



REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/SM/458/2020

Authorised Representative of RERA ... Complainant
Vs
M/s Devnagri Green City Pvt. Ltd.Respondent

Project: **SHIV VIHAR (PHASE-I), NAUBATPUR, PATNA**

Present: For Complainant: Mr. RishikeshRajan, Advocate
For Respondents : Mr. Punit Kumar, Advocate

23-07-2025

ORDER

1. The background of the case is that on 16.01.2024, RERA, Bihar passed an order whereby the contravention of Section 3 of the Real Estate (Regulation & Development) Act, 2016 by the respondents was found to be proven and a penalty of Rs.50,00,000/- (Rupees Fifty Lakh) was imposed upon them as a consequence.
2. The said order was challenged before the Hon'ble High Court in CWJC No.6906 of 2024. After hearing the pleadings in the said writ petition, the Hon'ble High Court on 15.05.2024 passed the order remanding the matter back to the Authority for giving due opportunity of hearing to the respondents. Accordingly, the matter was again taken up by the Authority.
3. Heard the parties. Perused the record. In reply to the show cause issued to the respondents, the main thrust of the respondents was that they were agents in the matter, and not the promoter. The respondents informed that the project, namely, Shiv Vihar,Phase -I never came up but its advertisement kept on appearing through newspapers and brochures. The respondents through their show cause, passed the buck upon some technical operator, for this alleged unauthorised advertisement. They have in their show cause prayed that as the project was non-existent, therefore, the provisions of Section 3 of the Real Estate (Regulation &Development) Act, 2016 were not attracted in this case. The respondents have also pleaded that the penalty imposed upon them was not based upon ground reality.
4. In support of their contention with regard to the penal amount, the respondents have referred to the decisions of the Hon'ble Supreme Court in the cases of *Trustees of H.C. Dhanda Trust Vs. State of Madhya Pradesh in Civil Appeal Nos. 3195-3196 of 2020*;

2019 (3) Supreme Court Cases 788 (*Gangatappa and anr. Vs. Fakirappa*) and also AIR 1970 SC 253 (*Hindustan Steel Ltd. Vs. State of Orissa*). In response to the show cause filed by the respondents, learned legal representative of RERA through his rejoinder asserted that contrary to the respondents' contention that the project, namely, Shiv Vihar, Phase-I had never materialized, and that all advertisements had been stopped, the Authority had noticed that the respondents were still advertising the project at the project site. The evidence of the project was available on the project site, as per the RERA representative.

5. The legal representative of RERA further submits that the respondents have obtained RERA Agent registration bearing No. BRERAA50941/218/A-235/2019 dated 23.09.2019 with malafide intention of deceiving the potential buyers. He averred that the respondents' actions appear to be aimed at exploiting the lack of awareness among the prospective buyers regarding the distinction between a RERA project registration certificate and a RERA Agent certificate. This conduct suggests a deliberate attempt to mislead and defraud the buyers into believing that the proposed project in fact was registered with the RERA, while in reality, it was not. He further submits that the respondents had misrepresented the facts in his reply to evade responsibility. The ongoing advertisement of the project, despite the respondents' claims to the contrary, indicates a clear intent to allure the home buyers under a false pretext and hence, it was a clear violation of Section 3 of the RERA Act, 2016.
6. During the course of hearing, learned counsel for the respondents also submitted that a complaint was filed by them with regard to the unauthorised advertisement but its filing as late as on 12th July, 2025 obviously dilutes the intent and content of the case (as the matter pertains to violation of advertisements long time back since 2021-22).
7. The respondents have filed an objection to the rejoinder dated 13.02.2024, asserting that the said project never materialized, as it was situated outside the designated planning area and that all negotiation with the concerned landowners had been subsequently called off. In support of this contention, the respondent has relied upon the order passed by the Appellated Tribunal in REAT Appeal No. 65 of 2022.
8. Furthermore, the respondent submits that the only lapse on their part related to the display of the said project on a third- party website. This, they claim, resulted from a technical error attributed to a former sales operator. The respondents offered an apology and maintained that there was no willful or intentional violation of Section 3 of the RERA Act on their part.

9. The technical report along, with geo-tagged picture to the project land in was placed on record by the RERA. From the technical report it transpires that there were actually five types of plots which were advertised to be sold. The details of type of plot and number of plot are mentioned below:-

Type of plot	No. of Plot	Size of each plot (Sq. Ft.)	Total area (sq. ft.)	Rate of each plot (Rupees)	Total estimated cost of project of each type (Rupees)
Type-A	192	2400	4,56,000	22,80,000/-	43,77,60,000/-
Type-B	36	2000	72,000	19,00,000/-	6,84,00,000/-
Type-C	92	1800	1,65,600	17,10,000/-	15,73,20,000/-
Type-D	354	1200	4,24,800	11,40,000/-	40,35,60,000/-
Types-E	142	900	1,27,800	8,55,000/-	12,14,10,100/-

10. The estimate cost of the project comes to Rs. 118.85 crores which seems reasonable, given the number of plots and the total area involved. The penal amount proposed earlier was obvious much less than 10% of the total cost, which is permitted to be charged under the provisions of RERA Act.
11. The other defence of the respondents that they were mere agents and not promoters in the case has been controverted by learned legal representative of the RERA. It has been specifically mentioned that the respondents obtained RERA Agent Registration bearing BRERAA50941/218/A-235/2019 dated 23.09.2019 with mala fide intention of deceiving potential buyers. The respondents' actions appear to be aimed at exploiting the ignorance of the prospective buyers regarding the difference between RERA project registration certificate and RERA Agent certificate. This kind of mischievous and fraudulent act by some unscrupulous registered agents have duped the prospective home buyers for quite some time, and, therefore, strong deterrent action needs to be taken.
12. The Legal Representative also drew the attention of the Authority about recent field inspections made by RERA Team in association with District Administrations in Chapra, Bhagalpur and Purnea where similar instances of fraudulent transactions had been reported. Owing to this fraudulent act of some registered agents, RERA has been constrained to recently issue regular advertisement in both newspapers and radio, so that the prospective home buyers are not duped by unscrupulous agents wearing the garb of promoter. In order to deter similar mischief in the future, this needs to be dealt with heavy handed.

13. The term Advertisement has been defined under Section 2(b) of the Real Estate (Regulation and Development) 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 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.”*
14. The brochure, submitted on record in the form of an advertisement, clearly establishes that the respondents actively promoted its project, *Shiv Vihar (Phase-I), Naubatpur, Patna*, by not only offering units for sale but also by highlighting various reasons to invest in the project. Such promotional activities, undertaken without prior registration as required, constitutes a violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016. Consequently, the advertisement in question falls squarely within the definition provided under Section 2(b) of the Act.
15. The respondents have failed to produce any credible or substantive evidence to rebut the findings recorded by this Authority in its order dated 16.01.2024, or to justify the brochure placed on record in the form of an advertisement promoting the unregistered project *Shiv Vihar (Phase-I), Naubatpur, Patna*. The defense advanced by the respondents—particularly their claim of acting merely as agents and not as promoters—stands clearly contradicted by the material on record, especially their conduct and the misuse of their RERA Agent registration to mislead the prospective buyers. The respondents has actively promoted the sale of plots in a project that was not registered with this Authority, thereby violating the provisions of Section 3 and Section 10 of the Real Estate (Regulation and Development) Act, 2016. Furthermore, by falsely representing themselves as promoters, the respondent has engaged in unpardonable acts of misrepresentation and unfair trade practices, in contravention of Section 10(c) and Section 65 of the Act. The actions of the respondent constitute a grave breach of the duties and responsibilities imposed on registered real estate agents and have materially misled the general public and potential allottees.
16. The technical report placed on record including geo-tagged images of the site, signage boards, and a detailed categorization of plots in support of the brochure clearly establishes the fact

that the project was being marketed and promoted in a structured and commercial manner. This directly attracts the applicability of Section 3 of the Real Estate (Regulation and Development) Act, 2016. The respondent's plea challenging the technical report is devoid of any substantive averments or credible evidence to demonstrate that the contents of the report is imaginary. Accordingly, the objections raised by the respondent are baseless and devoid of merit.

17. The respondents' attempt to shift blame onto unnamed technical operators or attribute the issue to cyber interference appears to be an afterthought, given that the promotion and advertisement in question date back to 2021-22 and continued even after the issuance of the show cause notice, as reported by the Technical Report and geo-tagged images of the site and signage boards. The filing of a cyber-complaint on 12.07.2025, at such a belated stage, much after the passing of the Hon'ble High Court Order dated 15-05-2024, does not inspire confidence and appears to be a deliberate effort to delay and derail the regulatory proceedings. Furthermore, the apology tendered seems to be a feeble attempt to seek leniency on the penalty amount, despite the evidence on record being contrary to the plea.
18. The other pleas advanced by the respondents, whether in their reply or in their objection to the rejoinder, are devoid of any merit and are therefore rejected.
19. The Authority is of the considered view that the actions of the respondent constitute a violation of the mandatory requirement of prior registration of the project under Section 3 of the Real Estate (Regulation and Development) Act, 2016. The respondent's attempt to misuse the distinction between registration as a RERA Agent and the obligation to register the project separately further aggravates the seriousness of the contravention. Such conduct not only undermines the intent of the statute but also attracts penal consequences as provided under Section 59 and other applicable provisions of the Act, which include initiation of criminal proceedings. Accordingly, the Authority, taking note of the misuse of the certificate granted under Section 9 of the Real Estate (Regulation and Development) Act, 2016 and Rule 10 of the Bihar Real Estate (Regulation and Development) Rules, 2017, directs initiation of appropriate criminal proceedings against the respondent before the Chief Judicial Magistrate, Patna
20. It is further established that the respondent company has contravened the provisions of Section 3 and Section 10 of the Real Estate (Regulation and Development) Act, 2016. Accordingly, for contravening the said provisions and in

consideration of safeguarding the interests of genuine homebuyers and to safeguard the objective and spirit envisaged under the RERA Act, the Authority hereby imposes a penalty of Rs. 60 lacs in accordance with Section 59(1) of the Act, which is less than 1% of the estimated cost of the project.

21. The Authority further imposes an additional penalty of Rs. 15 lacs on the respondent company for contravention of Section 9 and Section 10 of the Act, in accordance with Section 62 and Section 65 of the Act.
22. The total penalty amount, 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.
23. The Authority further directs the office to issue a letter to the I.G. Registration, Bihar to issue letter to all the concerned DSRS's / Sub-Registrars of Patna to impose a blanket ban on execution of sale deed for the project namely SHIV VIHAR (PHASE-I), of the respondent - M/s Devnagri Green City Pvt. Ltd.
24. The Authority also directs that proceedings be initiated against the respondents under Section 9(7) of the Real Estate (Regulation and Development) Act, 2016 for the aforesaid violations.
25. The matter, as detailed above, points to financial irregularities committed by the respondents through the sale of plots and offer of sale of plot to potential buyers based on false identity, i.e. misusing of the RERA Agent certificate by masquerading themselves as promoters. The Authority directs the office to forward a copy of this order, along with all available evidence on record against the respondent, to the Enforcement Directorate Govt. of India and Economic Offences Unit, Bihar. They may, if they deem fit, consider an enquiry into the transactions carried out by the respondents, (given the possibility of misappropriation of funds, which might have taken place and which may require a deeper investigation).

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

Sd/-
(Vivek Kumar Singh)
Chairman