

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Bench of R B Sinha and Dr S K Sinha, Members, RERA, Bihar

Suo Motu Case No: SM/59/2018, SM/285-287/2018

**Authorised Representative, Real Estate Regulatory Authority (RERA),
Bihar.....Complainant**

Vs

M/s Shital Buildtech Private Limited,.....Respondent

Present:

For the Complainant:- Mr Sumit Kumar, Advocate
Ms Shivi, Advocate
For the Respondent:- Md Yasir Imam, Director

01/04/2019

ORDER

1. The Real Estate Regulatory Authority, Bihar issued four Suo motu show cause notices to M/s **Shital Buildtech** Private Limited, 401, 4th Floor, Fazal Imam Complex , Near Patna Central Mall , Fraser Road , Dak Bunglow, Patna-800001, out of which one notice was issued in May 2018 for non-registration of their ongoing real estate project “Shital Green Vatika, at Bihta Maner Road, Patna and remaining three for “ Green City at Nayagaon, Sonapur , Motihari Plots and Muzaffarpur Plots.
2. In the suo motu notices, it was stated that all ongoing commercial and residential real estate projects for which completion certificates have not been issued, were required to be registered within three months of the commencement of the Real Estate (Regulation & Development) Act, 2016 i.e. by 31/07/2017 except projects where area of land proposed to be developed did not exceed 500 sq meters or number of apartments to be developed did not exceed 8 inclusive of all phases.

3. It was also stated in the notice 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 a State, without registering the real estate project with the Real Estate Regulatory Authority (RERA). 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
4. The Respondent Company did not submit their response to any of the show cause notices sent to them.
5. First hearing was held on 27/12/2018 in case of SM/59 for Sheetal Green Vatika located at Bihta Maner Road, Patna, wherein Md Yasir Imam, Director and Mr B. S. Pandey Advocate for the respondent were present. In course of hearing, Learned Advocate on behalf of the Authority submitted documents including copies of advertisements for these projects given by the Respondent Company on various sites which indicated that these projects were under the category of “ongoing” projects. The Bench directed the Respondent Company to get all these projects registered with the Authority without any further delay as the Company has violated the Section 3 of the Real Estate (Regulation and Development) Act 2016 by advertising the projects without registering them with the Authority. The Bench also directed to club all the cases of Respondent company as they all relate to the registration of the Projects with the Authority. Thereafter on the date of next hearing on 30/01/2019, no one appeared from the Respondent Company. Hence, the Bench fixed the date of final hearing on 14/02/2019 when a representative on behalf of Md. Yasir Imam, MD of the Respondent company attended. In course of hearing, the Respondent Company’s representative reported that applications for registration of the abovementioned Projects of the Respondent Company have since been submitted to the Authority in the intervening period.

Issues for consideration

6. There is only one issue for consideration in all four suo motu notices issued to the Respondent company i.e. whether the Respondent Company has violated the Section 3 of the Act and therefore attracted the penalty under Section 59 of the Act 2016. In course of hearing, the Respondent Company admitted that they have been advertising the sale of plots in their real estate projects on various websites without registering the projects with the Authority. They however agreed to get their projects registered with the Authority and have since submitted the applications for registration of these projects with the Authority as follows:

Promoter- Shital Buildtech Pvt Ltd.

Project/ File No	Date of Suo-Motu notice Issued	Date of submission online /Hardcopy	Area of land /amount received	Project Status (ongoing) /File
02	03	04	05	07
Shital Green City Muzaffarpur (869)	06-12-2018	<u>31-01-2019</u> 04-02-2019	Area-536.35 Rs.5,03,000/-	Application received and under scrutiny F-(869)
Shital Green Vatika, Bihta (761)	03-05-2018	<u>15-12-2018</u> 04-02-2019	Area-6305.00 Rs.-5,32,000/-	Application under query F-(761)
Shital Green City Sonapur (787)	06-12-2018	<u>31-12-2018</u> 04-02-2019	Area- 14959.26 Rs.5,75,000/-	Application under query F-(787)
Shital Highway City Piprakothe (809)	06-12-2018	<u>10-01-2019</u> 04-02-2019	Area-2637.62 Rs.5,13,200/-	Application under query F-(809)

7. It is evident from the details of the records as mentioned above that in all the projects for which application for registration have been submitted by the Respondent Company have been applied only after the suo motu notices have been issued to them. In all cases, the Respondent Company have

violated the provisions of the Section 3 of the Real estate (Regulation and Development) Act 2016 by advertising the sale of plots in these projects without registering them with the Authority.

Order

8. Notwithstanding the fact that the Respondent Company has admitted that they have been advertising the sale of plots in their real estate projects without registering their projects with the Authority and have since applied for registration of these projects, it is established that the Respondent Company has violated the section 3 of the Act 2016 and is therefore liable to a penalty under section 59 of the Act, 2016.
9. Section 59 of the Real Estate (Regulation and Development) Act states that if any promoter contravenes the provisions of Section 3, he shall be liable to a penalty, which may extend upto ten percent of the estimated cost of real estate project, as determined by the Authority. It is observed that the Company has itself determined the estimated cost of these projects as 7.65 crores. We are inclined to accept it. However, keeping in view the fact that they have admitted their mistake and filed their applications for registration of the projects with the authority, we impose a token penalty of two percent of the estimated cost of these projects i.e. Rs 15.30 Lakhs (Rupees fifteen lakhs and thirty thousand only), payable within sixty days of issue of this order.

Sd

(R.B. Sinha)
Member

Patna,

Dated the 1st April, 2019.

Sd

(Dr S. K. Sinha)
Member