

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 Pallavi Raj Construction Pvt. Ltd

Projects: Mumbai Residency/Bollywood Residency AB/Goa City

02/07/2021 PROCEEDING THROUGH VIDEO CONFERENCING

Hearing taken up through video conferencing. Mr. Sanjay Singh, learned counsel has appeared on behalf of the respondent company.

- **Project: Mumbai Residency**

Learned counsel of the respondent company submits that they have filed affidavit as stated during the last hearing and that they are withdrawing the project Mumbai Registration from RERA registration. He further submits that no money from any customers have been received but from investors.

The Authority observed that the respondent company was directed to submit list of consumers related to the projects, on the last date of hearing but it is observed that the respondent company has failed to file a list of consumers from whom money was collected.

The Authority pointed out that MD of the respondent company had filed an affidavit in response to the query dated 06/10/2020 and has submitted accounts details of 12 customers which indicated that Rs. 30.84 lakh was collected from the customers in project Mumbai Residency during the financial years 2018-19 and 2019-2020. The Full Bench therefore orders that the application for registration of the project Mumbai Residency may

be rejected as withdrawn with the directions to the respondent company to refund the deposits of all consumers/allottees along with the interest at the Marginal Cost of Lending Rate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.

- **Project: Bollywood Residency AB/ Goa City Project:**

Learned counsel of the respondent company submitted that he has filed a petition in respect of each project. He further stated that notice dated 25/06/2021 issued by RERA is illegal, should be withdrawn as under the act, RERA cannot issue such notice because the question of revalidation must be raised on the same date when application was filed. He further submits that it has been demonstrated clearly in the petition filed as to why the notice is malafide.

He further submits that earlier Mukhia of Gram Panchayat was the competent authority to sanction the map and both the maps of Bollywood Residency and Goa City are sanctioned by Mukhia of the Gram Panchayat. He further submits that PMAA was established in December, 2017 and since the project's map was sanctioned by the Gram Panchayat before 2017, in that circumstance PMAA will not revalidate the map passed as it is not under their jurisdiction.

The Bench observed that since the validity of plans approved had expired prior to the date of submission of the application for registration of the projects, the respondent company was required to submit valid sanctioned plans along with their application for registration of their projects. When the Bench enquired whether the respondent company had got the revalidated plans for the competent authority or not, the Learned Counsel of the respondent company informed that the respondent

company didn't have the revalidated Maps with them as yet but emphatically claimed that the revalidated Maps of both Projects will be submitted before RERA within two days.

It was pointed out to the learned counsel of the respondent company that as per Bihar Building Bye-laws 2014, the map must be revalidated within three years from the date of approval by the Map and if the plan is being revalidated after expiry of its validity period, in that case Mukhiya will not be the competent Authority. The respondent claimed that the project was ongoing to which the Authorized representative of RERA submits that it was presumptuous to claim that the project was ongoing as there were contradictory facts on the subject.

Learned counsel of the respondent company submitted that Mukhiya of the Gram Panchayat was the competent authority to pass any map or revalidate it before 2017 to which it was pointed out by the Bench that 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. Further, after issue of the notification dated 28th October 2016 by the Urban Development and Housing Department (UDHD) for establishment of Patna Metropolitan Area, Mukhia is not the competent authority to approve the map as of today.

Learned counsel further submits that the issue raised is that of approval of building plans/Maps in 2016 and at that time Gram Panchayat was the competent authority to sanction plan and further assured that they will have a valid revalidation of the map by the competent authority which will be produced before the Authority within two days. He further submits that the landlord started the work on site which was accepted by the RERA

inspection team that the project was ongoing due to which the respondent had to pay penalty/late fee of Rs. 7 Lakhs in Goa City and Rs. 5 Lakhs in Bollywood AB.

The Authorized representative of RERA submits that the respondent filed hardcopy on 23/09/2020, the query was sent on 06/10/2020 that was within a month but the reply was filed after 6 months to which the respondent counsel counters that the objection that was sent by the RERA doesn't talk about revalidation of plan.

The respondent counsel submits that neither any transaction was made in the project nor any compliant has been lodged by the allottees against the respondent company to which the Authority was not convinced and stated that Authority have documents submitted by the promoter which will speak for itself. So far as facts are concerned, these documents submitted by the promoter themselves would prove that hundreds of bookings/transactions were made in these projects, a few of them prior to the date of submission of application in full form.

Learned counsel submits that firstly there is question of revalidation and secondly development agreement with the landlord is not registered. He further submits that Form A, under the rules Clause 5 states 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 but there is no legal requirement of a registered agreement. He further submits that it is very categorically mentioned in the development agreement that the MoU between the landlord and the promoter are promoting the said project as co promoter. Therefore the

registration is not required legally under the act and hence the question can't be raised after two years.

Authorized representative of RERA by quoting Section 3, 4, 5, 6 of the development agreement refuted the claim of the Respondent counsel and stated that all development agreements executed by the promoters with the land-owners in July/September 2020 and submitted to the Authority, do not corroborate with the claim of the respondent counsels that the building plans were approved by the landowners in 2016 and revalidated in 2019 as none of the development agreements have stated so. On the contrary, all development agreements have provided that an architect will be appointed after execution of the development agreement, to prepare the building plan/map of the projects.

Learned counsel of the Respondent company further submits that the Authority has accepted the maps passed by Mukhiya in the past, without any objection in not only in one case but in several other cases. So there is no question of illegality with respect to Map in question.

The Authority pointed out to the learned counsel that they have received a letter from PMAA in June, 2021 regarding registration of projects falling within the jurisdiction of the Patna Metropolitan Area stating that all such projects should be registered only after approval of the building plans/Maps by the PMAA.

After hearing both the parties, the respondent company is directed to submit the revalidated map within two days till then Order is reserved.

Sd/-

R.B. Sinha
Member

Sd/-

Naveen Verma
Chairman

Sd/-

Nupur Banerjee
Member