

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Bench of Hon'ble Chairman, Mr. Naveen Verma, Hon'ble Member, Mr. R.B. Sinha & Hon'ble Member, Mrs. Nupur Banerjee

Case No.- CC/465/2019;CC/1084/2020;CC/1210/2020;CC/1211/2020;CC/1086/2020;CC/1323/2020;CC/1327/2020;CC/399/2019;CC/1214/2020;CC/1247/2020;CC/1257/2020;CC/1292/2020;CC/1554/2020;CC/1820/2020;CC/1821/2020;CC/1860/2020;CC/345/2021;CC/647/2019;CC/810/2019;CC/970/2020;CC/971/2020;CC/972/2020;CC/973/2020;CC/1004/2020;CC/1022/2020;CC/1025/2020;CC/1085/2020;CC/1087/2020;CC/1088/2020;CC/1089/2020;CC/1090/2020;CC/1091/2020;CC/1092/2020;CC/1103/2020;CC/1104/2020;CC/1128/2020;CC/1132/2020;CC/1133/2020;CC/1134/2020;CC/1135/2020;CC/1202/2020;CC/1203/2020;CC/1204/2020;CC/1205/2020;CC/1206/2020;CC/1213/2020;CC/1242/2020;CC/1258/2020;CC/1322/2020;CC/1330/2020;CC/1331/2020;CC/1332/2020;CC/1357/2020;CC/1393/2020;CC/1394/2020;CC/1403/2020;CC/1406/2020;CC/1407/2020;CC/1728/2020;CC/1775/2020;CC/1776/2020;CC/1794/2020;CC/1878/2020;CC/85/2021;CC/147/2021;CC/148/2021;CC/149/2021;CC/157/2021;CC/158/2021;CC/159/2021;CC/160/2021;CC/167/2021;CC/168/2021;CC/169/2021;CC/170/2021;CC/171/2021;CC/230/2021;CC/232/2021;CC/244/2021;CC/245/2021;CC/246/2021;CC/315/2021;CC/321/2021;CC/322/2021;CC/346/2021;CC/347/2021;CC/348/2021;CC/349/2021;CC/350/2021;CC/360/2021;CC/361/2021;CC/366/2021;CC/367/2021;CC/370/2021;CC/406/2021;CC/415/2021;CC/416/2021;CC/479/2021;CC/480/2021;CC/484/2021;CC/486/2021;CC/487/2021;CC/488/2021;CC/494/2021;CC/506/2021;CC/229/2021;CC/231/2021;CC/316/2021;CC/1454/2020

Mr. Arvind Kumar Malviya/ Mrs. KumudKumari /Ms. Partima Devi/ Ms. SaritaKumari/ Mrs. Pratibha Devi/ Mr. Vijay Kumar Singh/ Mrs. Meena Gupta/ Mr. Santosh Kumar Mishra/ Mr. Deepak Kumar/ Mr. Avinash Kumar Choubey/ Mr. Rajeev Ranjan / Mr. Randhir Kumar Choubey /Mr. Ravi Kumar/ Manish Kumar /Manish Kumar /Sony Kumari /Lalparidevi / Mr. GauravPrakash/ Mr. Rajesh Kumar/ Md. Tufail Ansari/ Md. Tufail Ansari/ MdSafder/ MdMahfuzulHaque/ Mr. Lalit Vijay Rai/ Anupam Sinha/ RohiniKumari/ Mr. Sushil Kumar Sharma/ Mr. Chitranjan Kumar Singh/ PritiKumari / Mr. Sanjay Kumar/ Mr. Manoj Kumar/ Mr. Ratnesh Kumar / Mr. Sunil Kumar/ Mr. Satish Kumar Singh / Mr. Hiralal Das/ Mr. Subash Singh/ Dr. Shankar Kumar Jha/Mr. Rajiv Ranjan Mishra/ Dr. DharmendraBahadur/ Mr. Harendra Kumar/ Mr.Rajesh Kumar Singh/ Mr. Mrigank Kumar Prasar/ Mrs. Sunita Devi/ Md. Ashraf Ansari/ Md. AnzerAlam/ Ms. UshaKumari/ Mr. Avanish Kumar/ Mr. Dender Kumar Mishra/ Mr. BasukiNath Singh/ Mrs. SwetaSinhg/ Mr. Ashutosh Kumar/ Mr. HariomSharan/ Mr. ShadaTabassum/ Sanjay Kumar/ Sanjeev Kumar/ Mr. Shailesh Kumar/ Mr. Shashi Bhushan Singh/ Mr. Rohit Kumar Parmar/ Binod Kumar Anand/ SoniKumari / Upendra Kumar Thakur/ Mrs. Pinky Kumari/ PremAshwin/ Ashwini Kumar Ojha /ArchanaKumari/ Pappy Kumari/SushmitaKumari/ Munni Devi/ Kanchan Devi/ Arti Devi/AnnuKumari/ Jayant Kumar/ Kundan Kumar/ Rajeev Kumar/Indu Devi/Atulya Narayan LalSuraj Kumar/Manoj Sharma/Kranti Kumar Hindustani/KritiKumari And Jitendra Kumar/DilipPaswan/SoniKumari/Pramod Kumai/Pramod Kumar/Hiravati Devi/Lav Kumar Pandey/Erawat Devi/ Jay PrakashTiwari/Manjeet Kumar Pathak/AshutoshTiwari/Yamunadhar Sharma/ Nita Singh/Rinku Devi/Janeshwar Prasad Singh/ Mr. Amrendra Kumar Singh/ Ajay Kumar Dubey/AmrendraPandey/ Rajeev Ranjan/ Rajesh Kumar Sharma/Pankaj Kumar Sinha/Abu Rahman Khan/TanvirNaiyar/WasiUnnisaKhanamShailesh Narayan Lal/ Syed Md Anwar/ Ruby

Sharma/Swadesh **Sharma/Usha** **Devi/** **Mr.** **Niranjan**
Kumar.....Complainant/s **Vs.**
M/s ShinecityInfraproject Pvt. Ltd/ M/s Shine City Charioteer of Reliable Service Pvt.
Ltd.....Respondent/s

Present: For Complainants: Adv.
Nishant
 Adv. Puneet Siddhartha
 Adv. Ishtiyaque
 Adv. SharadShekhar
In persons
For Respondent: None

PROCEEDING THROUGH VIDEO CONFERENCING

07/06/2021

Hearing taken up through video conferencing. Some of the complainants are present. Adv. Nishant, Adv. Puneet Siddhartha, Adv. Ishtiyaque, on behalf of some of the complainants are present. No one turned up on behalf of the respondent.

At the outset, the Bench recalled that on the last day of hearing, the single Bench had decided to refer the matter to the EOW wing of the Bihar Police as the respondent company had not been attending the hearing for the last six months and it is alleged that the promoters had fled to Dubai. The Bench then requested the Counsel of the Authority to let the present position. Counsel of the Authority Mr. Sumit Kumar, submits that he had approached Economic Offence Wing of the Bihar Police on behalf of RERA, Bihar in March 2021 and since ADG was not available, the meeting could not take place. When ADG returned back from leave, the meeting couldn't take place due to Covid lockdown.

Adv. Nishant appearing on behalf of 33 complainants, submits that he had filed 33 criminal complaint cases before the District Court Patna. He further submits that RERA court has wide powers under Section 59 to file a criminal complaint through the competent authority before the criminal court for violation of Section 3 of RERA, Act. He further prays for permission to file the case under Section 3 and Section 59 (2) of the Act to which Bench clarified that the respondent can be punished under Section 59(2) only for repeated violations of the directions given under Section 59 (1) of the Act. He further submits that the respondent company has shifted to UAE and running a successful business. He further submits that any person can be extradited from UAE by consulting the Ministry of External Affairs and the Union Home Ministry and further can approach the competent authority for arresting the accused. He further prays for bringing the accused person before the Hon'ble Bench.

The learned counsel mentioned that it is estimated that ₹60000 crores have been siphoned off by the respondent Company which has taken money from various buyers in a number of States . He submitted that despite the interim order of RERA , no action has been taken by the Registrar of Companies against the Respondent Company.

The Authority directed Secretary RERA to take up this matter with the Registrar of Companies Lucknow as well as with the State and Union Governments.

The Bench observed that there is continued violation of Section 3 by the respondent company as show cause notices were issued way back in 2018 by the RERA for contravention of Section 3 of the Act. However , the respondent company has not complied with the directions/orders of the Hon'ble Bench for registration of their ongoing projects. The Bench observed that ample

opportunity has been given to the respondent Company to take steps for registration of their projects . It was noted that none of the projects of the respondent company are registered under RERA. The respondent company has been deliberately violating Section 3 of RERA Act, 2016 . It is further observed that the respondent company had kept on advertising their projects, made bookings, sold plots of land and took money from the consumers which clearly show that they had repeatedly violated and contravened the provisions of Section 3 of RERA Act, 2016.

The Authority directed that one last notice may be issued by the Registration Cell and these matters may be listed on 14.6.2021. If the respondent Company does not appear on that date , ex parte decision would be taken on the basis of available documents .

Adv, PuneetSiddharth, by quoting Section 35 and Section 35 (2) of RERA, Act submits that the Authority has the Powers to call for information, conduct investigations and Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit with respect to summoning and enforcing the attendance of persons and examining them on oath. He further quotes Order 16, Rule 10 of Civil Procedure Code for taking recourse as and when the witness fails to comply with summons.

Adv Nishant submits that one of the Directors of respondent company Mr. Amitava Srivastava was arrested in Delhi in October 2020 by the Varanasi Police and is behind the bars. He further prays for notice may be issued so that he can be made a party in this case and appear through video conferencing before the RERA Bench and in that way the company can be represented in the case.

The Bench requested the learned counsel Adv Nishant to submit the relevant details on the basis of which Secretary , RERA would send a formal request to enable the virtual appearance of the said Director on the next date of hearing .

The Bench observed that the process of extradition can be initiated by the Government on the basis of criminal cases filed against such persons . The Bench directs those complainants who have filed FIRs against the respondent company to submit the copy of FIR in RERA so that the RERA could take up the matter at the appropriate levels in the state government.

Mr. Soorajkumar, complainant submits that he had invested in the respondent company in 2019 and the respondent was supposed to execute the registration of the plot of land and hand over the possession within 3 months. He further submits that nothing has been done as yet even after paying the full amount. He further submits that FIR has not yet been filed , but he would filing it .

Mr Syed Anwar, complainant submits that he had paid some amount and respondent was supposed to hand over the possession in 2 months. He further submits that nothing has been done as of yet on the part of respondent and further prays for justice. He further submits that the respondent kept on lingering the matter and had given few contact numbers but none of the numbers are reachable now. The Bench directs the complainant to submit his submissions in an application mentioning all the numbers he had contacted and all persons he had met. He further submits that he had approached Police Station but the officials refused to file FIR.

The Bench directs all the complainants desirous of lodging FIRs to write letter in the name of SP Economic Offence Unit mentioning the detailed facts of the case along with relevant documents and any other information related to the respondent company and submit it in RERA.

Mr Gaurav Prakash , Complainant (CC/647/2019) submits that he approached Economic Offence Unit Patna and SSP office Patna. He further submits that he couldn't get any follow up from SSP Patna. He further submits that complainants are facing a lot of problem in filing criminal case in Naubatpur Thana. The Bench directs the complainant to submit his submissions in writing along with copy of letter which was sent to Economic Offence Unit and SSP, Patna in RERA.

Mr Avnish Kumar, Complainant, suggested that the assets of the respondent company could be liquidated as it would have submitted land documents for registration of two of the projects Omna and TashiNaubatpur. It is observed that RERA has only two applications out of which one is under query and for other project hardcopy has also not been submitted.

The Bench directs the complainants to submit whatever information of the land i.e. village name or mauza, Thana Number, Anchal and any other assets of the respondent company to RERA so that further investigation can be made.

Mr Raj Kumar , submits that as per the last direction of the Bench the complainant has approached the Naubatpur Thana and officials said that if there is any agreement between the landowner and the complainant only then the FIR will be lodged. He further the submits that 10 days back the director of the respondent company has made a *whatsapp* group and claimed that he will be returning by 4thJune and will refund all the money.

The Bench directs the complainant to submit the copy/screenshots of whatsapp chat with the director of Respondent company in RERA.

Mr. Ishtiyaque(CC/1357/2020)submits that his client has paid full amount to the respondent and registry of sale deed has also been executed of land mauzaDariyapur, Naubatpur. He further submits that the possession has not been handed over as yet. Pranav Kumar resident of Sitamari, one of the executants of the respondent company has executed the registry paper.

The Bench suggests that the complainant may file petition before CO office for mutation of the registered land online . The Bench directs the office to issue notice to Mr Pranav Kumar , who executed the same deed on behalf of the respondent company , for appearance on the next date of hearing.

Mr Rajesh Kumar submits that as per the last direction of the Bench a whatsapp group has been created by the allottees and further assures to follow the directions of the Bench. He informs the bench that total 43 people were there in the group but as of now there are only 28 people as the respondent company is trying to influence other people. He submitted that petitions for filing FIRs on behalf of 28 complainants would be sent to RERA . Adv Sumit Kumar would coordinate with him .

Ms Pinki Kumari submits that she booked land in Tashi, Naubatpur and the respondent has run away. She further submits that a cheque was given to her which got bounced and for which case has been filed before the District Court .

The Bench directed her to submit all the relevant details of the cheque to the Authority as well .

The husband of Ms Nita Singh, CC/366/2021 who is an ex- serviceman submits that the respondent has taken money and absconding since a very long time. He had tried to meet the Company officials at their headquarters in Lucknow also , but without any success.

Mr Pintu Kumar, CC 784/20, submitted that he has filed a FIR against the Respondent Company in Gomti Nagar PS, Lucknow .

He was requested to send a copy of the FIR to RERA .

MrSharadShekhar, Advocate , who was present in the Court in connection with another case , when requested to assist the Bench about the respondents , submits that he was approached by an authorized officer of the respondent company who executed the Vakalatnama in his favour to enable him to represent the company before the Bench. He however stated that he had never met the Director of the Company . He further submits that the respondent never introduced the legal cell of the company to him though he was their counsel and kept on lingering the matter. **The Bench requested him to provide the information of the authorized person who executed the Vakalatnama so that he can be asked to appear before RERA .**

In course of hearing it appeared that that the respondent company is headquartered in Lucknow and has cheated thousands of consumers in different districts of UP, Bihar, Jharkhand and Orissa. It was also brought on record that after interaction with UP RERA , there are reasons to believe that the directors of the respondent company have fled the country and could be presently staying at Dubai in UAE.

The Bench requested Adv Nishant , Adv Puneet and Adv Sumit to assist it by preparing a consolidated statement of all matters that can be sent for investigation by State Police and the Enforcement Authorities under the relevant sections , in addition to the actions that can be taken by RERA . They assured all assistance in making the case sheet within 10 days .

After hearing all parties- complainants and their counsels, the Bench **directed that all complainants who are desirous and willing to lodge FIR against the respondent company must submit the copy of duly signed FIRs in RERA within 1 week. All the relevant documents must be submitted along with FIRs via post as well as via email.**

The Bench functioning as Authority in terms of Section 2(I) : Section 20(1) and Section 21 of the RERA Act also issued the following directions:

- 1. All ongoing Suo Moto cases against the respondent company for contravention of the provisions of the Section 3 of the RERA Act must be linked with the present case and heard together.**
- 2. Secretary RERA, Bihar would make a formal reference to UP RERA and obtain information about the Company , the details of the cases filed against the respondent and action taken by them . He will also coordinate with RERAs of Orissa and Jharkhand whether the respondent company is operating in those states and whether complaints have filed against them .**
- 3. In terms of Section 32(j) a recommendation may be made to State Government for constitution of a multi-disciplinary team consisting of various agencies / organisations of the State and Central Governments to investigate into the working of the respondent company and other such companies indulging in unfair practices so that either the deposits of the complaints could be refunded back along with due interest or registration of the booked plots of land / buildings could be executed and possession given to the allottees.**

4. Secretary RERA, Bihar would send a self contained letter, giving the facts of the case , and the FIRs filed and attempts to file FIRs so far to DGP, Bihar with a request to issue clear cut directions to all concerned to register FIRs.

1. **Considering the ramifications of the case and that cases have been filed in Uttar Pradesh also , DGP Bihar is requested to constitute a special investigation team and explore the possibilities of taking the help of central investigative agencies like ED etc for catching the culprits as the activities of the Respondent Company span over several states and directors have fled to a foreign country.**
2. The Authority directed Secretary RERA to take up the matter of action against this company with the Registrar of Companies Lucknow as well as with the State and Union Governments.
3. In terms of powers conferred under Section 31 of the Act and Rule 31(g) and Rule 24(2) of the Bihar RERA Rules , the services of a retired police officer with experience in handling matters of economic offences would be engaged to carry out on enquiry on the various complaints and submissions made by the complainants and also assist in drafting the criminal cases by various complainants .
4. In terms of Rule 36(h) the concerned Circle Officers or their authorised revenue functionaries would be requested to produce the relevant land records including jamabandi register showing the lands held by the respondent company .

Put up on 28/06/2021 for hearing.

Sd/-	Sd/-	Sd/-
Naveen Verma (Chairman)	R.B. Sinha (Member)	Nupur Banerjee (Member)