







within the State without registering their real estate project with the Authority.

3. In the notice it was pointed out that in spite of several extensions of the deadlines given by the State Government, the company has failed to register or apply for registration their ongoing real estate projects with the Authority though they have been taking advances against bookings for plots of land in their projects in violation of Section 3 of the Act.

#### **Response of the Respondent Company:**

4. In their response dated 12/08/18 MrAshutosh Kumar, Managing Director of the respondent company stated that the agreement for plotting of 30 kathas of land near Bihta was entered into by the company in the year 2016-2017 and the project was planned to be advertised under the name of Nisana Metro City. Similarly, the agreement for plotting of 31 kathas of land near AIIMS, Patna was entered into by the company in the year 2016, to be advertised under the name of Sonata City by the company.



5. The respondent company claimed that the project Nisana Metro City did not take off as the property in question was disposed off, by the owner during the middle of 2017 and the company was nowhere in the sale or development of that property. The company further claimed the possession of the said land of Nisana Metro City was not handed over to the company and as a result of which the company was not able to initiate the project and the said project remained on paper. The company claimed that in Nisana Metro City project, the land was sold individually to parties and the company was not in any way involved in sale of project or plotting of the said land.

6. As regards Sonata City, the company stated that the agreement for the said project was entered into by the respondent company on 03/10/2016 and the possession of the said land was handed over to the company in June, 2017 and the project started on the same day and the company started plotting of the land as per requirement of the customers. In their response at one place, the company stated that they sold all the plots of land measuring approximately 31 kathas (42154 sqft), the last plot being sold in March, 2017 and the project was marked closed on that date in the books of the

*Ashutosh Kumar*  
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*S. Sinha*  
25.01.2019





company whereas at other place in their own response, they claimed that the project completion date was June, 2017. The company further stated that as the project got completed in June, 2017, they were not required to obtain registration under RERA. The CEO of the company further claimed that the company has not started any project thereafter and does not have any ongoing project till date. He further stated that the advertisement running around the city was not taken off as a company policy to gain publicity and no such projects were functioning after June, 2017. The company further requested for an opportunity of personal hearing before the Authority to present their case.

As their response to the show cause was not found satisfactory, they were invited for hearing on 31/10/2018.

#### **Hearing on 31/10/2018, 3/12/2018 and 10.12.2018**

7. In the hearing on 31/10/2018 the company was represented by MrSuryakant Kumar, Company Secretary and MrAshutosh Kumar, MD. In course of hearing, the MD of the company and the Company Secretary reiterated their written statement that they did not have any real estate project ongoing as on date and both the projects have ended before mid 2017. The company was requested to furnish their audited financial statement for the last two years and bank accounts for the same period so as to ascertain whether the bookings have been made in those projects and payments have been received by the company. The respondent company prayed for time to submit the requisite documents and accordingly time was allowed and the next date of hearing was fixed for 3/12/18. On the next date of hearing, the company was represented by Mr Suryakant Kumar, Company Secretary and MrManoranjan Kumar, Advocate. They furnished the audited financial statements of the company and the bank accounts which show continuous receipt of funds from the customers right through 2017 and 2018 and up to October, 2018. Accordingly, the company was directed to get their project registered with RERA within a fortnight. Finally, the company has filed application for registration of their project namely; Metro Sonata City on 12/01/19 as an ongoing project which they claim to have commenced on 28/07/18 and would be completed on 27/07/21. The Respondent company has however uploaded the fee in



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form of an account payee cheque rather than in form of demand draft of a scheduled bank along with their application for registration.

#### 8. Issues for consideration :

There are two issues for consideration before the Bench:

Firstly, whether the respondent company had any ongoing real estate projects namely; Sonata City and Nisana Metro City as on 01/05/17, the date on which all provisions of the Real Estate (Regulation & Development) Act, 2016 became operational through out the country except J & K.

Secondly, whether the Respondent company has been advertising and booking plots of land in these two projects and receiving payment without registering them with the Authority.

9. The respondent company, in its own written response, has admitted that their project Sonata City in which plotting of 31 kathas of land near AIIMS, Patna was planned, was an ongoing project as on 01/05/17. According to their own claim, this project was completed in June, 2017. As regards other project Nisana Metro City near IIT, Bihta, Patna, the company has given a vague response stating that the property in question was disposed off by the owner during mid 2017 and the company was nowhere in sale or plotting of that property. This project was also envisaged by the company in the year 2016-17 with an agreement for plotting of 30 kathas of land near IIT, Bihta, Patna by the company.

10. As per the audited financial statements of the respondent company provided to this Authority, it was observed that the company had been booking plots of land and taking advances from customers since inception i.e. financial year 2016-17. They had taken advances of Rs 33.81 lakh in 2016-17 (5 months) and Rs 1.93 crore in 2017-18. It is therefore conclusively proved that they had been operating these two projects from 2016-17.

11. As regards the second issue regarding advertisement of the projects, the audited financial statements show that "advertisement expenses" have been incurred since 2016-17. They have been continued in 2017-18. The



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statement of Axis Bank accounts of the company also indicated payment made to the real estate websites like Magic Bricks, 99 Acres etc during 2016-17 and 2017-18. These payments have also continued to 2018-19. As a matter of fact, the company has made payment to Magic Bricks even after receiving notice from the Authority in August, 2018. The statement of Bankaccounts also indicated receipt of funds from the customers throughout the year since inception of the company in 2016-17. It is, therefore, concluded that the respondent company has been advertising and booking plots of land during the last two years. The company has informed that they have submitted online application for registration of their project Metro Sonata City. They, however, have not filed the hard copies of the application along with requisite documents within stipulated seven days period. Further, the application has been uploaded along with a cheque of the company rather than Demand Draft of a scheduled bank. Thus, the approach of the respondent company appears to be casual and evasive. The management has been dilly dallying in registration of the project with the Authority and at the same time, continuing to advertise and book the plots of land in the projects.



### Order

12. Considering the fact that the Respondent company has been trying to flout the provisions of the Act with impunity and has provided apparently incorrect statement in their written response while at the same time claiming to be a promoter in their advertisements, both on the websites and roadside, it is felt that a deterrent punishment should be imposed on the company so that they follow the provisions of the Act meticulously in future. As the company itself has revealed that they have had agreement for 61 kathas of land for these two projects, the estimated cost of the projects would be in the range of Rs 3-5 crores.

Section-59 (1) of the Act provides as follows :-

“If any promoter contravenes the provision of Section-3, he shall be liable to a penalty which may extend upto 10% of the estimate cost of the real estate project as determined by the authority.”

We, therefore, impose a token penalty of Rs 10 (ten) lakhs on the company for flagrant violation of Section-3 of the Act and for furnishing

*R. S. Singh*  
25/1/2019



*S. Singh*  
25.01.2019



incorrect/false information to the Authority, to be paid within 60 days of issue of the order. We also direct the company to register all their real estate projects forthwith with the Authority and to follow the provisions of the Act meticulously in future.

**(S.K. Sinha)**  
**Member**

**(R.B. Sinha)** 25/1/2019  
**Member**



**Patna,**  
**Dated the 25th January, 2019.**

