

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Case No. RERA/PRO/REG.38/2021

Authorized Representative of RERA

v.

Ashok Kumar Enterprises Pvt. Ltd.

Project – ASHOK VATIKA PHASE-II

HEARING THROUGH VIDEO CONFERENCING

ORDER

02-02-2022

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 '**ASHOK VATIKA PHASE-II**'.

Real Estate Regulatory Authority, Bihar issued a show-cause notice to Ashok Kumar Enterprises Pvt. Ltd., through its Director, Mr. Ashok Kumar Singh, on 24.01.2022 as to why the application for registration of the Project 'ASHOK VATIKA PHASE-II' (Application No. RERAP06282019202048-2), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 17.02.2021, 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 Bhauara, district Madhubani and the area in which the project is proposed falls under non-planning area.

No one appeared on behalf of the respondent company. However, Authorised Representative of RERA placed before the Bench that Notice of Hearing has already been sent to the concerned promoter through registered post on 24.01.2022, as well as through email on 25.01.2022. He further placed before the

Bench that application for registration of the real estate project in which map has been approved by Mukhiya of Gram Panchayat had been put on hold as the Map of the project has not been approved by the competent Authority in terms of Section 4 (e) of the Real Estate (Regulation & Development) Act, 2016. He further placed before the Bench that the Authority had sought instructions from the State Government that *'whether Mukhiya was the competent authority to approve maps in non-planning areas. The Authority has been informed that this matter is under consideration and that, at present, Mukhiya is not the competent authority for approval of maps of real estate project'*.

On perusal of records, it appears that promoter has made an application for registration of the Project ASHOK VATIKA PHASE-I, before the Real Estate Regulatory Authority (RERA), Bihar, on 17.02.2021. The map submitted by the promoter was approved by Mukhiya Gram Panchayat Bhauara, district Madhubani, and the area in which the project is proposed falls under non-planning area. Since, the promoter did not submit the requisite documents as stipulated under the Section 4 of the Real Estate (Regulation and Development) Act 2016 and Rule 3 of the Bihar Real Estate (Regulation and Development) Rules 2017, therefore, notice was served to him on 24.01.2022 for appearing before the Authority on 02.02.2022, but he is not present in the hearing.

The Bench took 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.

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. The term ‘Competent Authority’ is defined under section 2 (p) of the Act, which read as follows:-

“Competent Authority means the local authority or any authority created or established under any law for the time being in force by the appropriate Government which exercises authority over land under its jurisdiction, and has power to give permission for development of such immovable property”

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 illegal building cannot be allowed putting the interest of consumers in jeopardy, therefore, the application for registration of real estate project ‘ASHOK VATIKA PHASE-I’ 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 for him.

The Authority also directs whether any other project of the promoter has been registered in the past, and if so, whether they are uploading quarterly reports as mandated under Sec 11 of the Act.

Sd/-

Nupur Banerjee
(Member)

Sd/-

Naveen Verma
(Chairman)