

Real Estate Regulatory Authority (RERA), Bihar, Patna

Before Mr R.B.Sinha & Mr S.K. Sinha, Members of the Authority

RERA Case Nos. SM/301/2019

Authorised Representative of RERA.....Complainant

Vs

M/s Sidhanta Estates Pvt Ltd.....Respondent

Present

For the Authority : Mr Sumit Kumar, Advocate

Ms Shivi, Advocate

For the Respondent : Mr Durgesh Ranjan, Advocate

01/11/2019

O R D E R

1. The Real Estate Regulatory Authority, Bihar, Patna issued a suomotu show cause notice on 11th December 2018 to M/s Sidhanta Estates Pvt Ltd, Kankarbagh Main Road, Patna for noncompliance of the provisions of Section-3 of the Real Estate (Regulation & Development) Act, 2016 by non-registering their ongoing projects **Green Enclave** and **Green Avenue** with the Authority.

2. In the notice it was stated that 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 the State without registering the real estate project with the Real Estate Regulatory Authority, Bihar. The promoter of ongoing real estate project in which all buildings as per sanctioned plan have not received Completion Certification, shall also be required to be registered for such phase of the project 2 which consists of buildings not having Occupation or Completion Certificate.

3. In the first proviso of Section 3 of the Act, all ongoing commercial and residential real estate projects were required to be registered within three months of the date of commencement of the Act i.e. by 31st July, 2017 with the Real Estate Regulatory Authority except in projects where area of the land proposed to be developed does not exceed 500 sq mtrs or number of apartments proposed to be developed does not exceed 8 (eight) inclusive of all phases.

4. It was stated in the notice that in spite of several extension of the deadlines given by the State Government, the respondent company have failed to register their projects Green Enclave, Machua Toli, Patna and Green Avenues, Kumhrar, Patna with the Authority though they have been advertising and taking advances against the booking made in the project since long ago.

5. Accordingly, the respondent company was directed to show cause as to why proceedings under Section 35 and 59 of the Real Estate (Regulation & Development) Act, 2016 be not initiated against them, their company, other Directors and officials of the company for non-compliance with the provisions of Section 3 of the Act.

6. In their response, the respondent company stated that their projects namely Green Enclave and Green Avenues were completed before RERA Act became applicable i.e. 30th June 2017. They claimed that they have already given possession to their flat allottees and hence, they have not registered their projects with the Authority. As reply to the notice issued by the Authority was not found satisfactory, they were directed to appear before the Bench for hearing on 05/02/2019.

Hearing:

7. Hearings were held on 05/02/2019, 05/04/2019, 06/05/2019 and 09/07/2019. On the date of hearing (5/02/2019) the respondent company was represented by Mr Durgesh Ranjan, authorized representative of the company. He reiterated the stand of the respondent Company that these projects were already completed before RERA Act became applicable i.e. 30th June 2017. When he was informed that the RERA Act came into operation 01.05.2017 and all ongoing projects as on 1st May 2017 were required to be registered with the Authority, he couldn't give any satisfactory response. The Bench therefore directed that applications for registration of both projects Green Enclave and Green Avenues may be submitted to the Authority without any further delay. They were also directed to submit audited annual accounts of the respondent company for the last three financial years. On the next date of hearing, the Bench was informed that the respondent company has submitted the applications for registration of both projects on 27th February 2019.

The respondent company also submitted the audited annual accounts of the company for the last three financial years on the next hearing date.

Order:

8. Section-59 of the Real Estate (Regulation & Development) Act, 2016 provides that if any promoter contravenes the provision of Section-3, he shall

be liable to a penalty, which may extend up to ten percent of the estimated cost of the real estate project as determined by the Authority.

9. In view of the admission by the respondent company and submission of their application for registration of both projects Green Enclave and Green Avenue with the Authority, the Bench feels that leniency be shown to them. Accordingly it is ordered that a token penalty of Rs 1.00 lakhs (Rupees one lakh) be levied on the respondent company. The penalty should be paid within sixty days of the issue of this order.

Sd/-

(R. B. Sinha)
Member

Sd/-

(Dr S.K. Sinha)
Member