

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Mr. Ved Prakash, Special Presiding Officer

Case No: RERA/SM/311/2018 & RERA/SM/345/2019

Authorized Representative of RERA

...Complainant

Versus

M/s. Avinash Infrastructure Pvt. Ltd.

...Respondent

Project: Divyanjali Apartment

Present: For Authority: Shri Ankit Kumar, Advocate.

For Respondent: Shri Sumit Kumar, Advocate.

19.06.2025

ORDER

1. The Hon'ble Chairman of the Authority during the hearing on 26.05.2023 has noted that since both the cases SM/311/2018 and SM/345/2018 pertained to same project Divyanjali Apartment ,hence he directed to merge/amalgamate to both records for purpose of the hearing and disposal.
2. The Real Estate Regulatory Authority, Bihar, issued a Suo Motu show-cause notice on 18.12.2018 vide letter no: RERA/NC/788 & 28.01.2019 vide letter no-RERA/NC/43 to the respondent company through it's Director Mr. Manindra Nath Mishra for advertising the project Divyanjali Apartment without prior registration with the Authority and thereby contravening the provisions of Section 3 of the Real Estate (Regulation &Development) Act, 2016. The promoter was directed to show cause as to why proceedings under Sections 35 and 59 of the Real Estate (Regulation & Development) Act, 2016, may not be initiated against them.
3. The learned counsel for the promoter, by filing a reply dated 21.07.2023,18.04.2024 & 19.08.2024 submits that the map of the project was sanctioned in the year 06.04.2012 vide plan case No.CA/91/14391/04- 2009/DNR-33Dated 06.04.2012. Later on the Map was revised by the competent Authority as the respondent promoter has increased the floor plan of the project from G+4 to G+5 vide plan case No.P-Dhanaut /PRN{G+5}281 DNR/111212dated11.12.2012 and the said project was completed and completion certificate by the promoter was

submitted before the competent Authority on 17.01.2017 and handed over to the purchasers/allottees in the year 2017. He further submits that stamped completion certificate could not be filed because it was misplaced in the file of other documents which is being submitted now.

4. The learned counsel for the promoter also submitted a copy of the electricity connection bearing in the name of Sri Sanoj Samar, S/o Ram Nath Prasad, Divyanjali Apartment, Gola Road, Patna.
5. Learned counsel for the promoter further submits that the Hon'ble Authority has taken cognizance against the project Divyanjali Apartment on basis of application for registration of the project RERAP55201800369-1 dated 16.5.2019, wherein the respondent by mistake mentioned the name of present project in category of ongoing project, which was later on rectified by the respondent company. He further submits that the said mistake was done due to confusion regarding definition of ongoing in RERA perspective as no where in the RERA Act 2016 the word Ongoing is defined. He further submits that though the project was completed prior to 01.05.2017, but one flat was sold in August 2017, which is legally allowed by the RERA Act 2016 and circular issued by the Authority.
6. Learned counsel for the respondent further submits that the cognizance was further taken by the Authority on basis of complaint case filed by the land owner Smt. Sudivya Devi against the project with respect to reliefs quality of electrical fittings, wooden materials sanitary fittings tiles and windows, but the project was already completed before 1st May 2017.
7. Learned counsel for the Authority submits that completion certificate filed on the record by the respondent bears the seal as well as signature of any official of Danapur Nagar Parishad and it has also signature of complainant cum land owner Sudivya Devi and it has been submitted in Form X11 on 15.01.2017.
8. Perused the record. The respondent has filed notice of Completion of the project submitted in Form XII before the competent Authority Danapur Nagar Parishad on 15.01.2017 and it bears the seal as well as signature of an official of Nagar Parishad and land owner has also put her signature. Promoter has

also filed an agreement for distribution of share of additional portion constructed at 5th floor executed between land owner and promoter on 22.06.2018, wherein the land owner is allotted flat No.502 and promoter is allotted 501. The land owner has also put her signature on the said share distribution deed. The promoter further filed electricity bill dated 22.05.2016 of a consumer with respect to the project Divyanjali Apartment.

9. RERA Technical team has visited on site of the project on 04.11.2023 and submitted report that the project Divyanjali Apartment seems to be completed. The team has further reported that land area of the project was only 376.20 Square Meter and there were 8 flats (G+4), but two flats were on top floor, which may be illegal, but I have seen that the promoter has claimed in share distribution deed dated 22.06.2018 that the flats were constructed after approval from Competent Authority and these were distributed between both the parties amicably.
10. Hence on going through the records and considering the facts and circumstances, the Bench agrees with the submissions of the respondent company that the project Divyanjali Apartment was completed prior to the enforcement of the RERA Act 2016 on 01.05.2017 and they have not violated the provisions of Section 3 of the RERA Act, 2016. Accordingly the Suo-Motu notice dated 18.12.2018 & 28.01.2019 is hereby dropped.

With these observations, both the cases are disposed of.

Sd/-
Ved Prakash
Special Presiding Officer