

REAL ESTATE REGULATORY AUTHORITY, BIHAR

In the Court of Adjudicating Officer

Case No: RERA/SM/474/2021

Authorised Representative of RERA

...Complainant

Versus

M/s Sarita Sharda Construction Pvt. Ltd.

...Respondent

Project: Parivar Sadan Apartment, Darbhanga/Girija Residency/ Achintyo Archana Apartment/ Girijanand Niwas.

Present: For Authority: Shri Abhinay Priyadarshi, Authorized Legal Counsel.

For Respondent: Mr. Krishna Kumar, Advocate

12.09.2024

ORDER

The matter was last heard on 27-08-2024. Learned counsel for Authority along with Learned Counsel for Respondent company were present. However, during last few proceedings, no one appears on behalf of respondent.

The Real Estate Regulatory Authority, Bihar issued a Suo Motu show-cause notice on 18.03.2021 to the respondent company for contravention of section 3 of the Real Estate (Regulation & Development) Act 2016 by advertising and taking booking in the projects Parivar Sadan Apartment, Darbhanga/Girija Residency/ Achintyo Archana Apartment/ Girijanand Niwas without registering the project with RERA, Bihar. The promoters were directed to show cause as to why proceedings under Sections 35& 59 of the Real Estate (Regulation & Development) Act 2016 may not be initiated against them.

The respondent filed a reply stating that all the projects were launched and advertised prior to the enactment of the Act. It has been further submitted that except the project “Paribar Sadan and Girija Residency”, the other project was withdrawn and closed due to some difficulties. Therefore, respondent may seeks apology for that.

Perused the record. The Authority observes that advertisements placed on record established that the promoters have evidently advertised their projects namely Parivar Sadan Apartment, Darbhanga/Girija Residency/ Achintyo Archana Apartment/ Girijanand Niwas without obtaining registration from RERA, Bihar. Moreover, submissions of respondent cannot be relied on as same is not substantiated by any documents like completion certificate etc.

The Authority takes note that under the first proviso of Section 3 of the Act, 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 can 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 projector 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.

The term Advertisement has been defined in the section 2 (b) of the Act 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 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.”

Thus, the Authority holds that the respondents have advertised their projects and thereby violated the provisions of Section 3 of the Real Estate (Regulation & Development) Act, 2016.

In the light of observations made above, it is established that respondent company has contravened the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016 by not registering their projects namely Parivar Sadan Apartment, Darbhanga/Girija Residency/ Achintyo Archana Apartment/ Girijanand Niwas with the Real Estate Regulatory Authority, Bihar, the Authority has decided to levy a penalty as per Section 59(1) of the RERA Act, 2016. Since, the respondent has sought apology, hence, considering the MVR prevailing in the area of the projects land, the Authority levy the penalty amount of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand) which is less than 1% of the total estimated cost of the project. 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 action under Section 59(2) of the RERA Act, 2016.

With these observations and directions, the matter is disposed of.

Sd/-
Ambrish Kumar Tiwari
A.O.