

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/SM/684/2025

Authorised Representative of RERAComplainant

Vs

M/s Shri Prem Prakash.Respondent

Project: Mahadev Enclave

**Present: For Complainant: Ms Ojaswi Ishani, Advocate
For Respondent: Mr. Sharad Shekhar, Advocate**

13/01/2026

ORDER

1. Hearing taken up Ms. Ojaswi Ishani, learned counsel for the complainant/ Authority is present. Mr. Sharad Shekhar, 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 "Mahadev Enclave". Accordingly, a preliminary notice dated 15-11-2024 was issued to the respondent by registering a suo-motu case, seeking an explanation by a subsequent show cause notice on 11-03-2025.
3. The aforementioned case was initiated on account of the fact that the construction of the impugned project continued unabated despite the rejection of registration application and issuance of *Form-D* issued in relation to the above-mentioned project, which was applied for registration. It was revealed that the project was being developed by the respondent, which *prima facie* indicates that, in contravention of the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"), the respondent has been promoting the

instant project and inviting potential buyers without obtaining the requisite registration as mandated under the Real Estate (Regulation and Development) Act, 2016.

4. The respondent has filed a reply dated 15.10.2025 stating that the application for registration of the impugned project was earlier filed on 12.02.2022; however, the said application was rejected due to some technical issues. It has further been submitted by the respondent that thereafter the entire project was developed through self-funding, and in support thereof, the respondent has placed on record the Completion Certificate, CA certificate, Engineer certificate, and Geo Tagged Photograph of the project. He has also mentioned that the construction of project was carried out during the pendency of Registration approval and has been completed by the year 2023.
5. Learned counsel for the respondent reiterates that the project has been constructed out of own expenses of the respondent company. He, however, could not submit the details of the expenditure and sources of expenditure incurred in construction of the said project. He further submits that since Section 3 of the Act provides only for action against him when he advertises the project without registration and he could not be given permission to sell the project as the same has been done out of his own expenses.
6. Learned counsel for the complainant submits that despite several opportunities given to the respondent to furnish the detail whether the impugned project has been constructed on the basis of self-funding or not, the same could not be submitted by the respondent concerned and thus, they have failed to prove that the

project in question has been constructed out of own expenses of the said respondent.

7. Perused the record and submissions.
8. (a) Section 2(b) of the Real Estate (Regulation and Development) Act, 2016 provides the definition of “advertisement” which reads as follows:

“advertisement” means any document described or issued as an 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.

(b) Further, 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 as the case may be in any real estate project or part thereof, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.

9. A bare perusal of the relevant statutory provisions, read with the material placed on record, clearly establishes that the promoter has violated the mandatory requirements of the Real Estate (Regulation and Development) Act, 2016. The respondent’s assertion that the project was completed through self-funding remains unsubstantiated, as no authentic documentary evidence—such as a bank’s certificate/statement etc. has been produced to demonstrate that the entire amount utilised for the construction of the project in question was sourced from the respondent-

company's own funds, or that any loan availed was in the name of the company/respondent and the same was not raised through any booking/sale consideration of any unit/part thereof of the said project.

10. Furthermore, the contention advanced by the respondent that the application for registration was rejected on account of a technical issue has been found to be wholly untenable and contrary to the record. The intimation of rejection pertaining to the project registration application clearly evidences that, in respect of Application No. RERAP11232021171336-1, the stated reason for rejection was that the promoter had expressly sought withdrawal of the application for registration of the real estate project namely "Mahadev Enclave" before the Hon'ble Bench on 16.03.2022. This unequivocally demonstrates that the promoter had voluntarily and deliberately withdrawn the said application and thereafter failed to submit a fresh application for registration of the project, as mandatorily required under Section 3 of the Act. Such conduct amounts to a clear violation of the statutory obligation cast upon every promoter to apply for and obtain registration of the real estate project prior to undertaking any activity in relation thereto.

11. In the reply submitted by the respondent to the show cause notice dated 06.02.2025, the averments contained in para 6 reveal a self-contradictory and inconsistent stand adopted by the respondent with regard to the sale of flats in the project. On the one hand, in para 5 of his reply, the respondent has categorically averred that no booking amount has been received from any person and that no attempt whatsoever was made to sell the flats of the said project. However, in stark contradiction thereto, the respondent

has, in the 6th paragraph of his reply, has himself stated that the Registrar of the Registration Department raised objections to the registration of sale deeds in favour of the purported allottees of the project, and that pursuant to such objections, the promoter was directed to apply afresh for registration of the project. This contradiction unequivocally establishes that the promoter, prior to applying for registration of the project had made attempts to sell the flats and had even presented the copies of sale deeds before the Registrar for registration of the same. Such a conduct on the part of the respondent clearly amounts to a blatant violation of Section 3 of the Act by him. Consequently, it can be justifiably concluded that the promoter has engaged himself in unfair practices and committed material irregularities in the execution of the project.

12. Furthermore, the promoter has failed to submit bank account details demonstrating the transaction which was utilized for the development of the said project. In absence of the same, the certificate of CA stating that the promoter has invested an amount of Rs 52,69,725/- cannot be corroborated, since, the CA certificate specifically mentions that the same is prepared on the basis of the data and reports provided by the promoter. There needs to be a concrete proof demonstrating that the promoter out of his own pocket has invested the entire amount in the construction of the impugned project. Further in the application for the registration that was submitted on 12.02.2022, the promoter himself has disclosed that the estimated cost of development of the project is 2 crore 10 Lakh rupees. On evaluation of the both the fact, the big question as how the promoter financed the remaining amount of the cost for

developing the said project when he has only invested approx 53 lakhs as it is an undisputed fact that a G+3 is impossible to be constructed with an investment of only 53 Lakhs rupees when the estimated cost of the development was more than Rs 2 Crore as committed by the respondent himself in his application filed before the Authority.

- 13.**These deficiencies materially contradict the respondent's plea that the project has been completed by self-funding.
- 14.**Additionally, the very fact that an application for registration of the said project was earlier filed by the respondent-promoter clearly establishes their intention to develop the project in question on account of funding to be procured from prospective buyers. In the absence of cogent evidence to the contrary, it is evident that the project has not been developed through self-funding as wrongly claimed by the respondent but through other sources, including funds received/procured from prospective allottees/buyers, without obtaining mandatory registration as per statute. Such conduct is a blatant contravention of Section 3 of the Act.
- 15.**Accordingly, the conduct of the respondent-promoter constitutes a clear statutory violation and squarely attracts the penal provisions as prescribed under the Act.
- 16.**The conduct of the Respondent not only constitutes a violation of the aforesaid provisions of the Act but also strikes at the very object and purpose for which the Real Estate (Regulation and Development) Act, 2016 was enacted. The sale of units of the project to the general public without obtaining mandatory registration certificate of the said project reflects a deliberate attempt to circumvent the statutory regulatory framework, derive

unlawful economic benefit, and defeat the principles of transparency and accountability sought to be ensured under the Act. Such conduct undermines the authority of the Regulatory Authority and causes serious prejudice to the interests of the allottees.

17. Accordingly, the cumulative facts and circumstances on record conclusively establishes the violation of Section 3 of the Act in respect of the project in question committed by the respondent. The contravention thus stands duly established. Hence, keeping in view the objectives of the Act to regulate and promote the real estate sector in a transparent, fair, and accountable manner, the Authority deems it appropriate to impose a penalty of ₹5,00,000/- (Rupees five Lakh only), being equivalent to less than 1% of the estimated development cost of the impugned project, as disclosed by the Respondent in its earlier application submitted for registration of the project.

18. Accordingly, the above said penalty is hereby imposed upon the Respondent–Promoter for the established violation of the Act. The Respondent is further directed to strictly desist from any such statutory violations in future and to ensure registration of the project forthwith by completing all requisite formalities in accordance with the provisions of the Act and the Rules framed thereunder.

19. The respondent-promoter is hereby directed to deposit the aforementioned penalty amount of ₹5,00,000/- (Rupees five 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.

20. The Authority further directs the office to issue a letter to the I.G. Registration, Bihar for issuing necessary instructions to all the concerned DSRs / Sub-Registrars to impose a blanket ban on execution of sale deed of any unit (flat/shop/part thereof) pertaining to the said project “*Mahadev Enclave*” by the respondent company and its directors.
21. The Patna Municipal Corporation is directed to verify and ascertain the authenticity and validity of the Completion Certificate submitted by the respondent-promoter in respect of the project and to communicate its findings to RERA Bihar for any further necessary action required at this Authority’s end.
22. The Office is directed to take all necessary measures to ensure the compliance of the aforementioned directions.

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

Sd/-

(Sanjaya Kumar Singh)
Inquiry Commissioner,
RERA, Bihar