

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

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

Suo Motu Case No./SM/392/2018 & SM/393/2018

Authorised Representative, RERA..... Complainant

Vs

M/s Creastate Infrastructure Pvt Ltd.....Respondent

**Present: For the Complainant:- Mr Sumit Kumar, Advocate
Ms Shivi, Advocate
For the Respondent:- Mr Suryakant Kumar, CS
Mr Manoranjan Kr, advocate**

07/02/2019

O R D E R

1. The Real Estate Regulatory Authority, Bihar issued two Suo motu show cause notices to M/S Creastate Infrastructure Pvt Ltd in July, 2018 for non-registration of their ongoing real estate projects “Al Madina City” at Mouza-Gopalpur, Janipur, Phulwari Sharif, Patna and “Creastate City Phase-II” at Mouza, Gopalpur, NH-98, Patna. The Respondent Company through their Company Secretary M/s Suryakant & Associates submitted the response to the show cause notices in August 2018. Thereafter, hearings were held on 28/11/2018 and 18/12/2018.
2. In the notice, 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 that in the notice that in spite of several extensions of the deadline given by the State Government, the respondent

company has failed to register or apply for registration of their ongoing real estate projects though they have been taking the advances against bookings for plots of land in the project since launch of the project.

Response of the Respondent Company:

4. In their response, the practicing Company Secretary Mr Suryakant Kumar stated on behalf of the respondent company that both the projects i.e. Al Madina City and Creastate City Phase-II were completed before 2016. He claimed that while Al-Madina City project was completed in 2016 and the buyers were in possession of their plots since 2016 and already registered their plots, the Creastate City Phase-II was completed in 2015 itself. He also claimed that all the buyers in this project were in possession of their plots since 2015 and have already registered their plots.

The respondent company, therefore, claimed that provisions of Section-3 of the Real Estate (Regulation & Development) Act, 2016 were not applicable in case of these projects.

Hearing on 29/10/2018, 28/11/2018, 18/12/2018

5. On the first date of hearing on 29th October 2018, the Respondent Company was represented by Mr Surya Kant Kumar, Company Secretary and Mr Manoranjan Kumar, Advocate. They asked for ten days time from the Bench to furnish the copies of the audited annual accounts and bank account statements of the company for the last three years. In course of hearing on 28/11/2018, on being shown the copies of advertisements of the projects on the website of the Respondent Company itself, the learned representatives of the respondent company admitted that they were still making advertisement about the project on their website but they stated that they had done so inadvertently. They further stated that they have filed papers for registration of a project NAHARPURA during the intervening period in October 2018. When confronted with the figures mentioned in the company's audited annual accounts that they have

collected Rs 12.5 crore as advances from customers, they stated that this money was of earlier completed projects. The respondent company was directed to submit its brochure including all relevant papers like details of land acquired/distributed and the audited annual accounts for the last three years and details of bank account of the company.

6. On the next date of hearing on 18/12/2018, the learned representative of the Respondent Company submitted bank account statement of the company for the period 1st April 2018 to 30th October 2018 and the audited annual accounts for the last three years viz. 2017-18, 2016-17 & 2015-2016 but did not submit the brochure of these projects and bank account statements for the period 2016-17 & 2017-18, as directed by the Bench. It appeared from the audited balance sheet of the respondent company that the advances from the customers have risen drastically from Rs 1.25 crore on 31st March 2016 to Rs 6.00 crore on 31st March 2017 and to Rs 12.50 crore on 31st March 2018. However, as per the claim made by the learned representative of the respondent company, there was no project of the company running in between 24th June 2016, the completion date of Al-Madina City project to 10th January 2018, commencement date of Naharpuraproject. It was therefore evident that learned representative could not explain as to how advances from customers rose sharply from 31st March 2016 to 31st March 2017 and then to 31st March 2018 in absence of any ongoing/running project.

Issues for Consideration:

7. There is only one issue for consideration i.e. whether their projects namely; Al Madina City and Creastate City Phase-II were ongoing projects on the date of commencement of the Real Estate (Regulation and Development) Act 2016 i.e. 01/05/2017 onwards and required to be registered with the Authority.
8. Learned Advocate on behalf of the Authority submitted documents which included advertisement given by the Respondent Company on their website which indicated that Al Madina City and Creastate City

Phase-II under the category of “ongoing” projects. Though the learned representative of the respondent company submitted that it was being shown inadvertently, the bank account submitted by the company for the period 1st April 2018 to 30th September 2018 also indicated regular inflow of funds from large number of customers every month. The audited accounts of the company also indicated significant expenditure under the heads of advertisement, business promotion, site development etc during 2016-17 and 2017-18. The company has filed for registration of their projects namely; “Naharpura” in October, 2018. A sister concern of the Respondent Company (M/s Satyamev Developcon Pvt Ltd) in which the two Directors of the Respondent company (Mr Ranjit Kumar and Ms Rashmi Ranjan) are also Directors and have filed for registration of two more projects (Jan Awasiya Yojana & Highway Residency) in October, 2018. Jan Awasiya Yojana is stated to have commenced in January, 2018 while the other project Highway Residency was shown as a new project with date of commencement on 12th December 2018. Further, the Respondent Company in their application for registration of Naharpura project has claimed to have completed only one project namely Al- Madina city on 24th June 2016 in the last five years while in response to the show –cause notices, they have accepted that they have completed another project Creastate City Phase II in 2015 i.e. within the last five years only. Thus, the Respondent Company and their representatives have taken different stands at different places during the same period (July- December 2018).

9. Further, it appeared from the audited accounts (Balance sheets) of the Respondent Company that the advances from the customers have risen drastically from Rs 1.23 crore on 31st March 2016 to Rs 6.01 crore on 31st March 2017 and to Rs 12.54 crore on 31st March 2018. However, as per the claim made by the learned representative of the respondent company, there was no project of the company running in between 24th June 2016, the completion date of Al-Madina City project to 10th January 2018, commencement date of Naharpura project. It was therefore evident that learned representative could not explain as to how advances from customers rose sharply from 31st

March 2016 to 31st March 2017 and then to 31st March 2018 in absence of any ongoing/running project.

10.In their application for registration of these two projects, the same directors (Mr Ranjit Kumar and Ms Rashmi Ranjan) of the sister concern (M/s Satyamev Developcon Pvt Ltd) claimed that their company was incorporated on 25th July 2016 and they had completed two projects Al-Madina City and Creastate City Phase II in 2015 and 2016 i.e. even before the company was established. Thus, both companies (M/s Creastate Infrastructure Pvt Ltd and M/s Satyamev Developcon Pvt Ltd) have claimed Al-Madina City project to be their own project and of having completed it in June 2016, the period during which M/s Satyamev Developcon Pvt Ltd was not even in existence as the company itself was incorporated on 25th July 2016.

11.In view of the facts stated above, it is evident the Respondent Company has been giving false and misleading information to the Authority. Thus there appears to be little reason to believe their statement that both projects had been completed before commencement of the Act in May 2017, particularly in absence of any conclusive documentary evidences in support of the claim. They did not submit Completion/Development Certificate from the Competant authority in support of their claim of having completed the projects. Further, there is no doubt that the company had been advertising these two projects on their websites even in July 2018 for information of the public, seeking bookings of plots of land in those two projects. Their audited annual account (sharp increases in advances from customers, increasing expenses on Advertisement, site preparation, Business promotion etc) also indicate continuance of their real estate projects in 2016-2017 and 2017-18. The company did not provide any conclusive proof to show that these projects have been closed long time back except their verbal statements and a few copies of registration of plots of land, in none of which, either the name of the project or name of the respondent company was

mentioned.

Order

12.Section 59 of the 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 the real estate projects, as determined by the Authority. The estimated cost of the both projects, based on the data/information available on their websites would be Rs 5-7 Crores. It is therefore ordered that a token penalty of Rs ten lakh is imposed on the respondent company with the direction that they shall get their real estate projects registered with the Authority forthwith and follow the provisions of the Real estate (Regulation and Development) Act 2016 meticulously.

Sd
(R.B. Sinha)
Member

Sd
(Dr S. K. Sinha)
Member

Patna,
Dated the 7thFebruary, 2019.