



REAL ESTATE REGULATORY AUTHORITY, BIHAR

3rd, 4th & 6th FLOOR, BIHAR STATE BUILDING CONSTRUCTION CORPORATION
LIMITED COMPLEX, SHASTRI NAGAR, PATNA-800023.

IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR.

Case No. RERA/SM/179/2018

Authorised Representative of RERA Complainant

Vs.

M/s Sri Ram Construction Respondent

Project: SRI RAM SAURABH COMPLEX

Present: For the Authority: Mr. Rishikesh Rajan, Advocate

For the Respondent: Mr. Suryakant Kumar, Comp. Secretary

ORDER

06/08/2024

This case was last heard on 30.05.2024 and on the prayer of the respondent the matter was directed to be placed for hearing on 06.08.2024 and the Technical Wing was also directed to submit report as to the estimated cost of the project in the meantime. I have heard learned counsel for both the parties.

2. The Real Estate Regulatory Authority, Bihar issued a Suo Motu show-cause notice on 23.07.2018 to the respondent company for contravention of Section 3 of Real Estate (Regulation & Development) Act, 2016 (in short, the RERA Act, 2016) for advertising and taking booking against the project “Sri Ram Saurabh Complex” without registering the project with RERA, Bihar. The promoters were directed to show cause as to why proceeding under Sections 35 & 59 of the RERA Act, 2016 may not be initiated against them.

3. The Respondent filed a reply stating therein as follows:

“As per the complaint notice received in the last hearing dated 07 day of March, 2024 received by M/s Sri Ram Constructions, we state that that Sri Ram Saurabh Complex, Mitra Mandal Colony, Phulwari-sharif, Patna is a residential

building which has been handed over back in 2015. We are providing completion certificate/sale deed attached herewith.

However, on August 8th 2019, the Department of Prohibition, Excise & Registration Department, issued a Circular/Manual vide Circular No. NO-IV/M1-20/2018-2857 stating therein any unit of real estate project registered on or before August 30th, 2018, shall be deemed to be a completed project. And that the restriction to register the rest of the units of the respective project will not apply and therefore, registration under RERA does not apply. The said Circular is attached herewith.

We M/s Sri Ram Constructions aimed at developing and selling of the property by constructing multi-storied residential/commercial complex. We hereby ensure compliance of the Section 3 of Real Estate (Regulation and Development) Act, 2016.”

4. Perused the record. This court observes that the promoters have stated in the reply that the project ‘Sri Ram Saurabh Complex’ is a completed project but they have not attached a copy of the completion certificate. This court further observes that the promoters have evidently advertised their project, namely, Sri Ram Saurabh Complex without obtaining registration from RERA, Bihar. This court further observes that it is evident from the advertisement placed on record that the promoters advertised this project without registration of the project from RERA. It is very much clear from the advertisement placed on record that the same was published in the website of the company, hence, the submission of the respondent that the project Sri Ram Saurabh Complex is a completed project is not established in absence of the completion certificate and other relevant documents. The reference of the aforesaid circular is applicable for the Department of Excise, Prohibition and Registration and the same does not apply in this case.

5. This court takes note that under the first proviso of Section 3 of the RERA Act, 2016 provides that all the ongoing real estate projects were required to register by 31st July, 2017 with the Real Estate Regulatory Authority, Bihar. Further, Section 3 of the Act provides that no promoter shall 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) established under this Act.

6. The term 'Advertisement' has been defined in Section 2(b) of the 'RERA Act, 2016' as follows:

“Advertisement means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes.”

7. Thus this court holds that the respondents have advertised their project and thereby violated the provisions of Section 3 of the RERA Act, 2016.

8. In the light of the observations made above, it is established that the respondent company has contravened the provisions of Section 3 of the RERA Act, 2016 by not registering their project, namely, Sri Ram Saurabh Complex with the RERA, Bihar this court has no other option but to levy a penalty as per Section 59(1) of the RERA Act, 2016. Since the respondent has not declared the estimated cost of the project land and the Technical Wing of the Authority has also not submitted the estimated cost of the project, hence, this court levy a token penalty of Rs.5,00,000/- (Five Lacs) which is less than 1% as per the MVR prevailing in the area of the land. This amount is to be paid by the respondent company within sixty days of the issuance of this order. Non-compliance with this directive will result in auction under Section 59(2) of the RERA Act, 2016.

9. With the aforesaid observations and directions, the matter is disposed of.

Sd/-

(Amrish Kumar Tiwari)
Adjudicating Officer