

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

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**Suo Motu Complaint Case No. 243 of 2018.**

**O R E R A**

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**Complainant**

**- Versus-**

M/s. Green India Infra Projects Limited

Represented through its M.D.Mr.Pradeep Singh

Plot No.10, Satyanagar, Bhubaneswar.

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**Respondent**

**ORDER**

**Dated 01.02.2021**

This is a case initiated U/s 59 of the Real Estate (Regulation & Development) Act, 2016 against the respondent for violation of Section 3 of the Act.

2. The promoter-M/s Green India Infra Projects Limited is undertaking a project namely "Green Jasmine" at Pokhariput, Bhubaneswar. The fact came to the notice of the Authority while deciding complaint Case No. 198 of 2018. The Authority instructed the office to initiate a Suo Motu Case against the promoter for violation of Section 3 and 5 of the Act. The promoter without obtaining registration certificate in respect of the ongoing project "Green Jasmini" proceeded with construction work and took all steps to advertise and sale the apartments constructed under the project.



3. The respondent did not appear in spite of valid service of summons on him. The Enforcement Officer who was deputed to visit the site and to inform about the cost of the project, has submitted a report stating that the promoter has made half constructed three blocks G+1, G+3 and G+3 storied building covering an area of 96,095 Sq.ft. The project is being undertaken in Pokhariput area in the District of Khurda. The approximate cost of the project as per assessment of the Enforcement Officer is Rs.9,60,95,000/-. The assessment is made @ Rs. 1000/- per Sqft.

4. The copy of the agreement dated 11.01.2013 indicates that the promoter has entered into an agreement with one Madhusudan Mishra for sale of one three BHK Flat situated in 4<sup>th</sup> floor of Block-A comprising an area of 1288 Sqft. He did not keep his promise and did not hand over possession of the flat as promised in the agreement. Therefore Madhusudan Mishra filed a Complaint Case No. 198/2018 against the promoter seeking protection of his interest by an order to be passed by this Authority under the Act. Therefore it appears that in the year 2018 the project was incomplete. On the date of filing of this case the Act was in operation. Section 3 of the Act makes it mandatory for all promoters to obtain registration certificate from this Authority in respect of their projects. The Act specifically stipulates in Section 3(2)(b) that registration is not necessary where the promoter has received completion certificate for a Real Estate Project prior to commencement of this Act. The disputed project is a real estate project as defined under Section 2(zn) of the Act. Therefore the respondent/promoter is liable for penalty for violation of Section 3 of the Act. Penalty is to be realized as per Section 59 of the Act.

5. Section 59(1) of Real Estate (Regulation & Development) Act, 2016 states that if any promoter contravenes the provisions of Section 3, he shall be liable to a penalty which may extend up to ten 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 project area is 96,095 Sq.ft. The cost is assessed at Rs.1000/- per Sqft. Therefore the total estimated cost as per report is calculated as Rs. 9,60,95,000/-. The assessment is made taking into consideration the half constructed apartment situated in the project. However, 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 10 % 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 proceed with the construction with an intention to harass the intending purchasers who have invested huge amount to get houses. Taking into consideration the circumstances of the case we hold that the respondent is liable to pay Rs. 5,00,000/- as penalty for violation of Section 3 of the Act. Hence order:-

### **ORDER**

The case is allowed exparte against the respondent without cost. The respondent is directed to pay penalty of Rs. 5,00,000/- (Rupees five 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.

Sd/- 7.2.2021  
Member-II

Sd/-  
Chairperson.

True copy

Registrar



Memo No. 348 /ORERA, date 04/02/2021

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

  
**Registrar**