

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

Present:-

Sidhhant Das, Chairperson.

P.K.Biswal, Member-I

Ramanath Panda, Member-II

Suo Motu Complaint Case No. 246 of 2018.

O R E R A

...

Complainant

- Versus-

M/s Life Style Properties Pvt.Ltd,

1st Floor, N5/100,

IRC Village, Bhubaneswar-751015,

...

Respondent

ORDER

Dated 05.04.2021

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 Life Style Properties Pvt Ltd is undertaking a project namely " Life Style Orchid" Near Chandaka Square, Bhubaneswar without any registration. When the fact came to the notice of the Authority, the Authority instructed the office to initiate a Suo Motu Case against the promoter for violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016. The promoter without obtaining registration certificate in respect of the project "Life



"Style Orchid" proceeded with construction work and took all steps to advertise and sale the apartments constructed under the project.

3. The respondent/promoter appeared through its Managing Director Partho Biswal and filed a show cause stating that the advertisement published in Odiya daily "The Prameya" on 05.10.2018 for sale of Flats in their Project "Life Style Orchid", Sunderpur was published by mistake. They were not aware of the ORERA rules and regulations and mistakenly published the Advertisement. He undertakes not to make the same mistake in future. The project is complete. The respondent has applied for occupancy certificate.

4. On the direction of this Authority, the Enforcement Officer visited to the project site and found that building of the project was completed one with two blocks having S+G+4 storied building comprising 160 nos of 2 BHK and 3BHK flats covering an area of 2,10,000 Sqft. The Enforcement Officer ascertained that 2 nos of 3BHK flats are yet to be sold. The cost of a flat is Rs. 45,40,000/- having 1434 Sqft built up area including parking, GSTY and Registration Charges. The total cost of the project would be Rs. 58,56,90,000/- approximately.

5. 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. The explanation of the promoter that he was ignorant of the Act or the legal procedure is not acceptable. 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.



6. 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 cost of the project is Rs. 58,56,90,000/-. 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 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 proceeded with construction work without obtaining registration certificate from this Authority violating Section 3 of the Act. So he is liable to pay penalty under Section 59 of the Act. In the circumstances the respondent is held liable to pay Rs. 20,00,000/- as penalty for violation of Section 3 of the Act. Hence order:-

ORDER

The case is allowed on contest against the respondent without cost. The respondent is 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.



[Signature]
(Ramanath Panda)

Member-II

[Signature]
(P.K.Biswal)

Member-I

[Signature]
(Siddhanta Das)

Chairperson.

TRUE COPY

[Signature]
Registrar

Odisha Real Estate Regulatory Authority

NO 1168 Dated - 08/04/2021
Copy of Penal order forwarded to the Respondent -
for information

[Signature]
Registrar

Odisha Real Estate Regulatory Authority

