

REAL ESTATE REGULATORY AUTHORITY, BIHAR, PATNA

Bench of R B Sinha, Member and Dr S K Sinha, Member

Suo Motu Complaints cases 16 & 33 of 2018 against M/s Eastern Estate Construction and Developers Pvt Ltd, Mihir Path, East Boring canal Road, Patna

Sub: Suo- motu notices issued by the Authority against M/s Eastern Estate Construction and Developers Pvt Ltd for non-registration of their ongoing real estate projects- 1. Techno city and 2. Sone Green Valley with the Authority

Present

Authority: Mr Sumit Kr, Advocate
Ms Shivi, Advocate



Respondent: Mr Sandip Kr Singh, Advocate
Mr Gauri Shankar Sharma, Adv



Order

1. In May 2018, the Real Estate Regulatory Authority, Bihar issued two suo motu notices to M/s Eastern Estate Construction and Developers Pvt Ltd through their Managing Director Sri Sanjeev Kumar for non-registration of their ongoing real estate projects- Techno city, Bihta, Patna and Sone Green Valley, Bihta, Patna and thereby non-compliance with the Section 3 of the Real estate (Regulation and Development) Act 2016. The respondent company were directed to submit their response within two weeks of the issue of notice.
2. In the notices, the respondent company were informed that Government of India has enacted the Real Estate (Regulation and Development) Act 2016 to regulate and promote the real estate sectors and to protect the interests of the real estate consumers in the country. All the sections of the Act have come into force with effect from May 1, 2017 in the entire country except the state of

Handwritten signature
22/11/2018

Handwritten signature
22.11.18

Jammu and Kashmir. They were also informed that Section 3 of the Act provides that no promoter can advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area within a State, without registering the real estate project with the Real Estate Regulatory Authority (RERA). Promoter of ongoing real estate projects, in which all buildings as per sanctioned plan have not received Completion Certificate, shall also be required to be registered for such phase of the project, which consists of buildings not having occupation or completion certificate.

3. In the notices, it was also stated that in spite of several extensions of the deadlines given by the State Government, they have failed to register their Real Estate Project with the Authority as stipulated in the Section 3 of the Act.

Reply of the respondent Company

4. Mr Sanjeev Kumar, MD in his response dated 14th may 2018 stated that the real estate project **1. Techno city** commenced prior to the inception of RERA and the project was initiated with small independent bungalows of simplex and duplex types. He claimed that the construction work in the project was stopped after RERA came into existence and project was kept in abeyance till it gets the approval of the competent authority. He also claimed that he did not sell, complete or make any further transaction. He stated that any advertisement in this respect was done inadvertently and they did not have any intention to violate the provisions of the Act.
5. As regards the real estate project **2.- Sone Green Valley**, the MD claimed that the project did not take off at all and was abandoned in 2012 itself. He however admitted that he forgot to remove the advertisement regarding this project from the website.
6. As the response of the respondent company was not found ab-initio satisfactory and convincing, both cases were clubbed together and the respondent company were called for personal hearing on 5th September 2018.



Sanjeev Kumar
20/11/2018

Sanjeev Kumar
22.11.18

Hearing on 5th/ 12th September/25th October 2018

7. In course of hearing, the respondent company were represented by Mr Sandeep Kumar Singh, Advocate and Mr Gauri Shanker Sharma, Advocate. The representatives of the respondents admitted that both projects were still being advertised on their website though in their response, the company had claimed that the advertisements were stopped immediately after commencement of RERA. They could not give any cogent reasons for continuance of advertisements in respect of these two projects on their website except inadvertent error. The respondent company was also directed to furnish the audited annual accounts of the Company for the financial year 2017-18, which they furnished in the last week of October 2018. The Company were also directed to furnish the details of financial transactions of both projects duly signed the Chartered accountants, which they did. The Company also filed their application online for registration of the Project – Techno City with the Authority on 1st October 2018 and submitted hard copies of their application along with all documents within stipulated period.
8. On examination of the details furnished by the Chartered Accountants M/s Dushyant Kumar & Co in respect of the Project - Techno city, Bihta, Patna for the period up to 22nd October 2018, it is conclusively established that the Company has been booking and receiving the payments against the duplex/simplex/economy types of bungalows/ apartments in their ongoing project- Techno city, Bihta, Patna in violation of the Section 3 of the Real Estate (Regulation and Development) act 2016. The Company had booked 8 Duplex, 3 Simplex and 2 Economy types of bungalows/ apartments in their ongoing project. It is already an admitted fact that they have been advertising their projects on their websites until August 2018 without registering their projects with the Authority. Further, in their application for registration with the Authority, the Company has stated that the Project - Techno city, Bihta, Patna was commenced on 7th March 2017 with an estimated cost of Rs 4.11 crore. It was therefore an ongoing project as of 1st May 2017, the day all provisions of the Act became operative. It was therefore incumbent upon the company to register the project with the Authority within three months of the commencement of the Act i.e. by 31st July 2017. The Company has however




Handwritten signature
29/11/2018

Handwritten signature
22/11/18

not registered their projects until September 2018 while they continued to do the bookings and receive payments in Techno City project.

9. As regards the Project -Sone Green Valley, the CA (M/s Rajeev Jha & Associates) has stated that no financial transaction has occurred in the project. The project was commenced and abandoned before the promulgation of the RERA.
10. Section 59(1) of the Act states that If any promoter contravenes the provisions of section 3, he shall be liable to a penalty which may extend up to ten per cent, of the estimated cost of the real estate project as determined by the Authority.
11. We accept the contention of the promoter that the aforesaid violations of the provisions of Section 3 of the Act have happened unintentionally. Therefore, only a token penalty, under the provisions of section 59(1), i.e. penalty of Rs. 10,00,000/- is imposed and the Promoter js hereby directed to pay a penalty of Rs 10,00,000/- (Rupees ten lakh onty) and further warned to ensure that such violation is not repeated in future.




Member 20/11/2018


Member 22.11.18