon City Pvt. Ltd., through its General Manager Mr. Ritesh Anand, filed an application for registration of real estate project **DEVCON CITY** before the Real Estate Regulatory, Bihar, on 24.12.2021. Real Estate Regulatory Authority, Bihar issued a show-cause notice to AB Devcon Pvt. Ltd., through its General Manager, Mr. Ritesh Anand, on 24.01.2022 as to why the application for registration of the Project ‘DEVCON CITY’ (Application No. RERAP09182020130001-1), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 24.12.2021, should not be rejected under Section 5 (1) (b) of the Real Estate (Regulation & Development) Act, 2016. The ground for rejection were that the applicant failed to furnish map approved by the competent Authority as the map submitted by the promoter was approved by Mukhiya Gram Panchayat Govind Chak, district Saran.

The matter was heard on 02.02.2022, under section 5 (1) (b) of the Real Estate (Regulation and Development) Act, 2016, for rejection of the application for registration of the project ‘DEVCON

CITY’, wherein Mr. Ritesh Anand appeared on behalf of the respondent company and placed before the Bench that area in which project is proposed has now been notified under Planning Area and, therefore, sought three weeks’ time to submit the map approved by competent authority. The Authority accepted the submission of the promoter and granted three weeks’ time to submit the map approved by competent authority with the observation that if the requisite approval is not submitted within the stipulated time period then the application for registration of the real estate project ‘DEVCON CITY’ will be processed on the basis of material available on record.

The matter was reserved for Orders on 23.02.2022.

However, promoter instead of submitting Map approved by competent Authority has filed reply through his learned Counsel Mr. Sumit Kumar on 16.02.2022, stating therein that in light of second proviso to Section 3 of the Real Estate (Regulation & Development) Act, 2016, there is no requirement of registration of aforesaid project until the present Authority itself takes requisite permission of local Authority. He further states that it is the duty of the Authority to take requisite permission of the local Authority & then direct the promoter of such project for Registration. Since the RERA has not taken any prior permission from the local Authority it has no jurisdiction to direct any promoter of Real Estate project who has been developing a project in non-planning area. He further states that Act of 2016 is only applicable to planning area. He further states that the map of the proposed project is prepared and approved by empanelled/certified Architect/Engineer and Mukhiya of Govind Chak Gram Panchayat has only marked his signature on it. He further states that that projects developed beyond the planning areas are required to be approved only by Certified Architect and Bihar

Building Byelaws are not applicable beyond planning area. He concludes his written submission with the payer to grant deemed registration of the project.

On perusal of records of the case and considering the written submission filed by the Learned Counsel on behalf of the promoter on 16.02.2022, it is apparent that the map submitted by the promoter was approved by Mukhiya Govind Chak Gram Panchayat, Block Sonapur, District Saran and the area in which the project is proposed falls under non-planning area.

The Authority takes note of the fact that in response to letter dated 03.03.2021, sent by the Secretary, RERA to the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, responded with letter dated 18.08.2021 stating therein that the matter is 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 applications are submitted to it before projects are registered. Admittedly, there has been delay in taking decision on this application but registering the project without clarity on who would approve the map and enforce the provision of the Bihar Building Bye Laws would not be in the interest of the allottees.

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. Section 4 (2) (d) of the Act, which read as follows:-

“the sanctioned plan, layout plan and specification of the proposed project or the phase thereof, and the whole project as sanctioned by the competent Authority”

requires that an application for registration of a real estate project must contained the map approved by competent authority.

Therefore, in the light of facts and circumstances mentioned above Bench 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 application for registration of real estate project ‘DEVCON CITY’ 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.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)