

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

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Present:-

**Sidhhanta Das, Chairperson.**

**Pradeep Kumar Biswal, Member-I**

**Ramanath Panda, Member-II**

**Suo Motu Complaint Case No. 228 of 2019.**

**O R E R A**

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**Complainant**

**- Versus-**

M/s Panchadeep Construction Ltd.

Authorized Signatory Sajjan Poddar,

S/o Late Kali Prasad Poddar,

At-545, G.T.Road (South)

Howrah- 711101.

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**Respondent**

**ORDER**

**Dated 22.04.2021**

This is a case initiated U/s 63 of the Real Estate (Regulation & Development) Act, 2016 against the respondent for violation of direction issued by this Authority in CC.No. 196 of 2018.



2. The respondent- M/s Panchadeep Construction Ltd represented through its Director, Mr.Sajjan Poddar, is undertaking a project namely "BMC Panchadeep Market Complex" at Unit IV, Bhubaneswar. The respondent was directed in Complaint Case No. 196 of 2018 decided on 17.08.2019 by this Authority to refund Rs. 35.00 lakhs to the complainant with interest @ 10.50% per annum compounded quarterly with effect from the date of respective payment. Since the respondent disobeyed the order, the Authority instructed the office to initiate a Suo Motu Case against the promoter for violation of order.

3. The respondent appeared before the Authority and filed a show-cause stating that he has preferred an appeal before the Odisha Real Estate Appellate Tribunal against the order of this Authority. The matter is pending before the Appellate Tribunal. At present the Tribunal is not functioning. The appellant has good chance to succeed in the above appeal and unless the Execution Proceeding be adjourned till the final disposal of the above appeal, the very purpose of filing the above appeal will be in fructuous and the appellant shall suffer irreparable loss.

4. As per direction of this Authority, the Technical Team visited the site of the project "BMC Panchadeep Market Complex, Bhubaneswar" promoted by M/s Panchadeep Constructions Ltd at Unit-IV, Bhubaneswar and found that the project was initially approved by the BDA vide letter No. 3764/BP dated 17.04.2000 towards construction of the market complex on 1,30,000 sqft. Subsequently revised approval order has been issued by BDA vide letter No. 20287/BP dated 05.09.2012 for 1,92,495 Sqft. The market complex B+S+G+4 storied building has been constructed as per approved plan. During inspection they found one electronic repairing



shop ~~has been~~ started in the ground floor and one office has ~~started~~ functioning at 4<sup>th</sup> floor of the building. The construction work of the building is complete except outside painting which is going on. Installation of fire fighting system is in the completion stage. As reported by the Director Mr. Sajjan Poddar, physical possession of the shops will be given to the allottees within next three months. A three storied building over 13,982 Sqft area adjacent to the market complex has been constructed exclusively for car parking. That apart, there is provision for parking of vehicles in basement area of 30,247 Sqft and surface area of 9795 Sqft. The promoter could not produce DPR to ascertain project cost. On the basis of agreement for sale dated 16.02.2006, the area of the shop is 273 Sqft. Cost of the shop is Rs. 4,68,000/-. Rate per Sqft is Rs. 1714/-. Built up area of the project is 1,92,495 Sqft. The project cost is Rs. 32,99,36,430 Sqft.

5. Section 63 of the Act clearly states that if any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively 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 Technical Team submitted a report stating about the approximate cost of the project. The Technical Team has provided reasons for the aforesaid assessment of cost. The total built up project area is 1,92,495 Sqft. The cost of the project is assessed at Rs. 32,99,36,430/-. In absence of any other materials provided by the respondent, we are of the considered opinion that the project cost as estimated by the Technical Team 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 his house. No stay order is received from the Hon'ble Appellate Tribunal. Taking into consideration the circumstances of the case we hold that the respondent is liable to pay Rs. 1,000/- per day as penalty for the period from 17.08.2019 till today i.e 22.04.2021 during which default continued for violation of Section 63 of the Act. The total penalty amount on cumulative calculation comes to Rs. 6,10,000/-. Hence order:-

### **ORDER**

The case is allowed on contest against the respondent without cost. The respondent is directed to pay penalty of Rs. 6,10,000/- (Rupees six lakhs ten thousand) 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 a period of two months as directed above.

True Copy

*[Signature]*  
Registrar  
Odisha Real Estate Regulatory Authority

*[Signature]*  
Member-II

(Ramanath Panda)

*[Signature]*  
Member-I

(Pradeep Ku.Biswal)

*[Signature]*  
Chairperson.

Siddhanta Das)

Memo No 1415 / Dt 27/04/2021

Certified copy of order forwarded to the Respondent for information.

*[Signature]*  
Registrar  
Odisha Real Estate Regulatory Authority