

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Case No. RERA/PRO/REG.830/2019

Authorized Representative of RERA

v.

Technoculture Building Centre Pvt. Ltd.

Project – VASTU VIHAR BETTIAH PHASE 01 EXTENSION 01

HEARING THROUGH VIDEO CONFERENCING

ORDER

15-02-2022

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 BETTIAH PHASE 01 EXTENSION 01**'.

Real Estate Regulatory Authority, Bihar issued a show-cause notice to Technoculture Building Centre Pvt. Ltd., through its Director, Mr. Dinesh Kumar, on 24.01.2022 as to why the application for registration of the Project '**VASTU VIHAR BETTIAH PHASE 01 EXTENSION 01**' (Application No. RERAP2311201700015-26), filed by the company with the Real Estate Regulatory Authority (RERA), Bihar, on 23.01.2019, 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 Barwat Sena, Sub Division- Bettiah, District -West Champaran.

Learned Counsel Ravi Shankar Kumar, appeared on behalf of respondent company and placed before the Bench that the whole spirit of Real Estate (Regulation & Development) Act, 2016, is to promote the real estate sector and that the date on which the

application for registration of the real estate project was made, the planning area was not notified and Mukhiya was the competent authority to approve map beyond planning Area. He further placed before the Bench that Mukhiya of the Gram Panchayat as the head of the elected body for the development in the rural area has sanctioned the project, which is only of plotted development. He submitted that even after the planning area has been notified, the competent authority to approve maps has not been designated and development in rural area can't be left in vacuum due to latches on the part of the State Government. He further placed before the Bench that most of the sale deed has been executed and he has also submitted completion certificate with respect to present project. The learned counsel also made the point that since the project consists of carving smaller plots and selling them, it may not be covered under the Act.

However, Authorised Representative of RERA placed before the Bench that area in which project is proposed has now been notified under planning area. He further placed before the Bench that Mukhiya of Gram Panchayat is not the competent authority to approve maps. The map of the project has thus 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 VASTU VIHAR BETTIAH PHASE 01 EXTENSION 01, before the Real Estate Regulatory Authority (RERA), Bihar, on 23.01.2019. The map submitted by the promoter was approved by Mukhiya Gram Panchayat Barwat Sena, Sub Division- Bettiah, District -West Champaran, and the area in which the project is proposed now falls under 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 15.02.2022.

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, therefore, the application for registration of real estate project VASTU VIHAR BETTIAH PHASE 01 EXTENSION 01' 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. The promoter is at liberty to apply again for the registration of same project in future along with requisite documents and no fees would be charged from them.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)