

Real Estate Regulatory Authority (RERA), Bihar, Patna

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

Case Nos.SM/300/2018

Authorised Representative of RERA.....Complainant

Vs

M/s Honest Builders & Developers Pvt Ltd.....Respondent

Present: For the Authority : Mrs Sumit Kumar, Adv

Miss Shivi, Adv

For the Respondent: Mr Shane Ahmad Khan, Dir

31/08/2019

O R D E R

The Real Estate Regulatory Authority, Bihar, Patna issued a suo motu show cause notice to M/s Honest Builders & Developers Pvt Ltd on 11th December 2018 for non-compliance of the provisions of Section 3 of the Real Estate (Regulation & Development) Act, 2016 due to non-registration of their ongoing project “**Metro Green City**”, Shivala More, Naubatpur, Danapur, Patna.

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 which consists of buildings not having Occupation or Completion Certificate.

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.

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 “Hashmi Residency” with the Authority though they have been advertising since long ago.

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:

In their response Mr Shane Ahmad Khan, Director of the respondent company submitted that Hashmi Residency was a new project of the company and there was no construction work going on. He has further submitted that they were collecting all the required legal documents required for the project besides they have not advertised the project in any manner and have not taken any advance from any customer against the project.

Hearing

Hearings were held on 06/02/2019, 04/04/2019, 02/05/2019, 17/05/2019 and 25/07/2019. In course of hearing the Director of the respondent company reiterated that they have not made any advertisement either in the newspaper or have put any hoarding. However, he admitted that due to lack of knowledge, they had put their project on their website for which he expressed unqualified apology.

Learned Counsel of the Authority invited the attention of the Bench to the Section 2 (b) of the Real Estates (Regulation and Development) Act 2016

which defines Advertisement as any documents described or issued as advertisement through any medium and includes any notice, circular, or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes. He therefore claimed that the respondent company by advertising the project on their website has contravened the section 3 of the Act. The Respondent company however claimed that they have not done any booking in the case.

Order

As the respondent company has already filed their application for registration with the Authority and keeping in view the fact that Hashmi Residency was a new project of the company and there was no construction work going on and that they have tendered unqualified apology for depicting the project on the website and have since removed it, the Bench feels that leniency be shown to them. Accordingly it is ordered that a token penalty of Rs 25,000/- be levied on the respondent company. The penalty should be paid within sixty days of the issue of this order.

Sd/-
(S.K. Sinha)
Member

Sd/-
(R.B. Sinha)
Member