

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

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

Case Nos. SM/220/2018

Authorised Representative of RERA.....Complainant

Vs

M/s Sri Anu Anand Construction Pvt Ltd.....Respondent

**Present: For the Authority :- Mr Sumit Kumar, Advocate
Ms Shivi, Advocate
For the Respondent :- Mr Mukul Kumar Singh, Advocate**

04/07/2019

ORDER

The Real Estate Regulatory Authority, Bihar, Patna issued two suo motu show cause notices to M/s Sri Anu Anand Construction Pvt Ltd through their Managing Director Mr Bimal Kumar 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 “Sai Residency”, Anisabad, Patna and Sri Nirmal Shakuntala Plaza, Bhikna Pahari, 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.

Under 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 projects “Sai Residency”, Anisabad, Patna and Sri Nirmal Shakuntala Plaza, Bhikna Pahari, Patna with the Authority though they have been advertising and taking advances against the booking made in the project 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.

The respondent did not file any response to the show cause notice issued by the Authority. Accordingly, they were called for hearing on 20/12/2018.

Hearing:

On the first date of hearing i.e. 20/12/2019 no one turned up on behalf of the company for hearing. On the next date of hearing i.e. 09/01/2019 learned counsel for the respondent company Mr Mukul Kumar Singh appeared and claimed that both projects were completed well before RERA came into existence and he would try to submit the completion certificates for these projects. When he was told by the Learned Counsel for the Authority that the authority was in possession of documents/advertisements which indicated that both projects were ongoing on the date of the commencement of the Act i.e. 1st May 2017, learned counsel for the respondent company requested for time which was granted. Again on 17/01/2019 learned counsel for the company prayed for time on health ground which was also granted. On the next date of hearing i.e. 20/02/2019 learned counsel for the company committed that the company shall get both the projects registered with the Authority and submit the report on the next date. However, no one again appeared on 05/03/2019. On

the next date of hearing i.e. 03/04/2019 learned counsel submitted that the company has already applied for registration of one of the projects i.e. Sai Residency and sought time for the second project i.e. Sri Nirmal Shakuntala Plaza. On 30/04/2019 no one appeared on behalf of the respondent company. Hence, they were summoned on 07/05/2019 when again no one appeared. Hence, the Bench levied a cost of Rs 25,000/- for non-appearance before the Bench and directed the respondent company to be present on the next date of hearing i.e. 08/05/2019. Again on 08/05/2019 no one appeared. The Bench therefore, directed the company to file the necessary documents regarding registration of their project.

Issue for Consideration :

The respondent company had tried to mislead the authority by claiming that both projects were completed long ago so as to avoid registration of their two ongoing projects. When confronted with evidence, they agreed to register both the projects and have applied for registration of their ongoing projects “Sai Residency”, Anisabad, Patna and Sri Nirmal Shakuntala Plaza, Bhikna Pahari, Patna on 05/04/2019 and 30/04/2019 respectively. Thus, the respondent company have in essence accepted their contravention of the section 3 of the Act.

Order:

Section 59 of the Real Estate (Regulation & Development) Act, 2016 states that if any promoter contravenes the provisions of Section 3, he shall be liable to a penalty which may extend up to 10% of the estimated cost of the real estate project as determined by the Authority. The total estimated cost of two projects as ascertained from the applications for registration with Authority is Rs5.78 crores. As the promoter has submitted the applications for registration of both projects with the Authority in April 2019, the Bench feels that leniency should be shown to the Respondent Company. Accordingly, the Bench orders that a token penalty of half percent of the estimated cost i.e. Rs 2.89 lakhs (Rupees two lakhs and eighty nine thousands) be levied on the respondent Company, to be paid within sixty days of the issue of this order.

Sd

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

Sd

**(R.B. Sinha)
Member**