

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

Case No. RERA/PRO/REG.764/2018

Authorized Representative of RERA
v.
Technoculture Building Centre Pvt. Ltd.

Project – VASTU VIHAR BUXAR PH-01 EXT-01

HEARING THROUGH VIDEO CONFERENCING

ORDER

22-02-2022

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 '**VASTU VIHAR BUXAR PH-01 EXT-01**'.

Real Estate Regulatory Authority, Bihar issued a show-cause notice to Technoculture Building Centre Pvt. Ltd., through its Director Mr. Dinesh Kumar Tiwari, on 09.02.2022 as to why the application for registration of the Project VASTU VIHAR BUXAR PH-01 EXT-01 (Application No. RERAP2311201700015-23), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 11.12.2018, should not be rejected under Section 5 (1) (b) of the Real Estate (Regulation & Development) Act, 2016. The ground for rejection was that the promoter failed to furnish duly approved map approved by the competent Authority, as the map submitted with the application was approved by Mukhiya Gram Panchayat Raj Pandey Patti, district Buxar.

Learned Counsel Mr. Ravi Shankar, appeared on behalf of the respondent company and placed before the Authority that the project is on-going and construction had started in 2015. He also submitted that the applicant was not under compulsion to register the project as it was beyond planning area but as a general direction was issued by the Authority not to register any Sale Deed/ Agreement for Sale of any project in the State of Bihar without being registered with RERA therefore, applicant being law abiding citizen has approached the Real Estate Regulatory

Authority to register their project. Further, the date on which the application for registration of the real estate project was made, planning area was not notified and no authority was designated to approve map. He further placed before the Authority that Mukhiya of the Gram Panchayat as the head of the elected body for the development in the rural area has sanctioned the project and that due to non-designation of the competent authority for grant of sanction/approval of map beyond planning area, the promoter should not be made to suffer.

It was stated on behalf of the promoter that the project ought to be deemed to be registered under the provisions of the Act as the Real Estate Regulatory Authority had to either register the project or reject the application within 30 days.

In response to a query he submitted that the project area is covered under the planning area vide notification dated 5.11.2021.

On perusal of records of the case and considering the submissions made on behalf of the respondent company, it appears that the promoter has made an application for registration of the Project 'VASTU VIHAR BUXAR PH-01 EXT-01', before the Real Estate Regulatory Authority (RERA), Bihar, on 11.12.2018. The map submitted by the promoter was approved by Mukhiya Pandey Patti Gram Panchayat, District Buxar. Admittedly, there has been a delay in taking a decision on this application but registering the project without clarity on who would approve the map and enforce the provisions of the Bihar Building Bye Laws would not be in the interest of allottees.

The Authority takes note that the area in which the project is proposed now falls under planning area. The promoter can submit the requisite documents as stipulated under Section 4 of the Real Estate (Regulation and Development) Act 2019 and Rule 3 of the Bihar Real Estate (Regulation and Development) Rules 2017 after taking approval from the competent authority.

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 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.

In the light of facts and circumstances mentioned above 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 (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 real estate project ‘VASTU VIHAR BUXAR PH-01 EXT-01’ in its present form cannot be registered. The promoter is given time to obtain the approval of the competent authority and 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 within twenty days. If the promoter fails to submit the requisite documents within this time period, the application for registration would stand rejected. The promoter is at liberty to apply again for the registration of same project in future along with the necessary approvals and no fees would be charged from them.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)