

REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/SM/700/2025

Authorised Representative of RERAComplainant
Vs
Jai Maa Bhawani Buildcon Pvt LtdRespondent

Project: Kaushalya Chathiya Enclave

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

12/03/2026

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 "Kaushalya Chathiya 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 01-04-2025.
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* 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, (hereinafter referred to as the Act)

4. During the proceedings dated 31.07.2025, the learned counsel for the respondent submitted that the project had been completed prior to the commencement of RERA. In support of this claim, he produced a certificate dated 15.12.2016 indicating that the project had been completed. He further contended that a penalty under Section 59(1) of the Act had been imposed on the respondent company in relation to the same project; however, he failed to furnish the necessary supporting documents. Pursuant thereto, the Bench directed the respondent to file the relevant documents to substantiate these claims. However, the respondent-promoter failed to submit any reply or supporting documents in this regard. In accordance with due process and principle of Natural Justice, the Bench granted multiple opportunities to the respondent to file a reply during various proceedings; however, despite being given umpteen opportunities, the respondent has failed to comply with the direction of the Bench.
5. In view of the respondent's continued non-compliance of the direction of this bench to file a valid reply, and to avoid keeping the matter pending indefinitely, the bench proceeded to hear the case ex parte, based on the material available on record, which prima facie indicated a violation of the provisions of the Act.
6. The legal representative for the Authority-Complainant stated that the respondent had earlier applied for registration of the said

project which was rejected in the year 2018 by the Authority, owing to deficiencies in the application. After rejection, no fresh application for registration of the said project has been submitted by the respondent-promoter thereby attracting the mandatory requirement of registration under Section 3 of the Act. The respondent-promoter's failure to obtain such registration constitutes a violation of Section 3 and attracts penalty under Section 59(1) of the Act. It was further submitted that the impugned project stands completed as on this date, and the promoter has not yet provided any admissible and valid document showing that the said project was completed before the enforcement of the Act

7. Learned counsel for the complainant submits that despite several opportunities given to the respondent to furnish the any relevant document such as sale deed, electricity bill, Occupancy certificate or other documents issued by the competent authority to prove that the said project has been completed before the enforcement of the Act, the same could not be submitted by the respondent concerned, on the contrary they have only submitted a certificate which does not contain any sign or seal of Competent authority, and thus they have failed to prove that the project in question has been completed before inception of RERA.
8. Perused the record and submissions made by the learned counsels of both the respondent and the Complainant Authority.
9. Order 8 Rule 1 of the CPC provides that a defendant must file the written statement within 30 days from the date of service of summons, which period may be extended by the court up to a maximum of 90 days. If the defendant fails to file the written

statement within this prescribed or extended time, the court, under Order 8 Rule 10, may in its discretion proceed to pass an ex-parte decree.

Order 8 Rule 10. Procedure when party fails to present written statement called for by Court.-Where any party from whom a written statement is required under rule 1 or rule 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the Court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on the pronouncement of such judgment a decree shall be drawn up:]

10. The Bench observes that the Hon'ble Apex Court, in several decisions, has consistently affirmed the legal position that when a respondent, despite being duly served with notices and granted repeated opportunities, fails to file a reply, it is deemed that the respondent has waived the right to present its defence. Given this settled legal principle, the Bench has no option but to proceed in the absence of the respondent's reply and the additional evidence that had been sought by it. As there exists no sufficient justification to further delay the adjudication of the matter, the Bench is therefore constrained to decide the present case on the basis of the pleadings, documents, and evidence available on record.

11. 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.

12. Since the Complainant Authority has already established a prima facie violation of Section 3 of the Act, and the respondent has failed to rebut the contentions raised by the complainant, and has also failed to furnish the documents directed by the Bench to substantiate its claims, it stands established that the promoter has willfully chosen not to apply for registration of the said project. Consequently, the respondent has also violated Section 4(1) of the Act.

13. Since the project undertaken by the promoter falls within a notified planning area, the provisions of the Real Estate (Regulation and Development) Act, 2016 are squarely applicable. As mandated under Section 4(1) of the Act, it is obligatory for every promoter to submit an application for registration of the real estate project with the Authority in the prescribed form, manner, within the stipulated time, and along with the requisite fee prior to advertising, marketing, booking, or selling any unit. However, in the present case, the respondent has failed to comply with this statutory requirement and has not made

any application for registration of the said project. This deliberate omission, despite the applicability of the Act, constitutes a clear and willful violation of Section 4(1), thereby rendering the promoter in contravention of the mandatory registration provisions under the Act.

14. The Bench observes that the certificate dated 15.12.2016 submitted by the respondent company is neither valid nor admissible on legal grounds owing to the following deficiencies. The certificate is not in the prescribed form as required under the relevant provisions of the Bihar Building Bye-Laws, which acknowledge only a valid Completion Certificate and an Occupancy Certificate as a valid proof of completion of any project. The document relied upon by the respondent has been issued by a Civil Engineer and fails to specify the project to which it pertains. Furthermore, for such a certificate to be valid under the applicable Bye-Laws, it must bear the signature and seal of the competent authority, which the respondent has failed to obtain.

15. In light of the foregoing findings, the Bench holds that the certificate submitted by the respondent does not constitute valid evidence to establish completion of the building in the eyes of law, and tantamount to only to an assertion or claim on behalf of the respondent that the structure has been completed.

16. Furthermore, while the promoter asserts that the impugned project was completed prior to the enforcement of the Act, it is noteworthy that an application for registration of the said project was nevertheless submitted in the year 2018, thereby casting a doubt upon the veracity of the claims made by the respondent. It is also observed that the application for registration of the

impugned project was filed before the Authority on 31.10.2018, categorizing the project as an ongoing project.

- 17.** 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 claim of the respondent that the project has been completed before the enforcement of the Act is total false and misleading. Such conduct is a blatant contravention of Section 3 of the Act.
- 18.** Accordingly, the conduct of the respondent-promoter constitutes a clear statutory violation and squarely attracts the penal provisions as prescribed under the Act
- 19.** 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.
- 20.** 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 ₹2,50,000/- (Rupees two lakh fifty thousand 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.

- 21.** 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 violation in future and to ensure registration of the project immediately by completing all requisite formalities in accordance with the provisions of the Act and the Rules framed thereunder.
- 22.** The respondent-promoter is hereby directed to deposit the aforesaid penalty amount of ₹2,50,000/- (Rupees two lakh fifty thousand 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 and other relevant provision of the Act.
- 23.** I.G. Registration, Bihar is requested to issue necessary instructions to all the concerned DSRs / Sub-Registrars to impose a blanket ban on the execution of sale deed of any unit (flat/shop/part thereof) pertaining to the impugned project “*Kaushalya Chathiya Enclave*” by the respondent company and its directors.

24.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