REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Hon'ble Chairman Mr. Vivek Kumar Singh, RERA, Bihar.

RERA/SM/526/2022

Authorised Representative of RERA .... Complainant

Vs

M/s Assent Star Infrastructure India Pvt. Ltd. .... Respondent

Project: **SOMESHWAR RESIDENCY**

Present: For Complainant: Mr. Rishikesh Rajan, Legal Representative of RERA

For Respondents: None

13.11.2025 **ORDER**

1. Hearing taken up. Learned legal representative Mr. Rishikesh Rajan appears on behalf of the RERA. Nobody appears on behalf of the respondents even though they have been granted time to appear and submit their responses.

2. As the respondents have been given due opportunity and have also been given chance to furnish their response, they have failed to do so. The proceeding cannot be left to drag on indefinitely.

3. The present proceeding has been initiated against the respondent-promoter under Section 35 and Section 59 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"), for the non-registration of the project **SOMESHWAR RESIDENCY**. Accordingly, a notice dated 02.08.2022 was issued to the respondent by registering a suo motu case, seeking an explanation.
4. The aforementioned notice and case was initiated based on material available on record which indicated prima facie contravention of the provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"). The evidence placed on record against the respondent for the violation of Section 3 of the Act includes brochure, advertisement on circulated over various intermediaries platform etc.
5. The respondent-promoter neither appeared nor submitted any reply to the notice dated 02.08.2022. Accordingly, in

compliance with the principle of audi alteram partem, the Authority issued multiple notices to the respondent for appearance during the course of hearings scheduled on 30.08.2022, 14.02.2023, 25,04.2023, 19.06.2023/29.08.2023, 26.09.2023, 27.08.2025, 27.08.2025. However, the respondent failed to appear on each of these occasions. In view of the continued non-appearance and to avoid keeping the matter pending for an indefinite period, the Authority proceeded to hear the matter ex parte, based on the material available on record, which prima facie indicated a violation of the provisions of the Act.

6. The Legal Representative of the Authority submitted that, based on the advertisements placed on record, the respondent-promoter has violated Section 3 of the Real Estate (Regulation and Development) Act, 2016 ("the Act") by failing to register the project with the Authority. It was further submitted that the respondent has also contravened Section 14 of the Act, as the promoter has not constructed the project in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities and the same is also evident from the technical report available on record.
7. The Authority notes that the Hon'ble Apex Court in several cases has reiterated and settled the proposition of law that when several notices have been served on the respondent and party still chose not to appear, it would be assumed that they have waived their right to be heard. For the same reason, the Authority had no option but was compelled to proceed with the matter ex parte. Considering the fact that the case is running from the three years, there appears no reason to delay the matter further. Accordingly, the Authority is constrained to pass order in the instant case on the basis of the document and evidences available on record.
8. Perused the record and submission.
9. It is to be observed that Section 3(1) of the Real Estate (Regulation and Development) Act, 2016 ("RERA Act") along with the definition of "advertisement" under the Act, provides as follows:

    The term "advertisement" encompasses any document described or issued as an advertisement through any

medium. This includes but is not limited to notices, circulars, pamphlets, brochures, or any other form of publicity intended to inform the public or potential buyers about a real estate project. It specifically includes materials that offer for sale or invite persons to purchase, either plots, buildings, or apartments, or solicit advances, deposits, or any form of payment for such purposes.

Further, the same Section 3(1) of the RERA Act *mandates 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, in any real estate project or part thereof, within any planning area, without first registering the real estate project with the Real Estate Regulatory Authority established under the Act.*

10. A bare perusal of above mentioned provisions and materials clearly establishes that the promoter in question has violated the statutory requirements set out under the RERA Act. Consequently, the promoter's actions amount to a clear breach of Section 3(1) of the RERA Act, attracting the penalties and remedial measures prescribed under the legislation.

11. The actions of the respondent not only constitute a violation of the aforementioned provisions of the Act but also undermine the very object and purpose for which the statute was enacted. The act of circulating promotional material and offering the project to the public at large without obtaining registration is a deliberate and purposeful attempt to bypass the regulatory framework established under the Act. Such conduct not only diminishes the authority and credibility of the Regulatory Authority but also reflects an intention to derive economic benefit by circumventing the mandatory compliance requirements laid down under the Real Estate (Regulation and Development) Act, 2016 and prejudices the interests of allottees. Both the fact cumulatively establishes the violation of Section 3 and 14 of the Act by the respondent with respect to the project in question.

12. The Technical Report placed on record reveals the existence of the project land, along with evidence of construction and development activity. The report further states that the total area of land, measuring approximately 3,228 sq. meters, situated at Road No.5, Vijay Nagar, Near

Patliputra Station, Patna-800025, was advertised as part of the Project.

13. The submissions made, along with the material placed on record and the report of the Technical Wing, collectively establish that the project *Someshwar Residency, Patna* was advertised for sale across various platforms without obtaining the mandatory registration, in contravention of **Sections 3** and also **section 14** by not developing the project in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities. Consequently, such violations attract penalties under **Sections 59(2)** and **61** of the Act.

14. The scale of the property mentioned in the advertisement given, a penalty of Rs. 10 lakh would be appropriate and within the penalty ceiling amount as prescribed by the RERA Act, 2016. In case the respondents feel that the penalty amount levied is more than the 10% value of the property and estimated cost of the project, they are at liberty to approach the Authority.

15. As of now, as per the documents and evidences available on record, a penalty of Rs. 10 lakh is imposed upon the respondents under Section 59(1) of the Act. A further penalty of Rs. 10 Lakh is imposed under Section 61 of the Act for violation of Section14 of the Act.

16. The penalty amount of Rs. 20 lakh, as mentioned above, shall be paid by the respondent company within sixty (60) days from the date of issuance of this order. Failure to comply with this direction will attract further action under Section 59(2) of the Real Estate Regulation and Development) Act, 2016.

17. The Authority further directs the respondents to remove all the advertisements of the projects mentioned above from all mediums within a fortnight.

With the above direction, this matter is disposed of.

Sd/-

(Vivek Kumar Singh)
Chairman