

REAL ESTATE REGULATORY AUTHORITY, BIHAR

**Before the Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh, RERA,
Bihar**

RERA/SM/681/2025

Authorised Representative of RERA

.....Complainant

Vs

M/s Shiv Kanha Engicon Pvt. Ltd.

.....Respondent

Project: Big Dream

Present: For Complainant: Mr. Rishav Raj, Advocate
For Respondent: Mr. Jai Ram Singh, Advocate

15/10/2025

ORDER

1. Hearing taken up. Mr. Rishav Raj, learned counsel for the complainant/ Authority is present. Mr. Jai Ram Singh along with Mr. Raju Kumar, learned counsel for the respondent is also present.
2. 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 "Big Dream". Accordingly, a notice dated 08-04-2025 was issued to the respondent by registering a suo motu case, seeking an explanation.
3. 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 which were evidently circulated with the intent to invite potential buyers without obtaining the requisite registration under the Act.
4. The Legal Representative of the Authority submits 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.

5. Learned counsel for the respondent filed its reply and submits that it is a fact that the said project has been advertised but the following points need to be taken into consideration:

- (i) The Advertisement was done two years earlier when the said area was out of the planning area. However, on the present day the said area has been incorporated in the planning area, Sonapur;
- (ii) The area of the said plot which was advertised is only 2 katha 4 dhur. Since 1 katha is equivalent to 1620 sq.ft. in Saran District, hence on calculation it is found to be less than 500 sq.m. and therefore, it is out of the purview of the RERA Act, 2016.

On being enquired whether the said advertisement exists on the present day or not, he admits that the said advertisement was existing on his own website but has been removed after initiation of the present case. Again on being enquired, as to how it could be confirmed whether the advertisement pertains to the area less than 500 sq.m., he was unable to justify the same.

6. Learned counsel for the respondent submits further that the planning area through is in existence but still the process regarding approval of the same is not functional and hence, he requests for exoneration as far as imposition of penalty is concerned.
7. The Legal Representative for the Authority refuted the submissions made by the respondent and, referring to the advertisements available on record, submitted that the advertisements themselves indicate that the project comprises multiple plots — specifically, 108 plots measuring 2400 sq. ft. each, 258 plots measuring 1800 sq. ft. each, and 298 plots measuring 1200 sq. ft. each. The total area of the project,

therefore, clearly exceeds 500 square meters, thereby attracting the mandatory requirement of registration under Section 3 of the Act.

8. Furthermore, it was brought to the notice of the Authority by the Legal Representative that Sonpur, the location of the subject project, was notified as a "planning area" by the Urban Development and Housing Department of Bihar vide notification dated 28.03.2023. The *suo motu* proceedings in this matter were initiated on 08.05.2025, subsequent to the said notification. Therefore, in light of the above facts, the submissions made by the Learned Counsel for the respondent are found to be untenable in law and devoid of merit.
9. Perused the record and submissions.
10. 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.

11. A bare perusal of the aforementioned statutory provisions and materials placed on record clearly establishes that the promoter has violated the mandatory requirements under the Real Estate

(Regulation and Development) Act, 2016. The brochures, advertisements placed on record unequivocally fall within the definition of "advertisement" as provided under Section 2(b) of the Act. By advertising and offering the project for sale prior to obtaining registration, the promoter has contravened the express prohibition contained in Section 3(1) of the Act. Accordingly, the promoter's conduct constitutes a clear violation of the statutory framework and attracts the penal provisions prescribed under the Act. Furthermore, it is pertinent to note that the advertisements were published in the year 2025, by which time the project location had already been notified as a "planning area" by the competent authority vide notification dated 28.03.2023. In addition, the claim made by the respondent regarding the plot sizes stands contradicted by the content of the advertisements themselves, as rightly pointed out by the Legal Representative of the Authority. The total plot area, as per the promotional material, exceeds the threshold limit of 500 square meters, thereby mandating registration under Section 3 of the Act. Hence, the promoter's submissions in this regard are not only factually incorrect but also legally unsustainable.

12. The action of the respondent not only constitutes a violation of the aforementioned provisions of the Act but also undermines 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 undermines the objective of the statute but also diminishes credibility of the Regulatory Authority and thus reflects an intention to derive economic benefit by circumventing the mandatory provisions regarding compliance requirements laid down under the Real Estate (Regulation and Development) Act, 2016 and prejudices the interests of the allottees. Hence, the fact cumulatively establishes

the violation of Section 3 of the Act by the respondent with respect to the project in question.

13. The Authority further takes note of the respondent-promoter's submission expressing apology for the contravention committed. Considering the promoter's representation regarding the absence of a Competent Authority at the relevant time, and taking a liberal interpretation of Section 59(1) of the Real Estate (Regulation and Development) Act, 2016 — in light of one of the core objectives of the Act, which is to promote and regulate the real estate sector in a transparent and accountable manner — the Authority deems it appropriate to impose a moderate penalty. Accordingly, a penalty of ₹1,00,000 (Rupees One Lakh only) is hereby levied against the respondent-promoter for the established contravention. Further, the promoter is henceforth restricted from committing any kind of such act of violation of the statute and also directed to ensure registration of the project at the earliest, by fulfilling all requisite formalities and complying with the provisions of the Act and Rules framed thereunder.
14. The respondent-promoter is hereby directed to deposit the aforementioned penalty amount of ₹1,00,000 (Rupees One Lakh only) within a period of sixty (60) days from the date of issuance of this order. Failure to comply with this direction shall attract further action in accordance with the provisions of Section 59(2) of the Real Estate (Regulation and Development) Act, 2016.
15. The Authority further requests the District Magistrate, Saran, to direct the concerned Competent Authority to expedite the process of approval of the layout/map of the project. This will enable the promoter to obtain the necessary statutory approvals and proceed with the registration of the project in accordance with the provisions of the Real Estate (Regulation and Development) Act, 2016. Such facilitation is essential to bring the project within the regulatory ambit

of the Act and to fulfill its underlying objective of promoting transparency, accountability, and orderly growth in the real estate sector.

16. The Office is directed to make the compliance of aforementioned directions.

With the above observations and directions, this matter is disposed of.

Sd/-
(Sanjaya Kumar Singh)
Inquiry Commissioner,
RERA, Bihar