



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/231/2018

Authorized Representative of RERA Complainant

Vs.

M/s Apna Ashiana Homes Pvt. Ltd. Respondent

Project: MODERN CITY, FATEHPUR

Present: For the Authority: Mr. Abhinay Priyadarshi, Advocate

For the Respondent: Mr. Jai Ram Singh, Advocate

ORDER

10/09/2024

This case was last heard on 09.08.2024 and the matter was fixed for orders on 10.09.2024. Mr. Abhinay Priyadarshi, learned Legal Representative, appeared and defended the case of the complainant, but no one appeared on behalf of the respondent on 09.08.2024. Today when the case is taken up for orders Mr. Jai Ram Singh, learned counsel appears and defended the case of the respondent.

2. Learned counsel for the respondent submits that this case is not maintainable as the project in question has never come in existence. It was the proposed project of the respondent company but the same had been postponed. He further submits that no booking was made against the said project but no reply has been filed on behalf of the promoter. He lastly submits that considering his submission this court may please to dispose of this case taking a lenient view on the basis of materials available on record.

3. This case was initiated against the project Modern City, Fatehpur which was advertised and bookings were made by the respondent without registration of the project, for which a suo motu notice was issued to the respondent on 19/20.11.2018 to show cause as to why proceedings under Sections 35 & 59 of the Real Estate (Regulation and Development) Act, 2016 (in short, the RERA Act, 2016) be not initiated against the

company and its Directors/official for non-compliance of the provisions of Section 3 of the RERA Act, 2016.

4. It is to note that during the proceeding dated 08.04.2024 learned counsel for the respondent prayed for time to enable him to file reply, which was granted but the respondent neither appeared nor filed any reply on the next date. It is to further note that before the Authority also the respondent did not appear. Hence, this Court left with no option but to proceed for disposal of the case on the basis of material available on record after hearing the Legal Representative of the Authority fixed this case for orders on 10.09.2024. When the case was taken up for orders on 10.09.2024 learned counsel for the respondent appeared and defended the case of the respondent without any supporting document or affidavit that the aforesaid project never came in existence and no booking was made against the same.

5. 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. In view of the aforesaid facts and the perusal of the material available on record, it is clearly evident that the respondent company has contravened the provisions of Section 3 of the RERA Act, 2016 by not registering the project with the Real Estate Regulatory Authority, Bihar. Hence, this court on the basis of the materials available on record considering the submission of learned counsel for the respondent that this

court may take a lenient view, is levying a penalty of Rs.10,00,000/- (Rupees Ten lac) only upon the promoter, namely M/s Apna Ashiana Homes Pvt. Ltd., as per Section 59(1) of the RERA Act, 2016 on the basis of the MVR of land prevailing in the area. The Authority directs the respondent company and its Director/s to pay the penalty amount within 60 days of the issuance of the order and to get the project Registered with RERA, Bihar. This court further directs the respondent to remove all the advertisement of the project namely Modern City, Fatehpur from all mediums within a fortnight.

8. The respondent – promoter M/s Apna Ashiana Homes Pvt. Ltd., is directed to comply the order within 60 days, failing which further action under Section 59(2) of the RERA Act, 2016 would be taken against the promoter.

9. The matter is, accordingly, disposed of.

Sd/-

(Ambrish Kumar Tiwari)
Adjudicating Officer