

# REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before Full Bench of Mr. Naveen Verma, Chairman,  
Mr. R.B. Sinha & Mrs. Nupur Banerjee, Members

Authorized Representative of RERA

Vs.

M/s Palviraj Construction Pvt. Ltd  
Project: Goa City

24/08/2021

Order

Real Estate Regulatory Authority, Bihar issued show-cause notices to M/s Palviraj Construction Pvt. Ltd through Mr Sanjeev Kumar Shrivastava, Director, on 25.06.2021 as to why the applications for registration of **Project Goa City (Application No. - RERAP08292019121329-4)** filed by the company with the Real Estate Regulatory Authority (RERA), Bihar should not be rejected under Section 5 (1) (b) of Real Estate (Regulation & Development) Act, 2016. The proposed grounds for rejection were that they have submitted the Building plans/Maps of both projects approved by a Mukhiya in October 2016, the validity of which have already expired before submission of the application on 23.9.2020; the map needed to be revalidated after completion of three years as per section 9 of Bihar Building Byelaws, 2014 before October 2019 and that, by that time the project sites had come under the jurisdiction of the Patna Metropolitan Area Authority (PMAA). Hence, the promoter was required to submit the map as revalidated map by the competent Authority. The notice also contended that one of the development agreements of land submitted was not a registered one. The promoter had not furnished the requisite documents/records, despite reminders and hence does not fulfil the

requirement of submission of information/documents as stipulated under the Section 4 of the Real Estate (Regulation and Development) Act 2016 and Rule 3 of the Bihar Real Estate (Regulation and Development) Rules 2017.

Hearing was taken up on 28.06.2021 and 02.07.2021 through video conferencing mode. Mr. Sanjay Singh, learned counsel appeared on behalf of the respondent company. Detailed proceedings have already been recorded and posted on the web site.

The learned counsel of the promoter had submitted that the question of revalidation ought to have been raised on the same date when application was filed; that Mukhiya of Gram Panchayat as the competent authority had sanctioned before PMAA was established in December, 2017 and that the landowners had got the building plans of the project approved by the Mukhiya. Subsequently the promoter submitted the revalidated map of the project which was signed by the Mukhiya.

The Authorised Representative of the Authority had submitted that it was the responsibility of the promoter to submit revalidated sanctioned plans along with their application for registration of their projects; that as per Bihar Building Bye-laws 2014, the map must be revalidated by the competent authority within three years from the date of approval and Mukhiya will not be the competent Authority as the construction sites of the projects have come under the jurisdiction of the Patna Metropolitan Area Authority (PMAA). Further, as the Real Estate (Regulation and Development) Act 2016 had already come into operation with effect from 1.5.2017, the developer of the projects were required to register these two projects within three months of commencement of the Act i.e. by 31<sup>st</sup> July

2017, failing which they were liable to pay penalty under section 59 (1) of the Act.

The Authorized representative of RERA further submitted that query was sent on 06/10/2020 as mandated under Proviso to the Rule 5 (2) of the Bihar Real estate (Regulation and Development) Rules 2017 and that was within a month but the reply was filed by the respondent company after 6 months.

The Authority agrees that after issue of the notification dated 28th October 2016 by the Urban Development and Housing Department (UDHD) for establishment of Patna Metropolitan Area Authority, Mukhiya was not the competent authority to approve the map as of today. The Authority also takes note of the fact that, in any case, the Bihar Panchayati Raj Act 2006 and Rules made thereunder have not yet empowered the Mukhiyas of the Gram Panchayats to sanction the building Plans/Maps of the Multi-storied buildings in the areas covered under Gram Panchayats.

On the issue of the development agreement between the promoter and the landowner not being registered, the learned counsel for the promoter submitted that there was no requirement of submission of registered development agreement in the Real Estate (Regulation and Development) Act, 2016 and the Bihar Rules, 2017.

The Authority observes that Rule 3 (f) of the Bihar Rules states that where the promoter is not the owner of the land on which the development of project is proposed, details of the consent of the owner of the land along with the copy of collaboration agreement, development agreement, joint development agreement or any other agreement with the landlord has to be submitted. It also takes note of section 5 of the Bihar Apartment



Ownership Act which makes it mandatory for every development agreement to be a registered one.

Authorized representative of RERA pointed out that the development agreements were executed by the promoters with the land-owners in July/September 2020 and submitted to the Authority. All development agreements have provided that an architect will be appointed after execution of the development agreement i.e. post July/September 2020, to prepare the building plan/map of the projects.

The Authority takes note of the letter received from PMAA in June, 2021 regarding registration of real estate projects falling within the jurisdiction of the Patna Metropolitan Area, stating that all such projects should be registered by RERA only after approval of the building plans/Maps by the PMAA. This has further been confirmed by the Chief Executive Officer, PMAA in his latest communication dated 11<sup>th</sup> August 2021 regarding revalidation of maps earlier approved by Mukhiyas.

The Authority also takes note of the communication from Additional Chief Secretary, Panchayati Raj Department vide his letter dated 4618 dated 18.8.2021 that the issue of authorizing Gram Panchayats to approve building plans/Maps of the Real estate Projects located outside the planning areas was under the consideration of the Government.

In view of the above the Authority finds that the building plans/ maps have not been revalidated by the competent authority and rejects the application for registration of the Project Goa City. The promoter is directed to refund the deposits of all consumers/allottees along with the interest at the Marginal Cost of Lending Rate (MCLR) of the State Bank of India as applicable for two years or more plus two percent from the date of deposit to the date of refund, within sixty days of issue of the order.

Sd/-

**R.B. Sinha**  
Member

Sd/-

**Naveen Verma**  
Chairman

Sd/-

**Nupur Banerjee**  
Member

FORM 'D'

[See rule 5(2)]

INTIMATION OF REJECTION OF APPLICATION FOR REGISTRATION OF PROJECT

From:

The Real Estate Regulatory Authority, Bihar, Patna

To

Sanjeev Kumar Shrivastva,  
Director  
Palviraj Construction Pvt Ltd  
Patna  
Email Id: **sanjeevoak50@gmail.com**

[Application/Registration] No.: **Goa City (RERAP08292019121329-4)**

Dated: 26.08.2021

You are hereby informed that your application for registration of project Goa City is rejected


For the reasons set out: -

Non-submission of duly approved map by the competent authority as stipulated by relevant sections and rules of Real Estate (Regulation & Development) Act, 2016 and Bihar Real Estate (Regulation and Development) Rules, 2017 respectively, despite reminder. Also you have not submitted registered development agreement of the land on which the project is supposed to come up as stipulated by Section 5 of the Bihar Apartment Ownership Act, 2006.

The Authority also directs you to refund the deposits of the allottees along with interest at the rate of Marginal Cost of Lending Rate (MCLR) of the State Bank of India (SBI) as applicable for two years plus two percent from the date of deposit to the date of refund.

Place: Patna

Date: 26.08.2021

  
26/8/21

Signature and seal of the Authorised Officer  
Real Estate Regulatory Authority, Bihar

**Secretary**  
**Real Estate Regulatory Authority**  
**Bihar, Patna**