

Real Estate Regulatory Authority (RERA), Bihar, Patna

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

Suo Motu Case Nos. SM/382/2019

Authorised Representative of RERA.....Complainant

Vs

M/s Star India Constructios Pvt Ltd.....Respondent

Present

For the Authority : Mr Sumit Kumar, Advocate

Ms Shivi, Advocate

For the Respondent : Mr Durgesh Ranjan, Advocate

01/11/2019

ORDER

1. The Real Estate Regulatory Authority, Bihar, Patna issued a suomotu show cause notice on 10th April 2019 to M/s Star India Constructions Pvt Ltd, 201, Adharshila Complex, South Gandhi Maidan, Patna for non-compliance of the provisions of Section-3 of the Real Estate (Regulation & Development) Act, 2016 by non-registering their ongoing projects **Aura Green City at Nayagaon, Sonpur** 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 project Aura Green City, Nayagaon, Sonapur, 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.

Response of the Respondent Company:

6. In their response, the respondent company stated on 22nd April 2019 that they did not have any project in name and style of Aura Green City at Nayagaon, Sonapur, Patna. They further claimed that no such project has ever been launched or being run by their company or individually by Promoter/Director of the respondent company. As reply to the notice issued by the Authority was not found satisfactory, they were directed to appear before the Bench for hearing on 04/07/2019.

Hearing :

7. Hearings were held on 04/07/2019, 23/07/2019, 08/08/2019 and 19/09/2019. Mr Kaushal Kishore, learned counsel filed reply on behalf of the respondent company stating therein that there was no project running or pending in the name and style of Aura Green City at Sonapur and that the company has made no booking or taken advance in the name of the said project. He has further submitted that due to inadvertent mistake, advertisement of the said project remained uploaded over the site and prayed to drop the proceeding in the interest of justice.

Issues for consideration :

8. There is only one issue for consideration whether the Project Aura Green City at Nayagaon, Sonapur was an ongoing project of the Respondent Company. Though the respondent company in its first response stated on 22nd April 2019 that they did not have any project in name and style of Aura Green City at Nayagaon, Sonapur, Patna and that no such project had ever been launched or being run by their company or individually by promoter/director of the respondent company, it changed its instance in course of hearing stating that the company made advertisement for their upcoming project “Aura Green City” at Nayagaon, Sonapur on their website but the project could not start as the land was not acquired and the idea was dropped in the beginning itself. The Respondent Company have therefore accepted their mistake of making advertisement of their upcoming project “Aura Green City” at Nayagaon, Sonapur on their website. They have called their mistake as an inadvertent mistake.

9. It is therefore evident that the Section 3 of the Real Estate (Regulation and Development) Act 2016 has been violated but the respondent claimed that it was due to mistake rather than intentional.

Order :

10. 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.

11. The Bench however feels that as it was an inadvertent mistake, equity would demand that a token penalty of rupees fifty thousand only (Rs 50000) would be suffice in this case. The Respondent Company is also directed to be careful in future.

Sd/-
(S.K. Sinha)
Member

Sd/-
(R.B. Sinha)
Member