

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Special Presiding officer,

Mr. Ved Prakash, RERA, Bihar

Case No: RERA/SM/213/2018

Authorised Representative of RERA

...Complainant

Versus

M/s. Red Rose Engicon Pvt. Ltd.

...Respondent

Project: Taj Green City, Phase- I & II, Naubatpur

Present: For Authority: Sri Ankit Kumar Legal Representative

For Respondent: Sri Surya Kant Kumar, Company Secretary

15.01.2025

ORDER

1. The matter was taken up. Learned Legal Representative on behalf of Authority and Company Secretary on behalf of the respondent are present.
2. The Real Estate Regulatory Authority, Bihar issued a Suo Motu show- cause notice on 24.09.2018 to the respondent company for contravention of section 3 of the Real Estate (Regulation & Development) Act 2016 by advertising and taking booking amount in the project “Taj Green City, Phase- I & II, Naubatpur” without registering the project with RERA, Bihar. The promoters were directed to show cause as to why proceedings under Sections 35 & 59 of the Real Estate (Regulation & Development) Act 2016 may not be initiated against them.
3. The Learned legal Representative for Authority submits that the respondent-promoter has advertised its project Taj Green City, Phase- I & II, Naubatpur without registering with the Authority and to substantiate his submission he put reliance on the advertisements placed on the record.
4. The Respondent has filed its reply, submitting that the promoter has not undertaken the development of the project in any manner. The

respondent further submits that they are registered as an Authorised RERA Agent as per section 9 of the Real Estate (Regulation & Development) Act, 2016 bearing Agent Registration No-BRERAA00793/36/A-21/2018 valid since 05.11.2018 till 04.11.2023 and are not involved in developing the Real Estate Project- Taj Green City, Phase- I & II. The respondent contends that the land in which the mentioned project is situated is the ancestral property of Shri Nagendra Sharma, who is the director of Red Rose Engicon Pvt Ltd. and he is thereby entitled to acquire, hold and sell his property according to constitutional rights under Article 300 of the Indian Constitution. The respondent further submits that a company is a legal entity that is separate from its members and operators. It is an artificial person created by law, and can be recognized as a corporate entity that can enter contracts, own property and conduct business activity under its own name. Therefore, Red Rose Engicon Pvt Ltd is separate and distinct from its director Shri Nagendra Sharma. The respondent further contends that the technical report submitted by the technical team paints different picture as “SV Green City” is the project which can be seen on the photos captured at the site location instead of “Taj Green City, Phase I & II” and “SV Green City” is marketed by Red Rose Engicon Pvt Ltd ,which has duly received its registration as a real estate agent which is evident from the photos attached in the technical report. Lastly the respondent submits that there is no firm evidence provided in the technical report which proves the existence of any project named “Taj Green City, Phase I & II Naubatpur.

5. Learned legal representative for Authority objected the submissions of respondent stating that the respondent has clearly advertised the project “Taj Green City, Phase- I & II, Naubatpur” which is

available on record. It is very much clear that it was published over the website of the respondent company for public view.

6. Learned representative for the Authority further submits that the respondent company advertised the project over the company's website, which is clear violation of section 3 of the Act whether project site is available or not. Any form of advertisement available for public view without obtaining prior registration from the Authority shall be deemed to be a violation of Section 3 of the RERA Act.
7. The first proviso of Section 3 of the Act says that all the ongoing real estate projects were required to register by 31st July, 2017 with the Real Estate Regulatory Authority, Bihar. Further, Section 3 of the Act provides that no promoter can 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 of it, in any planning area within a State, without registering the real estate project with the Real Estate Regulatory Authority (RERA) established under this Act.
8. The term Advertisement has been defined in the section 2 (b) of the Act as follows: "Advertisement means any document described or issued as 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."
9. The Bench observes that it is evident from the advertisements placed on the record that promoter advertised this project without registration of the project with RERA, Bihar.

10. The Bench also observes from the advertisement placed on record that it was published over the website of the respondent company for public view. Moreover, respondents do not produce any conclusive documents from which it is established that project was completed prior to the enforcement of the RERA Act, 2016.
11. Hence, In the light of observations made above, it is established that respondent company has advertised their project namely Taj Green City, Phase- I & II, Naubatpur without registering with the Real Estate Regulatory Authority, Bihar and thereby contravened the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016 . Accordingly the respondents are liable to pay penalty under Section 59(1) of RERA Act 2016.
12. The Technical Team report dated 16-11-2024 placed on the record shows the estimated cost of project namely Taj Green City, Phase- I & II, Naubatpur, is Rs- 24.94 Crore/-
13. Therefore the Bench imposes a penalty of Rs. 7,00,000/- (Seven Lakh) under Section 59(1) of the RERA Act, 2016 against the respondent/ promoter, which is less than 0.3 % of the total estimated cost of the project. This penalty amount has to be paid by the respondent company within sixty days of this order. Non-compliance with this directive will result an action under Section 59(2) of the RERA Act, 2016.

With these observations and directions, the matter is disposed of.

Sd/-
(Ved Prakash)
Special Presiding Officer
RERA, Bihar