

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

Case No. RERA/PRO/REG. 23/2022

Authorized Representative of RERA

v.

Delcon Homes Pvt. Ltd.

Project – Delcon City Phase-3

HEARING THROUGH VIDEO CONFERENCING

ORDER

09-03-2022

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 ‘Delcon City Phase-3’.

The Real Estate Regulatory Authority, Bihar issued a notice to Delcon Homes Pvt. Ltd. through its Director Mr. Vikash Kumar, on 03.03.2022, as to why the application for registration of the Project Delcon City Phase-3 (Application No. RERAP275201800419-3) filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 04.02.2022, 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 map approved by the competent Authority as the map enclosed with the application was approved by Mukhiya-Gram Panchayat Dativana, Bikram.

The learned counsel Mr. Sharad Shekhar appears on behalf of the promoter and submits that the land for the project of r plotted development is owned by the company and since it is beyond the planning area the map of the aforesaid project was approved by Mukhiya Gram Panchayat Dativana, Bikram,. He further submits that 90% of work has already been completed and further prays for the grant of registration of the aforesaid project.

On the query as to whether any advances has been taken or not, the learned counsel for the promoter submits no advance has been taken from any customer.

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 requires that an application for registration of a real estate project must contained the map approved by competent authority. In this light the promoter may request the concerned authorities at the district level and State Government to include the project village within the planning area.

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 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 (2) (d) of the Act and construction of building which are not being regulated cannot be allowed putting the interest of allottees in jeopardy.

Hence, the application for registration of real estate project 'Delcon City Phase-3 stands rejected and the respondent 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.

The Authority directs that a letter may be sent to the Urban Development and Housing Department, Government of Bihar urging them to consider extending the Patna Metropolitan Area Authority to cover some villages in Bikram Block, District -Patna.

Sd/-

Nupur Banerjee
(Member)

Sd/-

Naveen Verma
(Chairman)