

**BEFORE ODISHA REAL ESTATE REGULATORY AUTHORITY,
BHUBANESWAR.**

Suo Motu Complaint Case No. 237 of 2018.

O R E R A

... **Complainant**

- Versus-

1. Hi-Tech Edifice (P)Ltd
Plot No A/103, Saheed Nagar,
Bhubaneswar, represented through
its Managing Director
Tirupati Choudhury.
2. Tirupati Choudhury,
Managing Director,
M/S Hi-Tech Edifice (P)Ltd
Plot No A/103, Saheed Nagar,
Bhubaneswar.

... **Respondents**

ORDER

Dated 08.02.2021

This is a case initiated U/s 63 of the Real Estate (Regulation & Development) Act, 2016 against the respondents for violation of direction issued by this Authority in CC.No. 96 of 2018.

2. The promoter-M/s Hi-Tech Edifice Pvt.Ltd is undertaking a project namely" Hi-Tech Paradise" in mouza-Nailo,Pipilli in the District of Puri. The promoter was directed to pay interest and to carry out other directions of this Authority in CC. No. 96 of 2018 decided on

03.08.2018. Since the respondents disobeyed the order, the Authority instructed the office to initiate a Suo Motu Case against the promoter for violation of order.

3. The respondents did not comply the directions of the Authority within the stipulated period, passed in Complaint Case No. 96/ 2018, Accordingly Suo Motu Complaint Case was registered against them. The Enforcement Officer was directed to visit the site and to inform about the cost of the project. After visiting the project site he has submitted a report stating that the project "Hi-Tech Paradise" is having 5 Blocks and each block consist of S+G +5 storied building having built up area of 2,46,361 Sqft. The cost of the Flat is Rs.10,71,000/-for 700 Sqft built up area. Thus the cost of the project is Rs. 37,69,32,000/- .

4. The Complainant entered into an agreement with the respondents on 30.11.2011 for purchase of one Flat No.5/B3-15 in Fifth Floor having area of 700 Sqft in the project "Hi-Tech Paradise" in mouza-Nailo. The consideration money was fixed at Rs. 10,15,000/- and the respondents have undertaken to complete the unit in all respect and deliver possession within 30 months with grace period of 6 months from the date of agreement. But the respondents did not keep their promise and did not hand over possession of the flat as promised in the agreement. Therefore Sri Amit Das filed Complaint Case No. 96/2018 against the promoters seeking protection of his interest by an order to be passed by this Authority under the Act. The Authority after consideration disposed of the case on 03.08.2018. The respondents in spite of direction of the Authority did not make payment with interest and did not deliver possession. They filed a show cause stating that they have filed an appeal against the order passed by this Authority dated 03.08.2018. So the order passed by this Authority is not acceptable. But no stay order is received from the Appellate Authority. Even appeal number is not provided in the show cause filed by the respondents.

5. Section 63 of the Act clearly states that if order is disobeyed and promoter fails to comply the order, he shall be liable to a penalty which may extend up to five per cent of the estimated cost of the real estate project as determined by the Authority. In the instant case the Enforcement Officer submitted a report stating about the approximate cost of the project. He has provided reasons for the aforesaid assessment of cost. The total built up project area is 2,46,361 Sq.ft. The cost of the Flat is Rs. 10,71,000/- for 700 Sqft built up area. Therefore the total estimated cost as per report is calculated as Rs. 37,69,32,000/- In absence of any other materials provided by the respondent, we are of the considered opinion that the project cost as estimated by the Enforcement Officer is correct. Penalty up to 5 % is the mandate of the statute. So discretion is given to the Authority to impose penalty considering the facts and circumstances of the case. In the instant case the promoter appears to be negligent. He did not comply with the order with an intention to harass the intending purchaser who has invested huge amount to get her house. Taking into consideration the circumstances of the case we hold that the respondents are liable to pay Rs. 20,00,000/- as penalty U/s 63 of the Act for noncompliance of the direction of this Authority. Hence order:-

ORDER

The case is allowed on merit against the respondents without cost. The respondents are directed to pay penalty of Rs. 20,00,000/- (Rupees twenty lakhs) within a period of two months failing which the order shall be enforced and the penalty shall be realized as per law.

The penalty shall be deposited with this Authority within the period of two months as directed above.

True copy

Registrar

Memo No.

447

Member II

date 11/02/2021

Chairperson.

Certified copy of order forwarded to the Complainant / Respondent (s) for information.

Registrar

o/c