

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Special Presiding officer,

Mr. Ved Prakash, RERA, Bihar

Case No: RERA/SM/468/2020

Authorized Representative of RERA

...Complainant

Versus

M/s. Westend Greenspace Pvt. Ltd.

...Respondent

Project: Westend Green City, near IIT, Patna

Present: For Authority: Sri Ankit Kumar, legal representative

For Respondent: Sri Sumit Kumar, Advocate

27.03.2025

ORDER

1. The matter was taken up. Learned legal representative for Authority and learned counsel for the Respondent are present.
2. The Real Estate Regulatory Authority, Bihar issued a Suo Motu show- cause notice on 17.12.2020 to the respondent company for contravention of section 3 of the Real Estate (Regulation & Development) Act 2016 by advertising and taking booking in the project Westend Green City near IIT Patna 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. Learned legal representative for the Authority submits that the respondent-promoter has advertised its project, *Westend Green City near IIT Patna*, without obtaining prior registration from the Authority. In support of the submissions, he placed reliance on the advertisements submitted and available on the record.

4. The learned counsel for Respondent submits that there is no existence of any project in the name of Westend Green City near IIT Patna and there is no development agreement and sanction map of the said project. Further the respondent has no right, title, possession over the said land. The respondent disputes and denies the report of the technical team as the said report does not contain Khesra or Khata no. of the alleged project land.
5. The learned counsel for the respondent further submits that the company “Westend Greenspace Pvt. Ltd” has already been strike off from the Registrar of Company, Patna and in support of his contention, he files photocopy of letter dated 18.11.2021 issued by the Govt. of India, Ministry of Corporate Affairs. The learned counsel for the respondent further contents that the advertisement, which has been produced by the complainant/Authority in the name of the company or project does not belong to respondent and perhaps it was done by some local property dealer or rival company for causing wrongful loss to the respondent for which the respondent had already filed Sanha /Complaint before the Rupaspur Police station and the said document is placed on record. Further the photocopy of the advertisement placed on the record by the legal representative of the Authority is not gathered from the valid source and website of the respondent, so it cannot be considered as evidence against the respondent promoter.
6. The learned legal representative for the Authority objects the submission of the learned counsel of the respondent stating that the respondent has clearly advertised the present project through various websites and brochures /pamphlets, which are available on record. It is very much clear that without prior obtaining the registration from the Authority, the respondent has advertised the

said project and such advertisements are in clear violation of the provisions of Section 3 of RERA Act.

7. Perused the record.
8. 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.
9. 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.”
10. The Bench observes from the Annexures and reply of the respondent that the date of incorporation of the respondent company is 01.11.2017, which is after the enforcement of the RERA Act 2016 on 01.05.2017, so the claim of the respondent in reply that company was strike off from ROC Patna in 2016-17 is contrary to the report dated 29.10.2023 of MCA Govt. of India.
11. The Bench further observes that the letter dated 18.11.2021 of MCA, Govt. Of India does not support the submissions of the

respondents that they have not advertised the project after the date of incorporation.

12. The respondent has further claimed that said advertisement and broacher placed on the record are not advertised and published by the respondent rather the same have been advertised by some other property dealers or rival company for causing wrongful loss to the the respondent company, for which the respondent has filed Sanha at Rupaspur P.S. In this respect it is pertinent to note that if the submissions of the respondent are correct then they should have filed F.I.R instead of filing Sanha because Sanha will not move the criminal law into motion, but FIR would have serve the purpose and guilty persons might have been traced out. Hence it confirms that since the respondents themselves have advertised the project, so they did not dare to file FIR.
13. Hence in above facts and circumstances, the Bench observes from the advertisements placed on the record that promoter advertised this project without prior registration of the project with RERA Bihar.
14. The Bench also notes from the advertisement on record that it was published for public viewing, intended to attract allottees to invest in the project.
15. Hence in the light of observations made above, it is established that respondent company has advertised their project and thereby contravened the provisions of Section 3 of the Real Estate(Regulation and Development) Act, 2016 by not registering their project namely Westend Green City near IIT, Patna with the Real Estate Regulatory Authority, Bihar. Accordingly the respondents are liable to pay penalty under Section 59(1) of RERA Act 2016.

16. The Report of Technical Team dated 11-09-2023 placed on the record shows the estimated cost of project namely Westend Green City, near IIT, Patna is Rs. 10.48 Crore/-

17. Hence, the Bench imposes penalty of Rs.5,00,000/-(Five Lakh) under Section 59(1) of RERA Act, 2016 against the respondent/promoter. This amount has to be paid by the respondent company within sixty days of this order. Non-compliance with this directive will result in 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