REAL ESTATE REGULATORY AUTHORITY, BIHAR

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

RERA/SM/760/2025

Authorised Representative of RERA …...Complainant

Vs

M/s Bhagalpur City Developer …..Respondent

Project: Bhagalpur Sangam Vihar

Present: For Complainant: Mr. Abhinay Priyadarshi, Advocate
For Respondent: None

11/12/2025 **ORDER**

1. The matter was last heard on 19.09.2025. After hearing both the parties, the order was reserved and is being pronounced today. Mr. Abhinay Priyadarshi, learned counsel, appears for the complainant/Authority. Nobody appears on behalf of the respondent, despite opportunities provided.
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 "Bhagalpur Sangam Vihar". Accordingly, a notice dated 20-06-2025 was issued to the Respondent-Promoter by registering a suo motu case, seeking an explanation.
3. The aforementioned case was initiated on the basis of a physical inspection jointly conducted by officials of RERA and the District Administration, Bhagalpur. During the said inspection, it was found that the "Bhagalpur Sangam Vihar" project at Anchal-Jagdishpur, Bhagalpur is being developed and plots therein are being sold in violation of the provisions

of the Real Estate (Regulation and Development) Act, 2016. Accordingly, a report, along with material evidence in the form of advertisements offering plots for sale and corresponding *Jamabandi* record, was placed on record, which prima facie indicates contravention of the provisions of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "the Act"). The evidence placed on record suggests that the respondent has violated Section 3 of the Act by promoting the project and inviting potential buyers without obtaining the requisite registration under the Act.

4. The legal representative of the Authority submits that, based on the advertisements and the report of the joint inspection conducted by officials of RERA and the District Administration, Bhagalpur, which have been 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. The respondent–promoter neither appeared nor filed any reply to the notice dated 20-06-2025. Accordingly, in adherence to the principle of *audi alteram partem*, the Authority issued multiple notices to the respondent for appearance on 03-07-2025, 25-07-2025, 04-08-2025, and 08-08-2025. Thereafter, on 23-07-2025, following due process, the Authority also issued a public notice in compliance with the provisions of Order V Rule 20 of the CPC read with Rule 36(2)(j) of the Bihar RERA Rules, 2017. 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. The legal representative for the Authority–Complainant filed a reply and submitted that the advertisements on record clearly indicate that the project comprises multiple plots being offered for sale, 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 project area in question falls within the designated planning area. The legal representative also brought to the notice of the Authority that the report of the Technical Wing of RERA, Bihar, placed on record, assessed the estimated cost of the project at Rs.21,55,21,000/- (Rupees Twenty-One Crore Fifty-Five Lakh Twenty-One Thousand) on the basis of the Minimum Valuation Rate (MVR) applicable to the project land on the date of inspection.

8. The Authority notes that the Hon'ble Apex Court, in several decisions, has reiterated and settled the proposition of law that when repeated notices have been duly served on a respondent and the party still chooses not to appear, it is deemed that they have waived their right to be heard. In view of this position, the Authority had no option and was compelled to proceed *ex parte*. Considering that there exists no justification to delay the

matter any further, the Authority is therefore constrained to decide the instant case on the basis of the documents and evidence available on record.

9. Perused the record and submissions made by the learned counsels of both the respondent and the Complainant Authority.

10. It is clear 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.*
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> 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 the materials placed on record clearly establishes that the

promoter has violated the mandatory requirements under the Real Estate (Regulation and Development) Act, 2016. The inspection report including geo-tagged images of the site on record unequivocally falls 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 its registration from the Authority, 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 evident that, as on the date of inspection, the project land falls within the designated planning area. In view of this facts, and as per the mandate of Section 3 of the Real Estate (Regulation and Development) Act, 2016, the project was mandatorily required to be registered with the Authority prior to any marketing or sale activity pertaining to the same.

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 has been enacted. The act of circulating promotional material and offering the project to the public at large without getting the same registered under RERA 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 technical report placed on record, including geo-tagged images of the site, the *Jamabandi*, details of the Minimum Valuation Rate (MVR) prevailing in the project land, and the estimated cost of the project land which has been assessed at Rs.21,55,21,000/- (Rupees Twenty-One Crore Fifty-Five Lakh Twenty-One Thousand), establishes that the said project was being marketed and promoted in a structured and commercial manner. This clearly attracts the applicability of Section 3 of the Real Estate (Regulation and Development) Act, 2016.

14. The submissions made, along with the material placed on record and the report of the Technical Wing, collectively establish that the project "Bhagalpur Sangam Vihar" was advertised for sale across various platforms without obtaining the mandatory registration, in 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 ₹10,77,605/- (Rupees Ten Lakh Seventy-Seven Thousand Six Hundred Five only) i.e. equivalent to 0.5% of the cost of project land is hereby levied against the respondent-promoter for the established contravention. Further, the promoter is henceforth restricted from doing 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 the requisite formalities and complying with the provisions of the Act and Rules framed thereunder.

15. The respondent-promoter is hereby directed to deposit the aforementioned penalty amount of ₹10,77,605/- (Rupees Ten Lakh Seventy-Seven Thousand Six Hundred Five 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.

16. 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. The District Magistrate, Bhagalpur is requested to ensure compliance of the above directions.

17. The Office is directed to take necessary steps for facilitating 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