

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 Sehra Real Estate Developers Private Limited,.....Respondent

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

For the Respondent:- Mr Tripurari Kr , MD, SREDPL

27/02/2019

ORDER

1. The Real Estate Regulatory Authority, Bihar issued suo motu show cause notice to M/s Sehra Real Estate Developers Private Limited, 505, Fifth Floor, Block-B, Patliputra Mall, Exhibition Road, Patna-800001 in December, 2018 for non-registration of their ongoing real estate project "Sehra Towers, New Bypass Road, Behind Patna Central School, Jaganpura Road, Patna. The Respondent Company through their Director Mr. Hemant Kumar submitted the response to the show cause notice on 27 Dec. 2018. Thereafter, hearings was held on 05/02/2019.
2. In the suo motu 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 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 a State, without registering the real estate project with the Real Estate Regulatory Authority (RERA). Promoter of ongoing real estate projects, 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.
4. In their response dated 24th December 2018, the Director of the Respondent Company Mr. Hemant Kumar stated that they had initiated registration process on 01 May 2018 with the USER NAME AARCS2220E but it could not be completed for want of requisite documentation. They had also mentioned that they could not arrange all the documents needed for registration including non-encumbrance certificate (NEC), which was supposed to be provided by the Land owner. He had also requested not to start the proceedings and asked to allow 15 days time to complete the registration process.
5. On the first date of hearing on 05th Feb. 2019, the Respondent Company was represented by Mr Tripurari Kumar, MD. He informed that they have applied online for registration of their Project Sehra Towers on 04/02/2019.
6. There is only one issue for consideration i.e. whether their projects namely; "Sehra Towers, New Bypass Road, Behind Patna Central School, Jaganpura Road, Patna. was an ongoing project 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.

9 Learned Advocate on behalf of the Authority submitted documents which included advertisement given by the Respondent Company on their facebook site with the

photographs showing various stages of the construction of the Project which indicated that “Sehra Towers, New Bypass Road, Behind Patna Central School, Jaganpura Road, Patna under the category of “ongoing” projects.

10 Though the learned representative of the respondent company submitted that they started the project in anticipation that they would register the project with RERA immediately. As the documentation took unexpected time and registration could not be done at that time, it was done inadvertently and they had no malafide intention . Learned representative could not explain as to how it took around 10 months time to file the application for registration and get their Project registered. It is evident from the facts mentioned above that the respondent has violated the provisions of the Act.

Order

11. 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 project, based on the data/information available on their application is only Rs. 1.105 crores, However on the basis of the valuation of land in the adjoining areas and covered area of the Project as applied by the respondent, the total cost is estimated to be around Rs. 10 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 follow the provisions of the Real estate (Regulation and Development) Act 2016 meticulously and register all ongoing/future projects timely. Their Application for registration would be kept pending till they deposit the amount of Penalty.

Sd
(R.B. Sinha)
Member

Sd
(Dr S. K. Sinha)
Member