



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/448/2020

Authorised Representative of RERA Complainant

Vs.

M/s SWO India Ltd. Respondent

Project: 1. KARGIL VEER AWAS, DANAPUR

2. KARGIL VEER AWAS-II

3. VEER AWAS, GAYA

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

For the Respondent: Mr. Jai Ram Singh, Adv.

ORDER

03/09/2024

This case was last heard on 12.08.2024 and it was put up for orders on 03.09.2024. Mr. Abhinay Priyadarshi, learned Legal Representative, appeared and defended the case of the complainant. Mr Jai Ram Singh, learned counsel appeared and defended the case of the respondent.

2. This case was initiated against the projects namely, Kargil Veer Awas, Danapur, Kargil Veer Awas – II & Veer Awas, Gaya which were 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 27.02.2020 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.

3. Learned counsel for the respondent submitted that all allotment of plot of the project and registration of their sale deeds were

made much prior to the commencement of the RERA Act, 2016. Hence, on this ground alone this case is not maintainable.

4. 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.

5. 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.”

6. It is to note that vide proceedings dated 03.06.2024 the court directed the respondent to file petition enclosing the supporting documents that the sale deeds had already been executed prior to the enforcement of the RERA Act, 2016 but the respondent failed to file the supporting documents. Again vide proceeding dated 12.08.2024 the respondent was directed to file copy of the sale deed, if any, executed prior to the enactment of the RERA Act, 2016 positively before the date of the order, failing which order would be passed on the basis of materials available on record and in compliance of the said direction learned counsel for the respondent has filed a list of documents on 14.08.2024 enclosing the sale deed dated 20.07.2012, executed by SWO India Ltd. in favour of Jitendra Kumar Singh, sale deed dated 12.12.2012 executed by SWO India Ltd. in favour of Shiv Balak Prasad Yadav, Sale deed dated 20.07.2012 executed by SWO India Ltd. in favour of Rajesh Kumar Singh and sale deed dated 20.07.2012 executed by SWO India Ltd in favour of Subod Kumar Singh.

7. Perusal of the records it appears that the submission of learned counsel for the respondent that the present case is not maintainable

because sale-deeds were executed much prior to the commencement of the RERA Act, 2016 is correct.

8. In view of the aforesaid facts and considering the submission of learned counsel for the respondent this court observes that the present suo-motu case is not maintainable because the sale deeds regarding the said projects had already been executed much prior to the commencement of the RERA Act, 2016. Hence the proceeding initiated in the present case vide show cause notice dated 27.02.2020 for violation of Section 3 of the RERA Act, 2016 is being dropped against the aforesaid projects.

9. This case is accordingly disposed of.

Sd/-
(Ambrish Kumar Tiwari)
Adjudicating Officer