

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Single Bench of Hon'ble Member Mrs. Nupur Banerjee.
RERA/Pro/Reg- 01/2024

Authorised Representative of RERA ...Complainant

Versus

Pragati Udhyog Pvt. Ltd. ...Respondent

Project: Moon City

For the Complainant: Adv. Ankit Kumar, L.R.

For the Respondent: Adv. Kriti Suman

ORDER

31.05.2024

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 "Moon City".

The Real Estate Regulatory Authority, Bihar issued a show-cause notice to Pragati Udhyog Pvt. Ltd. through its Director, Shri Md Enam Khan, on 16.05.2024 as to why the application for registration of the Project Moon City filed by the company with the Real Estate Regulatory Authority, Bihar on 29.12.2023, should not be rejected under section 5 (1)(b) of the Real Estate (Regulation and Development) Act, 2016.

Learned counsel for the Respondent appears and submits that the respondent company submitted its reply on 30.05.2024. He asserts that this project does not fall under the category of an Ongoing Project, and that the Hon'ble Authority incorrectly categorized it as ongoing and imposed a penalty under Section 59 for violation of Section 3 of the RERA Act. He further states that the promoter has not violated Section 3 or any provisions of the RERA Act. Additionally, there are many projects that have been registered without a penalty fee, such as Narendra Kushum Enclave, RERA No: BRRAP85925-1/180/R-1367/2022, among others.

The Authorized Representative of RERA submits that Section 3(1) para 2 of the RERA Act, 2016 states: "Provided that projects

that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act.” This means that projects which had not received the completion certificate by the enactment date of this Act, i.e., 01.05.2017, are considered ongoing projects. The present project, “Moon City,” submitted its completion certificate dated 01.03.2024, seven years after the enactment of the RERA Act. After the enactment of the Act, RERA Bihar has periodically issued public notices to promoters of ongoing projects to register with RERA Bihar, otherwise, penalties would be imposed. He further submits that in two projects, the Hon’ble Authority imposed penalties under similar circumstances: 1. APS Mass – Rs. 5 Lakh penalty, and 2. Durga Infinity – Rs. 15 Lakh. In the present case, the Hon’ble Authority has imposed a penalty amount of Rs. 5,60,000. Furthermore, there is no provision in the Act, Rules, or Regulations for the waiver of the penalty.

Learned counsel for the respondent prays for seven days’ time to submit a brief reply with a list of projects in which the Hon’ble Authority registered projects that were already completed and applied under the category of completed.

The Bench grants seven days’ time to the learned counsel for the respondent to submit his reply. Furthermore, the Authority of RERA, Bihar, will decide whether the penalty amount can be waived off. If the penalty amount cannot be waived, the Registration Wing will send a final order letter to pay the penalty amount within seven days of issuance. In case of non-compliance with the final order, the application for registration of the project would stand rejected.

Sd/-
Nupur Banerjee
Member