

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh,
RERA, Bihar

RERA/SM/701/2025

Authorised Representative of RERA

...Complainant

Vs

M/s Mega Heights Buildcon Pvt Lt.

.....Respondent

Project: Royal Enclave

Present: For Complainant: Ms Ojaswi Ishani, Advocate
For Respondent: None

17/08/2026

ORDER

1. The matter was last heard on 07.05.2026. After hearing both the parties, the order was reserved and is being pronounced today. Ms Ojaswi Ishani, learned counsel, appears for the complainant/Authority. Nobody appears on behalf of the respondent, despite opportunities provided.
2. This case 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 "Royal Enclave". Accordingly, a preliminary notice dated 15.11.2024 was issued to the Respondent-Promoter by registering a suo-motu case, seeking an explanation.
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.

4. The learned Legal Representative appearing on behalf of the Authority submitted that the Promoter has been found to have undertaken the development of the project and engaged in the sale and purchase of units therein without obtaining the mandatory registration of the project with the Authority under the provisions of the Real Estate (Regulation and Development) Act, 2016. It was contended that such acts constitute a clear violation of Sections 3 and 4 of the Act, which mandate prior registration of the project before its development, marketing, or sale.
5. The respondent-promoter neither appeared nor filed any reply to the notice dated 01-04-2025. Accordingly, in adherence to the principle of *audi alteram partem*, the Authority issued multiple notices to the respondent for appearance on 24-06-2025, 31-07-2025 and 09-09-25, 26-06-2025. Despite these opportunities, the respondent failed to appear on the scheduled dates of hearing.
6. In view of the respondent’s continued non-appearance, and to avoid keeping the matter pending indefinitely, the Authority 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.

7. Learned counsel appearing on behalf of the Authority-Complainant submitted that the promoter had applied for registration of the project, namely "Royal Enclave," as an ongoing project on 29.10.2018. In support of the application, the promoter had furnished photographs of the project, which revealed that the structural construction had already been completed and only the finishing work remained. It was further submitted that the application for registration was subsequently rejected on 25.09.2021 owing to deficiencies in the application
8. Learned counsel for the Authority-Complainant further submitted that the promoter has failed to comply with the mandate of Section 3 of the Real Estate (Regulation and Development) Act as it prevents the promoter to advertise, market, book, sell or offer for sale, or invite persons to purchase unit in the real estate project without getting registration under RERA. First proviso to Section 3(1) mandates that project which were ongoing on the date of commencement of RERA and for, of which the completion certificate had not been issued, shall be covered under the provisions of the Act and such promoters shall file an application in RERA for the registration of their projects.
9. It was submitted by the Complainant- Authority that the material placed on record *prima facie* establishes that, at the time the promoter applied for registration of the project, the construction had reached an advanced stage and was substantially complete, with only finishing work remaining. This indicates that the project was an ongoing project on the date of commencement of the Act and, therefore, the said project was required to be

registered with the Authority within three months from the date of commencement of the Act, as mandated under Section 3 of the Act. However, the promoter failed to comply with the said statutory requirement. It was further contended that the promoter sought registration only when it became commercially expedient to market and sell the project. Thereafter, the promoter proceeded to complete the project without obtaining registration and sold the units in violation of the provisions of the Act.

10. She further submitted that the technical report placed on record indicates that a G+3 building has been constructed as in the said project and the units therein have already been sold, thereby attracting the mandatory requirement of registration under Section 3 of the Real Estate (Regulation and Development) Act, 2016. It was contended that the respondent-promoter's failure to obtain registration of the project from RERA constitutes a contravention of Section 3 of the Act and consequently renders the respondent liable to penalty under Section 59(1) thereof.

11. It is clear that Section 3(1) of the Real Estate (Regulation and Development) Act, provides as follows:

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.

"Provided that projects that are ongoing on the date of commencement of this Act and for which the completion

certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act."

12. 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:]*

13. 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 or appear, it is deemed that the respondent has waived the right to present its defence. In view of this settled principle of law, the Bench is left with no other alternative but to proceed without the respondent's reply. 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.

14. A bare perusal of the aforementioned statutory provisions and the material placed on record clearly establishes that the promoter has violated the mandatory requirements under the Real Estate (Regulation and Development) Act, 2016.
15. The Bench observes that the material available on record clearly establishes that the respondent-promoter itself applied for registration of the project as an ongoing project, thereby acknowledging the status of the project as an ongoing project at the relevant point of time (i.e on 29.10.2018). The photographs annexed to the application for registration reveal that the structural construction had already been completed and that the finishing work remained to be completed. This lends further support to the conclusion that the project was in the development stage on the date of commencement of the Real Estate (Regulation and Development) Act, 2016, and that no completion certificate for the project had been till then.
16. In terms of the proviso to Section 3(1) of the Act, every ongoing project for which a completion certificate had not been issued on the date of commencement of the Act was required to be registered with the Authority within a period of three months from such commencement. The respondent-promoter, however, failed to comply with this statutory mandate and did not obtain registration of the project within the prescribed period, thereby acting in clear contravention of Section 3 of the Act.
17. The Bench further notes that the application for registration filed by the respondent on 29.10.2018 got rejected on account of deficiencies. Significantly, despite such rejection, the promoter

neither rectified the deficiencies nor submitted a fresh application for registration. Instead, the promoter proceeded with the completion of the project and its sale without securing registration of the project as mandated under the Act. Such conduct reflects a deliberate and conscious disregard of the mandatory provisions of the Act and constitutes a continuing violation of Section 3 thereof.

- 18.** The High Court of Judicature at Bombay in case of Neelkamal Realtors Suburban Pvt. Ltd. and anr. Vs Union of India (Writ Petition No. 2737 Of 2017 (Writ Petition Lodging No. 2010 Of 2017) has held that:

“What the provisions envisage is that a promoter of a project which is not complete / sans completion certificate shall get the project registered under RERA, but, while getting project registered, promoter is entitled to prescribe a fresh time limit for getting the remaining development work completed. From the scheme of RERA and the subject case laws cited above, we do not find that first proviso to Section 3(1) is violative of Article 14 or Article 19(1)(g) of the Constitution of India”

- 19.** 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 has been enacted. The act of developing and offering the project to the public at large without getting the same registered under RERA Act 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 as required 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.

20. The submissions made herein above, along with the material placed on record and the report of the Technical Wing, collectively establish that the project “Royal Enclave” has been developed and has been sold without obtaining the mandatory registration with RERA which tantamount to blatant contravention of Section 3 of the Real Estate (Regulation and Development) Act, 2016. Consequently, such violations attract penalties under Section 59(1) of the Act. Accordingly, a penalty of ₹3,00,000/- (Rupees three Lakh only) i.e. 2% of the cost of the project is hereby levied against the respondent-promoter for the established contravention. Further, the promoter is henceforth restricted from committing any such act of violation as laid in the statute and is also directed to ensure registration of the project at the earliest, by fulfilling all the requisite formalities and complying with the provisions of the Act and Rules framed thereunder.

21. The respondent-promoter is hereby directed to deposit the aforementioned penalty amount of ₹3,00,000/- (Rupees three 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.

- 22.**The restrictions imposed on the registration as well as the mutation of the project land or any part thereof shall remain in vogue till the payment of the penal amount as levied above and registration of the project land with RERA Authority
- 23.**I.G. Registration, Bihar is requested to issue necessary instructions to the concerned DSR/ Sub-Registrar to impose a blanket ban on the execution of sale deed of any unit (flat/shop/part thereof) pertaining to the said project “Royal 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.
- 25.**With the above observations and directions, this matter is disposed of.

Sd/-

(Sanjaya Kumar Singh)
Inquiry Commissioner,
RERA, Bihar