

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/SM/686/2025

Authorised Representative of RERAComplainant

Vs

M/s Green Homes Developers Pvt Ltd.Respondent

Project: Ayesha Residency, Block- B

**Present: For Complainant: Ms Ojaswi Ishani, Advocate
For Respondent: Mr. Sumit Kumar, Advocate**

13/02/2026

ORDER

1. Hearing taken up Ms. Ojaswi Ishani, learned counsel for the complainant/ Authority is present. Mr. Sumit 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 "Ayesha Residency, Block-B". 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 10-04-2025.
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 without obtaining the requisite registration as mandated under the Real Estate (Regulation and Development) Act, 2016.

4. The respondent has filed a reply dated 08.12.2025 in which he has submitted that he had applied for registration of the project before the Authority on 22.12.2021. At the time of submission of the application, the Authority, apart from the registration fee of ₹3,937/-, imposed a penalty of ₹5,00,000/- under Section 3 read with Section 59(1) of the RERA Act, which was duly deposited through Demand Draft No. IBKL210913605548 in the Authority's bank account. However, the said application was subsequently rejected by the Authority vide Form D issued under Letter No. 193/2021/460 dated 29.03.2022, as the project layout plan had not been approved by the competent authority. The approval relied upon was granted by the Mukhiya of Gram Panchayat Nausa, who was not legally competent to approve plans for real estate projects.
5. Learned counsel for the respondent reiterates that following the rejection of the aforesaid application, the respondent-promoter has abandoned the project in question for the purpose of RERA registration. It was further submitted that no development activity has been undertaken by the respondent at the proposed project site, as there is no sanctioned plan for the land in question till date. Learned counsel for the respondent also pointed out that the photographs placed on record clearly demonstrate that no construction activity is being carried out on the said land.
6. The respondent-promoter, through his learned counsel, further submitted that the promoter has not violated Section 3 of the RERA Act. It was contended that even if any violation of the

RERA Act, 2016 is considered to have taken place, the Authority had already imposed a penalty of ₹5,00,000/-, which was duly deposited with the Authority at the time of filing of the project application dated 22.12.2021. Learned counsel further argued that Article 20 of the Constitution of India provides protection against double jeopardy. In the present case, the respondent has already been penalized an amount of ₹5,00,000/-, and therefore, imposing any further penalty in the present suo motu proceedings would be in violation of Article 20 of the Constitution of India.

7. The learned counsel for respondent further in proceeding dated 24.06.2025 stated that the project was completed before the commencement of RERA, and that the project does not fall in the planning area, and it falls in the Gram Panchayat Nausha in Phulwarisarif Anchal.
8. Learned counsel for the complainant submits that the project was rejected in the year 2022 and since then the promoter has not applied till date for registration despite a lapse of several years, which prima facie makes it clear that the promoter has continued the construction of the impugned project thus, acting in contravention of section 3 of the Act. She further submitted that Notification No. 338 dated 13.08.2014 issued by the Urban Development and Housing Department (UDHD) has notified the impugned Mauza Nosha as falling within the planning area of Patna, much prior to the date on which the respondent applied for registration of the said project. She also submits that the evidence placed on record in form of photograph clearly indicate that there was a notice board which was displayed at the site mentioning therein that Ayesha Residency is an upcoming project, which is

a clear manifestation of advertisement and blatant contravention of the provisions of section 3 of the Act by the respondent.

9. Perused the record and submissions put forth by the both the complaint Authority and the Respondent.

10.(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.

11. 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. It has been established by the complainant authority that the area in which the impugned project was proposed to be developed falls within a notified planning area, as declared by the Urban Development and Housing Department (UDHD) in the year 2014 itself, which is

much prior to date of filing of the application for registration of the project by the respondent. The respondent's plea that the application was filed out of ignorance is therefore not tenable, as it is a settled principle of law that ignorance of law is no excuse. It was the duty of the promoter to duly verify whether the project land fell within the planning area notified by the UDHD and to act strictly in accordance with the applicable statutory provisions of law. Further the respondent, without taking registration for the project, advertised the same by way of display of notice board at the site, which is a clear-cut violation of Section 3 of the Act.

12. Furthermore, the contention advanced by the respondent, in addition to the project registration fee that a sum of ₹5,00,000/- had already been deposited as a penalty imposed by the Authority has been found to be wholly untenable and contrary to the record. The Accounts Department was directed to verify the respondent's averments regarding the deposit of the said amount through a demand draft. Upon verification, the Department informed the Bench that the UTR No. IBKL21091360554 does not correspond with the bank statement. It was further reported that no amount of ₹5,00,000/- was credited to the RERA account during the period from 22.12.2021 to 31.12.2021. The respondent also failed to produce any credible evidence to substantiate the alleged deposit of ₹5,00,000/-. Instead, the respondent produced a demand draft of ₹25,000/-, which does not support or establish the claim of having deposited ₹5,00,000/- as penalty.

13. The statement of the respondent that he has paid sum of 5 Lakhs at the time of filing application for registration of the project shows his admission of the fact that he was indulged in violation of the provision of the Act by illegally promoting/ developing the

impugned project before applying for registration of the same. At the same time by not applying for the registration of the project afresh after rectifying the deficiencies pointed out while rejecting the application, prima facie establish the fact he was in the process of continuous violation of the act by continuing with the illegal advertisement and inviting the allottees by demonstrating an upcoming project at site without obtaining valid registration pertaining to the same.

- 14.**The Bench also observes that the respondent has advanced two contradictory pleas regarding the status of construction of the project. In paragraph 4 of their reply, the respondent stated that the promoter had abandoned the project and that no development was being carried out on the proposed site. However, during the proceeding dated 24.06.2025, learned counsel for the respondent contended that the project had been completed prior to the enforcement of RERA Act and therefore did not require registration. Such contradictory statements indicate a deliberate intention on the part of the respondent to evade the provisions of law and to absolve themselves from the imposition of penalty.
- 15.**Furthermore, the averments made by the respondent in paragraph 6 of their reply regarding having protection of double jeopardy are untenable in the eyes of law, as the Authority has never received the alleged sum of ₹5,00,000/-. Even assuming the amount had been paid, the respondent's plea invoking protection against double jeopardy is misplaced and not legally tenable in the present matter.
- 16.**Article 20(2) of the Constitution of India provides protection against double jeopardy, stating that "no person shall be prosecuted and punished for the same offence more than once".

For the application of Article 20(2) both requirements of prosecution *and* punishment must be met. Further the second prosecution must be for the exact same offense, not a different one arising from the same set of facts.

The protection applies only to proceedings before a court of law or a judicial tribunal. It does not apply to departmental or administrative inquiries. The supreme court in **Venkataraman vs Union of India** (AIR 1954 SC 375) held that this provision deals exclusively with judicial punishments and provides that no person should be prosecuted twice by the *judicial authority*. Moreover, in the landmark case of **Maqbool Hussian vs State of Bombay** (AIR 1953 SC 325) The Hon'ble Supreme Court has clarified that the protection under Article 20(2) applies only to judicial proceedings, not departmental or administrative proceedings which is quoted herein below:-

“We are of the opinion that the Sea Customs Authorities are not a judicial tribunal and the adjudging of confiscation, increased rate of duty or penalty under the provisions of the Sea Customs Act do not constitute a judgment or order of a court or judicial tribunal necessary for the purpose of supporting a plea of double jeopardy. It therefore follows that when the Customs Authorities confiscated the gold in question neither the proceedings taken before the Sea Customs Authorities constituted a prosecution of the appellant nor did the order of confiscation constitute a punishment inflicted by a court or judicial tribunal on the appellant. The appellant could not be said by reason of these proceedings before the Sea Customs Authorities to have been "Prosecuted and punished"

for the same offence with which he was charged before the Chief Presidency Magistrate, Bombay, in the complaint which was filed against him under section 23 of the Foreign Exchange Regulation Act.

The result therefore is that the appeal fails and must be dismissed”.

The Court held that the customs penalty did not amount to "prosecution and punishment" under Article 20(2).

The Officer Order No. 59 dated 06.07.2022, relied upon by the respondent to support their claim regarding payment of the penalty, applies only to cases heard by the Bench in Suo motu proceedings. In those cases, the promoters had already paid an amount as late fees, and the matters were pending for imposition of penalty. Such late fees collected were treated as part of the penalty to be levied by the Authority.

In the present case, the respondent company was never prosecuted by the Authority for any violation of Section 3 of the Act, nor were they punished. Furthermore, all proceedings conducted by the RERA Authority are *administrative in nature*, not judicial. Consequently, the respondent cannot invoke Article 20(2) of the Constitution to claim protection against double jeopardy.

- 17.** The respondent hereafter 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.
- 18.** 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 respondent by advertising the said project has acted in contravention of Section 3 of the Act.

- 19.** Accordingly, the conduct of the respondent-promoter constitutes a clear statutory violation and squarely attracts the penal provisions as prescribed under the Act.
- 20.** 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 offer to sale to 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.
- 21.** 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. The above said penalty is being imposed under Section 59(1) of the Real Estate (Regulation and Development) Act 2016.
- 22.** 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 immediately by completing all the requisite formalities in accordance with the provisions of the Act and the Rules framed thereunder.

- 23.**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 apart from other relevant provisions of the Act.
- 24.**The Office is directed to take all necessary measures to ensure compliance of the aforesaid directions.

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

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