

**REAL ESTATE REGULATORY AUTHORITY (RERA),
BIHAR**

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

Case Nos.SM/407/2018

Authorised Representative of RERA.....Complainant

Vs

M/s Dhruv Iconic Pvt Ltd.....Respondent

Present

For the Authority : Mr Sumit Kumar, Advocate

**For the Respondent : Mrs Anita Singh, Director
Mr Bishwajeet Ganguly, Advocate**

5/02/2020

O R D E R

1. The Real Estate Regulatory Authority, Bihar, Patna issued a suomotu show cause notice under Section 35 and 59 of the Real Estate (Regulation & Development) Act, 2016 on 25/06/2019 against the Director, M/s Dhruv Iconic Pvt Ltd for non-compliance of the provisions of Section 3 of the Act due to non-registration of their ongoing project "Iconic Residency", situated at Naubatpur, Patna.

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 even though the final approval from the Authority was still due, they were continuously advertising their ongoing project Icon Residency, Naubatpur, Patna as an approved one and taking advances against bookings made in the project by misleading the public that your project was approved by Authority, having Registration No RERAP03022019204249 -1.

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 Director of the respondent company vide their letter dated 26/07/2019 submitted that due to non-understanding and having no knowledge of RERA Act, advertisement was made on the facebook for a brief period and as soon as they came to know of the RERA Act, the advertisement was removed. Moreover, they have not booked any plots and assured that they would not breach any provision of RERA Act in future and requested the Authority to exonerate them from any proposed proceeding against them.

As the response of the respondent company was not found satisfactory, they were directed to appear for hearing on 25/10/2019.

Hearings :

7. Hearings were held on 25/10/2019, 14/11/2019 and 19/12/2019. On the first date of hearing, no one was present. Therefore, the Bench directed to ensure presence of a Director of the Respondent Company on the next date of hearing. On 14.11.2019, Mrs Anita Singh, Director appeared and filed an affidavit on behalf of the company in which she admitted that her two team leaders of the firm had booked four plots of land in ignorance of the provisions of RERA. She further claimed that the entire amount was still lying unused in the bank account of the company and assured that the amount would remain unused until the registration of the Project was done. Noting the fact that there was significant difference in the statement of the Director in the affidavit from that of their earlier response, the Bench directed the Respondent company to submit the audited annual accounts of the company along with statement of the bank accounts of the Company since commencement. On 19/12/2019 the Learned counsel of the respondent company filed the requisite documents.

Issues for consideration :

8. It is for consideration whether the respondent company has contravened the provisions of Section 3 and was required to get their project registered with RERA under Section 3 of the Real Estate (Regulation & Development) Act, 2016.

9. Though the Director of the company in its initial response had claimed that they had advertised the project due to lack of knowledge of RERA laws but had not made booking of plots of land, they changed their instance in course of hearing and admitted that they had made a few bookings, which were further confirmed by the entries made in the bank accounts. Further,

the respondent Company mislead the public by projecting the application number as Registration number without approval of the Authority. Thus, it is an admitted fact that the respondent Company has contravened the provisions of the Section 3 of the Act. However, the Director of the respondent Company has apologised and stated that it was done due to lack of knowledge and understanding of the RERA rules and procedures.

Order :

10. Section 59 of the Real Estate (Regulation & Development) Act, 2016 states that if any promoter contravenes the provisions of Section 3, he shall be liable to a penalty which may extend up to 10% of the estimated cost of the real estate project as determined by the Authority. The Promoter has itself estimated the cost the project as Rs 3.95 crore. The Authority is inclined to accept it.

11. Keeping in view, the fact that the respondent company had filed the application for registration of the project in March 2019 with the Authority and have apologised for its ignorance and mistake, we feel that the Authority should be considerate and show leniency towards the Respondent company. Accordingly, we impose a token penalty of half percent of the estimated cost i.e. Rupees one lakh and ninety seven thousand and five hundred only on the Respondent company, to be paid within 60 days of issue of this order.

Sd
(S.K. Sinha)
Member

Sd
(R.B. Sinha)
Member