

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

Case No. RERA/SM/05/2018

Authorised Representative of RERA.....Complainant

Vs

M/s Technoculture Building Centre Pvt. Ltd.....Respondent

Project: Vastu Vihar Darbhanga Phase- 2

**Present: For Complainant: Mr. Jainandra Kumar, Advocate
For Respondent: Mr. Deepak Kumar, L.R.**

20.09.2022

ORDER

Real Estate Regulatory Authority, Bihar issued a suo motu show- cause notice on 03.05.2018 to the Directors of the respondent company for contravention of section 3 of the Real Estate (Regulation & Development) Act 2016 by advertising the project **Vastu Vihar Darbhanga Phase- 2** through the brochures on their website without registering the project with the RERA, Bihar. The promoters were directed to show cause as to why proceedings under 59 of the Real Estate (Regulation & Development) Act 2016 may not be initiated against them. It was brought to the notice of the Authority that the respondents have been advertising and taking advances against the bookings made in the project.

The respondent company in its reply dated 19.05.2018 had stated that the said project was outside the planning area and hence, they have not taken any step for registration. They stated that they had started construction of the work with the approval of the local authority viz. the gram panchayat.

The Authority takes note that under the first proviso of Section 3 of the Act, all the ongoing real estate projects were required to register by 31st July, 2017 with the Real Estate Regulatory Authority, Bihar except in projects where area of the land proposed to be developed does not exceed five hundred square meters or number of apartments proposed to be developed does not exceed eight inclusive of all phases. Further, section 3 of the Act

provides that no promoter can advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building as the case may be, in any real estate project or part of it, in any planning area within a State, without registering the real estate project with the Real Estate Regulatory Authority (RERA) established under this Act. Promoter of ongoing real estate projects in which all buildings as per sanctioned plan, have not received Completion Certificate, shall also be required to be registered for such phase of the project which consists of buildings not having occupation or Completion Certificate.

On hearing dated 21.06.2022, the Bench observed that the application for registration has since been rejected and the issue to be decided in the present case is whether the offence is of a continuing nature.

The respondent in their reply have stated that the project was launched before the commencement of the Act and all bookings were completed before the commencement of the Act.

In the present matter even though the respondent company is claiming that they have not booked any plot or made any advertisement of the project after commencement of the Act but, they have admitted the fact that the project was ongoing and after issuance of suo-motu notice, they have applied for registration of the project **Vastu Vihar Darbhanga Phase- 2** .

The term Advertisement has been defined in the section 2 (b) of the Act as follows:

“Advertisement means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes.”

Thus, it is established that the respondent company has advertised their project without registering the project with the Authority and thereby violated the provisions of Section 3 of the

Real Estate (Regulation & Development) Act, 2016. The Authority observes that if any promoter fails to register the project as per the Act, they shall be liable to pay a penalty which may extend up to ten per cent of the estimated cost of the real estate project.

The respondent company have contravened the provisions of section 3 of the Real Estate (Regulation and Development) Act, 2016 by advertising their project The respondent company have contravened the provisions of section 3 of the Real Estate (Regulation and Development) Act, 2016 by advertising their project “**Vastu Vihar Darbhanga Phase- 2**”

Taking note that after issuance of suo motu notice, they have applied for registration of the project **Vastu Vihar Darbhanga Phase- 2** by paying an amount of Rs. 5,24,233.20/- as registration charge and the fact that the project has since been completed , the Authority imposes a token penalty of Rs 50,000/- (fifty thousand only) on the promoter to be paid within sixty days of the issue of the order. The amount taken as late fine would also be treated as penalty and deposited in the appropriate account.

With this direction the matter is disposed of.

Sd/-

Nupur Banerjee
Member

Sd/-

Naveen Verma
Chairman