

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Case No. RERA/PRO/REG.52/2022

Authorized Representative of RERA

v.

VRP INFRA Pvt. Ltd.

Project – MITHILA AIRPORT CITY

Present: For Authority: Mr. Pratik, Advocate

For Respondent: Mr. Sumit Kumar, Advocate

ORDER

19-04-2022 Hearing taken up under section 5 (1) (b) of the Real Estate (Regulation and Development) Act, 2016, in the single Bench of Chairman RERA in order to dispose the application for registration of the project 'MITHILA AIRPORT CITY' within the statutory time limit as Member RERA is on leave.

Real Estate Regulatory Authority, Bihar issued a show-cause notice to VRP INFRA Pvt. Ltd. through its Director, Mr. Pankaj Kumar Jha, on 12.04.2021 as to why the application for registration of the Project 'MITHILA AIRPORT CITY' (Application No. RERAP03082022195732-1), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 10.03.2022, 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 duly approved map by the competent authority and scan copy of bank account opened in the name of project along with IFSC Code.

Authorised representative of RERA placed before the Bench that through email dated 19.04.2022, promoter has requested to grant some time to submit scan copy of bank account opened in the name of project. He further placed before the Bench that the map of the project is approved by Mr. Vijay Kumar Choudhary, Consultant Engineer Darbhanga Municipal Corporation, and from the bare perusal of the Building permit letter it appears that the concerned person i.e. Mr. Vijay Kumar Choudhary runs a private firm in the name of '*Engineer's & Developers*' who in the present case has approved the map of the

project, therefore, map submitted by the promoter is not approved by competent Authority in terms of clause (d) of sub-section 2 of Section 4 of the Real Estate (Regulation & Development) Act, 2016. He further placed before the Bench that in the Building Permit letter itself, though not approved by competent authority, promoter has stated that the proposed project is situated at Mauja Gausa, Village Gausa, District – Darbhanga, and Gausa has now been notified under Planning Area.

Learned Counsel Sumit Kumar appeared on behalf of respondent company and placed before the Bench that he has filed written statement in this regard. In his written statement Learned Counsel states that map of the proposed project is prepared by Empanelled/Certified Architect/ Engineer as per standard norms. He further states that the Real Estate Regulatory Authorities of other states such as Goa RERA & Kerela RERA by Order dated 17.09.2018 and 23.12.2019 made clear that the Act of 2016, is only applicable in Planning Area as defined in their respective Town and Country Planning Act/Building Bye Laws/Regional Plan/Panchayati Raj etc. He further states that there is no requirement of Registration of aforesaid project which are being developed beyond the planning area without requisite permission from the local authority. He further states that the promoter has not taken any requisite permission from the Local Authority because there is no such kind of Local Authority in Non-Planning Area in the state of Bihar as compared to other states. He requested RERA Bihar to specify the local authority/ competent authority in respect of non-planning area. He further states that project which falls beyond planning area does not require any approval of map by Competent Authority/Local Authority as Bihar Building Bye laws has been made applicable within Planning areas/ Municipal Corporations/Municipal Councils/Metropolitan Areas and Gram Panchayat areas covered under Development plan. He conclude his written submission with the prayer that either the Authority should name the Local Authority from where the map should be sanctioned or may waive off the requirements of registration of aforesaid project till constitution of Local Authority in the non planning area.

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”

The Bench observes that the map of the project is approved by Mr. Vijay Kumar Choudhary, Consultant Engineer Darbhanga Municipal Corporation who has given the approval upon the letter head of a private firm named as ‘*Engineer’s & Developers*’, who is certainly not a competent authority. Therefore, map submitted by the promoter is not approved by competent Authority in terms of clause (d) of sub-section 2 of Section 4 of the Real Estate (Regulation & Development) Act, 2016.

The Bench further observes that from the bare perusal of the Building Permit Letter, though not issued by the competent Authority, it transpires that the proposed project is situated at Mauza – Gausa, village Gausa, District – Darbhanga, which now has been notified under planning Area.

There is no ambiguity, therefore on specifying the authority who have the power of approval of map/plans after the area is notified within the planning area. In such cases the competent authority to approve maps/plans is the Planning Authority and the provisions of the Bihar Building Bye Laws become applicable.

The Bench further 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 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 which are not being regulated cannot be allowed putting the interest of allottees in jeopardy. Therefore, the real estate project 'MITHILA AIRPORT 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/-
Naveen Verma
(Chairman)