

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

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

Case No. SM/319/2018

Authorised Representative of RERA.....Complainant

Vs

M/s Shrawani Engincon Pvt Ltd.....Respondent

**Present: For the Complainant:- Mr Sumit Kumar, Advocate
Ms Shivi, Advocate
For the Respondent:- Mr Abhay Kumar, MD**

09/04/2019

O R D E R

1. The Real Estate Regulatory Authority (RERA) issued a suo motu notice on 18/12/2018 under Section 35 and 59 of the Real Estate (Regulation & Development) Act, 2016 for non-compliance of the provisions of Section 3 of the Act against M/s Shrawani Engincon Pvt Ltd for non-registration of their ongoing project Shrawani Enclave, Sampatchak, Patna 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. The promoter of ongoing real estate project 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.
3. In the first proviso of Section 3 of the Act, all ongoing commercial and residential real estate projects were required to be registered by 31st July, 2017 with the Real Estate Regulatory Authority except

in projects where area of land proposed to be developed does not exceed 500 sq mtrs or number of apartments proposed to be developed does not exceed 8 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 Shravani Enclave, Sampatchak, Patna with the Authority though they have been advertising and taking advances against the bookings made in the project since launch of this project 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. Mr Abhay Kumar, MD of the respondent company M/s Shravani Engicon Pvt Ltd in his response dated 31/12/2018 stated that the respondent company has filed the requisite application for registration of their project “Shravani Enclave”, Sampatchak, Patna on 24/12/2018 and therefore, requested the Authority to stop the penalty proceedings and consider their application for registration of the project.

Hearing

7. In course of hearing on 01/02/2019 and 28/02/2019 Mr Abhay Kumar, MD of the company reiterated that he has submitted the application for registration of his ongoing project Shravani Enclave”, Sampatchak, Patna on 24th December 2018, soon after receipt of the show-cause notice. When asked as to why he did not submit the hard copy immediately after filing his application on 30th October 2018 within stipulated period of seven days, he stated that it was due to urgent personal reasons and the moment they received the notice from the Authority on 22/12/2018, the requisite application for registration of the project was submitted on

24/12/2018. He however, could not give any satisfactory response as to how the company was advertising the sale of apartments in the project on different websites like sulekha.com, 99acres.com and other website without registering the project with Authority. He stated that he was not aware of the rules of the Real Estate Regulatory Authority. As soon as he learnt about it, he filed the application for registration of his project. He also stated that he had prepared a bank draft for submission of application on 29/10/2018 itself which goes on to prove that he was very much inclined to submit the application within the stipulated seven days period.

Issues for consideration :

8. It is a fact that the respondent company had this project ongoing since 2015 and did not apply for registration within three months of commencement of the Act, i.e. by 31st July 2017. It is also a fact that from the advertising records made available by the Authority's lawyers that they had been advertising on different websites for sale of their plots of land/apartments. It is, however, also a fact that the respondent company had filed an application for registration of their ongoing project online on 30/10/2018 well before issue of the show cause notice to the company which was sent only on 18/12/2018. Therefore, the respondent Company needs to be shown leniency as they had shown eagerness and willingness to file application for registration of the project with the Authority and had even procured the bank draft in October 2018.

Order:

9. 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. In his application, the MD of the company had himself estimated the cost of the project as Rs 6.63 crore. We are inclined to accept it. However, considering the fact they had applied for registration of the project on their own on 30/10/2018 and has purchased the bank draft in favour of the Authority for

submission as fee, we impose a token penalty of Rs one lakh on the respondent company to be paid within 60 days of issue of this order. The Respondent company is directed to be more careful in future.

Sd
(R. B. Sinha)
Member

Sd
(S.K. Sinha)
Member