



Real Estate Regulatory Authority, Bihar

6th Floor, Bihar State Construction Corporation Building, Shastri Nagar, Patna-800023

Dated 27th December 2018

Bench of R. B. Sinha and Dr S. K. Sinha, Members of the Authority

Suo Motu Complaint Case No- RERA/NC/183 of 2018

**Authorised Representative, Real Estate Regulatory Authority, Bihar –
Complainant**

V/S

Goal Infratech Private Limited, Khagaul-Danapur Road, Patna- Respondent

Present

**For Authority : Mr Sumit Kumar, Advocate
Ms Shivi, Advocate**

**For Respondent: Mr Manish Kishore, Advocate
Mr Ajeet Kumar Sinha, MD**



27th December 2018

Order

1. The Real Estate Regulatory Authority (RERA), Bihar issued a suo motu show cause notice to M/s Goal Infratech Private Limited (GIPL) in July, 2018 under Sections 35 & 59 of the Real Estate (Regulation and Development) Act 2016 for non-compliance with Section 3 of the Act for non-registration of their ongoing Real Estate Project- Goal City with the Authority while they continued to advertise and make bookings in the project.
2. The Authority also informed the promoter that under first proviso of Section 3 of the Act, all ongoing residential/commercial real estate projects, where completion certificate had not been issued, were required to be registered with RERA by 31st July, 2017 except where the area of land proposed to be developed does not exceed 500 sq mtr or number of apartments proposed to be

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developed does not exceed eight inclusive of all phases. It was further informed in the notice that Section 3 of the Act stipulated that no promoter can advertise, market, book, sale or offer for sale or invite persons to purchase, in any manner, **any plot of land**, 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 their real estate project with the Authority.

3. In the notice, it was pointed out that though several extensions of deadlines were given by the State Government/Authority, the Company has not registered or applied for registration of their ongoing project Goal City with the Authority while they continued to advertise and make bookings in the project in flagrant violation of Section 3 of the Act.

Response of the Promoter :



4. In their response dated 24/07/2018, the Director of the Company claimed that the Company did not deal with construction of apartments/buildings-residential or commercial- in any project and have not taken any advances against the apartment/Buildings in the project. He stated that they buy land and develop it through the provision of electricity, water, road etc and then advertise and sell them to customers on agreed terms and conditions between the consumers and the company. He claimed that accordingly, the section 3 of the Real estate (Regulation and Development) act did not apply to them. The Director also stated that if required, he would give an undertaking to the effect that the company shall not construct any apartment/Building in future without getting registered with the Authority.

5. As the reply of the respondent company was prima-facie not found satisfactory and convincing, the director of the respondent Company was called for personal hearing either in person or through their authorized representative at 11:00 AM on 23th October 2018 in respect of Goal City.

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Hearing on 23rd/ 29th October/2nd November/29th November 2018

6. On the date of first hearing (23rd October 2018), the respondent company was represented by Mr Manish Kishore, Advocate. In the hearing, the Learned Advocate reiterated that they were not constructing any apartments/Buildings as stated in the notice. When he was informed that the sale of plots of land was also covered under the provisions of the Real Estate (Regulation and Development) act 2016, he admitted that the company was in the business of the sale of plotted land. He however claimed that he wasn't doing any business of developer/promoter but of only an agent/Broker. But when confronted with the fact that their advertisement claimed that they would be developing the land before selling it and the very fact that the names of the Project include "City" so as to give an impression that it was not only a sale of plots of land in isolation but fully developed plots with various amenities like electricity, water, roads, etc, the learned Advocate didn't have any cogent response. Since the Company's response was not found convincing as the Authority had proof of advertisement on their website and other real estate websites like magic bricks etc in which even the location and images of roads etc of the Goal City was shown, the learned advocate was directed to submit the Company's incorporation certificate, Audited annual accounts for the last three years including that of 2017-18, Director's report, and the bank accounts statements for the last three years to conclusively proof whether the Company had any ongoing project namely- Goal City and whether they were booking the plots of land/apartments in the project. The Learned Advocate agreed to provide the documents. Accordingly the next date of hearing was fixed on 22nd November 2018.



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7. On 22nd November 2018, a short adjournment was sought, which was granted to. However, in a supplementary reply submitted on the same date, the Director of the respondent company claimed in an affidavit on 22nd November 2018 that they were not running a single ongoing (Commercial/Residential) project. He further stated that no project could be launched by the company since its inception in January 2016 due to non-finalisation of big chunk of land covering large areas. The Company though floated a project named as Goal City but till now has not acquired land for developing a Township. He further claimed that the company has been acting as a broker only in sale and purchase of plots of land and therefore has applied for registration as a Real estate agent with the Authority. He also claimed that even though when they tried to register the project online on the website of RERA, Bihar, they couldn't do it. Accordingly, he requested for exemption from registration with the Authority.



8. In the hearing on the next date i.e. 28th November 2018, the Learned Advocate of the company Mr Manish Kishore informed the Bench that the company was in process of registering the project with the Authority. He further stated that the company was advertising on their website in 2016 prior to enforcement of RERA and since then they had stopped their advertisements on the website. When he was confronted with photographs of the website showing the advertisement till the month of July, 2018 he could not give any cogent response saying that the advertisements couldn't be removed due to technicalities. The Learned Counsel was directed by the Bench to submit the audited annual accounts of the company for the financial years 2016-2017 & 2017-18 and the bank accounts statements for the last three years on the next date of hearing to which he agreed.

9. On the date of next hearing (28th November 2018), the Company was again represented by Mr Manish Kishore, Advocate. The Learned

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Advocate again informed the Bench that they were in process of filing the application online for registration of the project with the Authority. He further informed that the Director of the Company was out of station and all documents required by the Bench would be submitted to the Authority on his return by 4th December 2018. However, on 4th December 2018, the Learned Advocate again sought time for registration of the project and submission of requisite documents. The Bench directed the representatives of the company to register their project and submit all documents within a week. The Company submitted the audited annual accounts of the company for the financial years 2016-17 (without schedules, notes to accounts and part auditor's report) & 2017-18 (without Auditor's report) along with the Bank account statements of State Bank of India (1.10.2016 to 31.03.2018), Corporation Bank (1.8.2016 to 31.03.2018) and Axis Bank (10.02.2016 to 31.03.2018).



10.

In this connection, it is worthwhile to note that the Real Estate (Regulation and Development) Act 2016 was passed by the Parliament in March 2016 and many sections of the Act became operational on 1st May 2016. All sections of the Act 2016 became operational with effect from 1st May 2017. Section 3 (1) proviso 1 of the Act enjoined upon the promoters of all ongoing real estate projects to register their projects with the Authority within a period of three months i.e. 31st July 2017. Government of Bihar extended repeatedly the period of registration of the ongoing projects firstly upto 30th November, then to 31st January 2018, again to 31st March and finally to 30th April 2018. The Real Estate Regulatory Authority (RERA) Bihar have also extended the period of registration of the ongoing projects from time to time and have presently extended it up to 31st December 2018 with levy of late fee charges at prescribed rates. Late fee charges are, of course, not levied on applications for registration of new real estate projects.

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11. In this connection, it may be stated that Goal Infratech Private Limited (GIPL) was incorporated as a company with an equity capital of Rs one lakh on 5th January 2016.

Issues for Consideration

12. There is one issue for consideration before the Bench i.e. whether the respondent company had been advertising for bookings in the a real estate project namely –Goal City on their website or any other real estate websites/newspapers/media without registration of the Project with the Authority.

13. The respondent Company both in their written response and oral deposition claimed that they did not have any real estate project as they couldn't acquire large chunk of land for any Township. However they did not deny that they had been advertising a real estate project- namely Goal City on their website. They however stated that the advertisement from the website was removed after Authority pointed it out. When they were confronted with the photographs of the advertisement still continuing on the facebook account of the company and other websites, they yielded and agreed to register their project. The audited annual accounts of the respondent company for financial years 2016-17 & 2017-18 conclusively confirm that the company had been booking and taking advances against the plots of land since 2016-17. This is also corroborated from statement of bank accounts of the Company in the State Bank of India, Axis Bank and Corporation Bank submitted by the respondent company to the Bench. The respondent company has since applied for registration of their real estate project Goal City with the Authority on 20th December 2018.

14. The books of accounts also confirm expenses of the company on "Advertisement", "Business Promotion", "Commission" etc during FY 2016-17



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& 2017-18 which is further corroborated by the Payments made to real estates websites like Magic Bricks etc as evident from the Bank accounts statements for the period 2016-17 & 2017-18. The Company also did not submit any documentary proof to contradict bookings made or advertisement given or to claim that the said project was of any other developer. It is therefore proved beyond any reasonable doubt that the company has been advertising and booking the plots of land in their projects without registering the projects with the Authority in violation of section 3 of the Act. It was also apparent that the company has given false and misleading information to the Authority, both in written response and oral replies in course of hearing.



Order

15.

Notwithstanding the filing of application for registration of the real estate project- Goal City with the Authority, it is conclusively proved that the respondent company has violated the section 3 of the Real Estate (Regulation and Development) Act 2016 by advertising their project- Goal City on their website/Facebook account along with other websites without registering the project with the Authority. Therefore they need to be penalised under section 59 of the Act 2016 which states that that if any promoter contravenes the provisions of section 3 of the Act, s/he shall be liable to a penalty which may extend up to ten percent of the estimated cost of the real estate project, as determined by the Authority. However considering the fact that the respondent company has already applied for registration of the project, we feel that a token penalty of Rs one lakh may be levied on the respondent company for the violation of section 3 of the Act, with the direction that the company should follow the provisions of the Real Estate (Regulation and Development) act 2016

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meticulously and register their future projects with the Authority before making any advertisements/bookings, as required under the Act.




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Member




Dr S K Sinha 27/12/2018
Member