

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Case No. SM/447/2020

Authorised Representative of RERA Complainant

Vs

M/s Bhusamridh Infra Pvt Ltd.....Respondent

Projects: Samridh City/Samridh City Phase-1

**Present: For Complainant : Mr Jainandra Kumar, Adv
For the Respondent: None**

04.03.2022

O R D E R

Real Estate Regulatory Authority, Bihar issued a suo motu show- cause notice on 27.02.2020 to the Directors, M/s Bhusamridh Infra Pvt. Ltd. for contravention of section 3 of the Real Estate (Regulation & Development) Act 2016 by advertising the project “Samridh City and Samridh City Phase-1” situated at Naubatpur, Patna 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 Section 35 and 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 06.03.2020 has stated that they have applied for registration before the Authority as an Agent and the company had also got registration as an Agent. In the said reply, the respondent company has himself admitted that they have advertised the said project but, due to land dispute, the said project could not be started.

Hearings were held on 08.04.2021 and 04.02.2022. In both the hearings, the respondent company was not present despite notices dated 04.03.2021 and 30.09.2021 having been issued.

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.

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 before registration of the project with RERA, they have admitted fact that they have installed a sign board on the construction site which was removed after issuance of notice by the Authority and a brochure was shared in the public platform and distributed amongst the members of the Public.

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, he shall be liable to pay a penalty which may extend up to ten per cent of the estimated cost of the real estate project.

Since the respondent company have contravened the provisions of section 3 of the Real Estate (Regulation and Development) Act, 2016 by advertising their project “Samridh City and Samridh City Phase-1” through the brochure on the website and booking the plots without registering the project with the Real Estate Regulatory Authority, Bihar, but keeping in view the fact that the said project has been dropped by the company, the Bench decides to levy a minimal penalty of Rs 2.50 lakhs on the respondent company to be paid within sixty days of the issue of the order.

The Bench also directs respondent company to refund the booking amounts to all allottees along with the interest at the rate of MCLR of the State Bank of India as applicable for two year plus two percent from the date of deposit to the date of refund within sixty days of issue of the order.

Sd/-
Nupur Banerjee
(Member)

Sd/-
Naveen Verma
(Chairman)