



GOA REAL ESTATE REGULATORY AUTHORITY

DEPARTMENT OF URBAN DEVELOPMENT

GOVERNMENT OF GOA

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F.No:3/RERA/SuoMotoComplaint/2021/575

Date: 07/10/2021

Order

This is to dispose off the 'Show Cause Notice' dated 06/01/2021 issued to Gulshan Homes and developers (hereinafter referred as promoter) directing him to show Cause why penalty should not be imposed for not registering the project 'The Palm' under section 3(1) read with section 59(1) of Real Estate (Regulation and Development) Act, 2016. In this case, the promoter has advertised the project "The Palm" situated in village Dhanva, Tivim, Bardez, North Goa on the local daily newspaper 'The Navhind Times' dated 05/01/2021 and on website "http://ghdinfra.com/". The said advertisement was in respect of the 'Bhoomi Pooja' of the project. As this was found in contravention of the above mention provisions of Real Estate (Regulation and Development) Act, 2016 as the said advertisement was published without registering the project under RERA, the show cause Notice dated 06/01/2021 was issued to promoter.

2. The Promoter filed reply dated 27/01/2021. In the reply, he admitted that he had published the advertisement in the daily newspaper The Navhind Times dated 05/01/2021 and also on the website "http://ghdinfra.com/". However, promoter denied that at any particular time, he had contravened any provisions of the RERA Act, 2016. He has submitted that the said advertisement was only an announcement, wherein he had planned to perform of the 'Bhoomi Pooja' for his upcoming project of the 'Palm' situated at Tivim, North Goa. Promoter has pointed out that in the said advertisement; he has called for booking for his ongoing project in the name and style as "Orchid Homes" situated at Giride village, Dodamarg, Sindhudurgh, Maharashtra, for which he has obtained RERA registration dated 13/05/2020 from Maha - RERA.

3. In the reply, promoter has stated that he had no intention for contravention of provisions of RERA. He has stated that he has obtained Technical Clearance Order, and further after obtaining Construction License, he was intending to apply for RERA Registration Certificate before this Authority. It has also been submitted that so far no booking for the project 'The Palm' has been taken nor he is intending to book any apartment until RERA Registration is obtained for the said project. In view of above, promoter has prayed for withdrawal of Show Cause Notice dated 06/01/2021 issued by this Authority.
4. Hearing in this case was fixed on 04/10/2021. Ld. Advocate Shri. R. R. Chodankar was present on behalf of promoter and argued the case at length. He stated that there were two projects mentioned in the said advertisements. First is 'Orchid Homes' which is located in Maharashtra and all necessary clearances were obtained in respect of that project from Competent Authorities. That project was put for marketing. In respect of second project 'The Palm' it was only for 'Bhoomi Pooja', so far no booking has been done in respect of the project 'The Palm'. Hence, promoter has not violated any provisions of the RERA and hence Show Cause Notice dated 06/01/2021 should be withdrawn.
5. I have considered the case. If we see the advertisement of Navhind Times, it will be observed that details and subject matter of both the projects are same. Nothing distinguishes that one project is for booking and other only for 'Bhoomi Pooja'. Even prices of the units have been quoted in respect of both the projects. In respect of 'Orchid' it mentioned that 'starting from just 29.60 lakhs and in respect of 'The Palm', it is mentioned that 'Starting from just 32.50 lakhs'. Hence, no differentiation can be made in the two projects i.e. one for booking and other for 'Bhoomi Pooja'.
6. Registration of real estate project is governed as per section 3 of the Real Estate (Regulation and Development) Act, 2016. The relevant portion of the section are as follows:

"3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:"

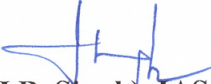
7. A mere perusal of the provision of this section 3 shows that even advertisement of any real estate project without registration under section 3 is not permitted. This project was advertised, is a matter of fact and admitted by the promoter. Accordingly, by advertising the project, promoter has violated section 3 of the Act.
8. The punishment for the contravention of provisions of section 3 has been incorporated in section 59 of the Act. Section 59 (1) reads as follows:

“59. Punishment for non registration under section 3 (1) 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.”

From the above provision, it is clear that amount of penalty may extend upto ten percent of the estimated cost of the project.

9. However, in this case, it is seen that in this case so far no booking has been done. Even statutory clearances like construction license etc. has not been taken. Hence, I feel, a lenient view should taken in this case while determining the amount of penalty. Considering all the above factors, I feel penalty amount of Rs.50,000/- (Rupees fifty thousands only) will meet the end of justice.
10. Accordingly, a penalty of an amount of Rs.50, 000/- (Rupees fifty thousands only) is imposed on promoter under section 59(1) of the Act for violation of section 3 of the Act. The promoter is directed to deposit this amount within thirty days.

Order accordingly,


(J.B. Singh), IAS (Retd.)
Member, Goa RERA

To,
Gulshan Homez And Developer's
“Rudraxi” L-6, Housing Board Colony,
Porvorim, Bardez, North Goa 403521.