

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Full Bench of Mr. Naveen Verma, Chairman, Mr. R.B. Sinha, Member
and Mrs. Nupur Banerjee, Member

Case No. CC/465/2019

Sri Arvind Kumar Malviya **Complainant**

Vs.

M/s Shinecity Infra Project Pvt. Ltd. **Respondent**

Project: Nisarg

ORDER

28.06.2021

03.12.2021

This matter was last heard along with the batch cases before the Hon'ble Full Bench on 28.06.2021.

The complainant, Mr. Arvind Kumar Malviya booked plot no. E-238 in the project Nisarg on 11.12.2017 for which he paid Rs. 3,00,000/- via cheque bearing no. 463383. Since respondent has not done any work till date, the complainant sought relief for refund of amount paid to the respondent along with interest at rate of 18%. He has filed the money receipt no. R953778 issued on 24/12/2017 and copy of cheque dated 24.06.2019 bearing cheque no. 012447 amounting Rs. 3,90,000/- which was given by the respondent and the same got bounced.

The Authority notes that the respondent has violated Section 3 of RERA Act, 2016 as the respondent was continuously advertising, marketing, booking, selling apartments/plots without registering the real estate project with RERA for which Suo Moto proceeding is also going on against the respondent company since 30.7.2019. It is observed that the respondent company has not applied for RERA registration as yet.

Perused the records, no rejoinder has been filed by the respondent. However, during the course of hearing the Authority noted that the Director, Asif Nasim and additional Director, Rashid Nasim have fled to Dubai.

During the course of hearing it was further observed that the respondent never appeared before the Bench, due to which an interim order was passed on 24.02.2021, directing to freeze all the bank accounts of the respondents and further directed the IG registration not to register any apartment/plots of the aforesaid project and the matter was further referred to Economic Offence Wing of Bihar Police.

On 07.06.2021 the Authority directed the complainant to lodge FIR against the respondent, if desirous or to send the copy of FIR, if the FIR has already been lodged, though the complainant of the present case has not given any information regarding the FIR. A formal reference to UP RERA was also made by the Secretary of RERA, Bihar, to obtain the details of the respondent company. As per Section 32 (j) of RERA Act, 2016, a recommendation was made to State Government for constitution of a multi-disciplinary team consisting of various experts from forensic audit/ police/ economic offence/ finance to investigate the working of the respondent company.

On 28.06.2021, Adv. B.N. Singh represented Mr. Upadhy Chandra Abhishek, who was the then authorized signatory of the respondent company but later resigned from the company in 2019. He further informed the Authority that there are total 10 projects of the respondent company running in the state. Mr. Upadhy Chandra Abhishek was directed by the Authority to submit all the details about the company, details of land or any other property of the Shine City Group in Bihar on affidavit to assist RERA but it is noted that nothing has been filed on behalf of Mr. Upadhy Chandra Abhishek till date. The Authority has also requested the DGP, Bihar to constitute a SIT for a probe in the matter.

On the request made by the Authority, the EOU vide letter no: - 5941 dated 23.08.2021 requested the SSP, Patna to look into the matter and take necessary action against the respondent company and connected persons. The State Government (OSD to the Chief Secretary) vide letter 127 dated 26.10.2021 has also informed the Authority that a Multi-Disciplinary Team under the chairmanship of Additional Chief Secretary (Finance) against the respondent company has also been constituted to inquire about the respondent company.

Thus, in the view of aforementioned facts, the Authority directs the Respondent Company and their Directors to refund the principal amount of Rs. 3,00,000/- to the complainant along with interest at the rate of Marginal cost of lending rate (MCLR) as applicable for three years or more plus Two percent from the date of deposit to the date of refund within sixty days of issue of this order. Bench further imposes penalty of Rs. 25,000/- (Twenty five thousand only) on the respondent directors for non-appearance.

Sd/-

Naveen Verma
(Chairman)

Sd/-

R B Sinha
(Member)

Sd/-

Nupur Banerjee
(Member)