IN THE ODISHA REAL ESTATE APPELLATE TRIBUNAL AT BHUBANESWAR

OREAT Appeal No.187/2024

M/s.Pratyaksh Estates Pvt. Ltd.,
Chandini Chowk, Kataka
represented through
Prabhat Kumar Pradhan, Director ... Appellant

-Versus-

The Secretary, ORERA, Bhubaneswar ...Respondent

For the appellant : Mr.D.K.Pradhan, Advocate.
For the respondent : Mr.B.Nayak, Advocate

CORAM :
Shri S.K.Rajguru, Judicial Member
Dr.B.K.Das, Tech./Admn.Member

O R D E R
30.10.2026

The appeal is taken up for final order.

2) The appellant calls in question, the impugned order dated 18.10.2024 passed by Odisha Real Estate Regulatory Authority (in short the 'Authority') directing him to pay a penalty of Rs.50,00,000/- (Rupees Fifty lakhs) for the alleged violation under Section 3 (1) of the Real Estate (Regulation and Development) Act, 2016 (here in after referred to as the 'Act') in Suo Motu Complaint Case No.364 of 2024, on various grounds. He has accordingly prayed for setting aside the impugned order.

3. Facts and circumstances giving rise to the present appeal are as follows:

As per the inspection report dated 9.4.2024 of Sri U.C.Pani, Enforcement Officer, ORERA, it was stated that the Enforcement Officer, on his way for inspection of the project namely "Dions Sky Walk" at Sector-8, CDA, Kataka on 28.3.2024, had found a hoarding to have been displayed, on the bank of Kathojodi river, near the plotted project namely "Riverdale".

On proceeding to the exact project site of "Riverdale" at Belagachhia. Trisulia, Kataka, he met Sri Satyajit Mohapatra, Manager in charge of Civil construction of the appellant promoter namely M/s. Pratyakash Estates Pvt. Ltd, having its registered office at Plot No.917/1132, Bidanashi, Kataka. On discussion with the said Manager in charge, he informed that the project site spreading over Ac.25.00 of land shall be developed to a project involving 100 duplex houses and 253 residential plots.

As on the date of inspection, the appellant-promoter had only the approval of the 67th DP & BP Committee of CDA held on 11.1.2024 subject to compliance of following three conditions.

(i) The promoter shall submit final NOC from the Water Resources Department in respect of allowing the construction in between the river and the embankment road.
(ii) NOC from Tahasildar, Baranga for road connectivity on Government Land.
(iii) Copy of the Power of Attorney of land owners.

The Enforcement Officer of ORERA further reported that the appellant-promoter had floated advertisement for sale of plots through hoarding

on their website www.pratyakshestates.com in violation of Section 3 of the R.E (R & D) Act, 2016. Hence, the Enforcement Officer, ORERA recommended to initiate the action under Section 59 of the Act against the promoter of "Riverdale".

Further, the Enforcement Officer has submitted the estimated cost of the project, as Rs.202,51,20,000/- (Rupees Two hundred two Crore Fifty one lakh Twenty thousand) only calculated on the basis of the information provided by Sri Satyajit Mohapatra, Manager of the project "Riverdale" in absence of any formal DPR, approved drawing and land details etc.

Basing on the strength of the above inspection report, the present SMCC No.364/2024 was initiated on 20.4.2024 by the learned Authority against the appellant-promoter under Section 3 of the Act on the allegation that the promoter has floated advertisement for sale of the plots of the project "Riverdale" without obtaining registration certificate from ORERA.

In response to notice no.4005 dated 7.6.2024 of ORERA the appellant-promoter entered his appearance in SMCC case No.364/2024 and admitted that he is the promoter of the said project "Riverdale". He further admitted that the project "Riverdale" was their first venture and the land involved in the project belongs to several land owners. However, some of those land owners have not yet executed the General Power of Attorney (GPA) or Sale Deed in favour of the appellant-promoter. Therefore the DP & BP committee of Cutttack

Development Authority had issued a conditional letter requiring the promoter to submit the GPA from the land owners of the plots, involved in the above said project along with other necessary clearances for approval of the project plan.

The appellant-promoter has further admitted that upon receipt of the notice for appearance from the learned ORERA, he has immediately removed the advertisement board from the proposed project site and has also not sold any plots or units of the project. He has also stated that on receipt of approved plan from the Cuttack Development Authority, Cuttack, he would apply for the registration of the project with the ORERA. Upon receipt of required registration from ORERA, he shall execute agreements for sale or sale deeds as required. The appellant also undertook to submit an affidavit in this regard.

Admitting to have mistakenly installed the advertisement board for the project, the appellant-promoter has expressed his deep regret for being unaware of the RERA Rules and undertook not to repeat such type of mistake in future. The appellant-promoter accordingly prayed for a relaxation from the penalty imposed upon him.

The Suo Motu complaint Case being heard from both the parties by the learned ORERA was disposed of vide the impugned order dated 18.10.2024: The operating portion of the impugned order is as follows:-

"The case is allowed on contest against the respondent but without cost. The respondent is directed to pay penalty of Rs.50,00,000/- (Rupees Fifty lakhs) only within a period of two months from the date of the order, failing which the order shall be enforced and the penalty shall be realized as per law.

The promoter is hereby directed to register the project under the RERA Act within a period of two months from the date of this order, failing which further legal action will be initiated against him as per law."

4. The pleas of the appellant in the appeal are as follows:-

(a) The very initiation of the proceeding, at the instance of a unilateral report of the Enforcement Officer and the Empanelled Engineer of ORERA, alongwith the manner of conducting the case by the learned ORERA are questionable and without any adherence to the principle of natural justice, even though it has been mandated in the statute. The learned Authority has committed factual and legal errors in adjudicating the case and it seems the learned Authority had made up his mind to punish the appellant heavily.

(b) The respondent-Authority has not taken the judicial notice of the show cause reply submitted by the appellant in its proper prospective. Some of the land owners have not executed the GPA or sale deed in favour of the promoter-company. Despite all such odds in the project, upon the receipt of the notice, the appellant promoter immediately removed the advisement board from

the proposed project site and asserts that he has not sold any plots or units of the project. On being informed so the learned Authority ought to have ordered further probe into the matter, before passing of any order.

(c) There has been no admission by the Manager-in-charge of the Appellant-company before the Enforcement Officer of the ORERA that 100 duplex houses and 253 residential plots were developed as on the date of his inspection of the alleged site. The learned ORERA ought to have conducted further probe into the matter before passing the impugned order.

5. On the other hand, learned counsel for the respondent-Authority vehemently argued that the learned Authority has rightfully exercised its authority in initiating the suo motu complaint case as the appellant promoter has developed the residential project in the name and style of "RIVERDALE" at CDA, Sector-8, District-Kataka and as such, the appeal is unwarranted.

Prima facie, the appellant without obtaining valid completion certificate and occupancy certificate from the competent authority and the registration certificate from ORERA for the said project has allegedly advertised its project through hoarding and on their website in order to attract the attention of the prospective home buyers which amounts to violation under Section 3 of the Act.

The learned counsel for the Authority further submitted that the ignorance of law is no excuse in the legal jurisprudence and thus the appellant having admitted to have displayed the advertisement of the

project through hoarding can not escape from the rigors of the law by pleading his ignorance of law.

Prima facie, the project is a new one and as such the appellant-developer was duty bound to apply and obtain the registration of the said project from the ORERA prior to proceeding with the construction work.

6. In the rejoinder dated 15.4.2026, the learned counsel for the appellant-promoter has categorically submitted that the promoter company was on the threat of overt act by the miscreants on its proposed site by way of transfer of land of the land owners to them, instead of to the appellant-promoter, so as to put the appellant into multiplicity of proceeding in respect of the project site. This compelled the appellant to put up an advertisement board at its proposed project site. The appellant claims to have obtained permission from the CDA for the project on payment of a huge sum like Rs.1,81,16,456/- including a compounding fee of Rs.1,22,00,000/- and only after such permission the ORERA registered, the project under it. Claiming that the show cause of the respondent-Authority to the appeal memo is not supported by any affidavit and that the project cost of Rs.202,51,20,000/- estimated by the official of the ORERA is without any substance, the appellant has prayed either to waive off or reduce the penalty amount of Rs.50,00,000/- imposed on him.

7. In the narration of the above facts as revealed from the impugned order, appeal memo, show cause reply to the appeal memo and the rejoinder thereupon, the only

question which arises for consideration before this Tribunal is :

(A) Whether on 28.3.2024 the appellant-promoter was found to have advertised a plotted-cum-duplex real estate project namely “Riverdale” by displaying a hoarding on the bank of Kathajodi river, Cuttack in his website and thereby advertising for sale of plots of the said project without registering it with the Odisha Real Estate Regulatory Authority ?

(B) Whether the estimation of the project cost amounting to Rs.202,51,20,000/- (Rupees Two hundred two Crore Fifty one lakhs Twenty thousand) only is to be accepted as a correct one ?

8. To determine the only question in the preceding paragraph, it is first necessary to go through section 3(1) of the R.E (R & D) Act, 2016, which reads as follows.

Section 3(1).

> *(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:*

The kind of contravention of Section 3 of the Act, 2016 allegedly made by the appellant-promoter is that he had advertised the plotted project “Riverdale” by display of a hoarding on the bank of Kathajodi river, Cuttack, without registering it with the ORERA under Section 5 of the Act. To substantiate the alleged contravention, the learned Authority has relied upon the

inspection report dated 9.4.2024 of their Enforcement Officer. This report reveals that, on 28.3.2024 while Sri U.C.Pani, Enforcement Officer, ORERA was on his way to inspect another project namely "Dion's Sky Walk" at Sector-8, CDA, Cuttack, he found a hoarding of a plotted project namely "Riverdale" to have been displayed on the bank of Kathajodi river, Cuttack. On proceeding to the project site at Belgachhia, District-Cuttack, he found a duplex-cum-plotted project under the jurisdiction of the Cuttack Development Authority to have been developed on an area of Ac.25.00 by the appellant. The Enforcement Officer held discussion with Sri Satyajit Mohapatra, Manager-in- charge of civil construction and from him ascertained that the application of the appellant for integrated residential lay out plan has been approved in the 67th DP & BP committee of CDA held on 11.1.2024 with the conditions that the promoter shall submit final NOC from Water Resources Department for allowing construction in between river and embankment road, NOC from Tahasildar, Baranga for road connectivity on Government land and a copy of power of attorney of land owners. The Enforcement Officer further ascertained from Sri Mohapatra that 100 duplex houses and 253 residential plots would be developed under the project. Sri Mohapatra further informed the Enforcement Officer that the appellant would submit application for registration of the project with the ORERA after obtaining approval from the CDA.

Alongwith his inspection report, the Enforcement Officer has submitted the copy of the letter no.650/CDA dated 31.1.2024 of the CDA to the appellant, a coloured photograph of a hoarding showing advertisement for the project "Riverdale" involving 198 exclusive plots with Gated community and Developed infrastructure at Belgachhia, Trisulia, Cuttack, a board above the entrance gate of the project showing the name of the appellant, its two contact numbers and a writing " Welcome to riverdale, AN OASIS IN THE CITY" and two coloured printouts of the appellant's advertisement for the aforesaid plotting and duplex project downloaded from its website.

As already mentioned earlier, the appellant-promoter in his written reply dated 28.8.2024 submitted to the Authority in the proceeding of the complaint case has admitted the project "Riverdale" to be his first venture. He has also admitted to have displayed the advertisement board on the bank of Kathajodi river, Cuttack, which is evident from his plea in the said written reply that on receiving notice from the Authority, he immediately removed the advertisement board from the proposed project site. It is a fact on record that the appellant had sworn in an affidavit before the learned Authority affirming therein that he would not execute any agreement for sale or sale deed in respect of the project "Riverdale" Belgachhia, Cuttack without obtaining necessary approval from the Planning Authority and registration with the ORERA.

Thus, from the report dated 9.4.2024 of the Enforcement Officer, the photographs, the printouts and the own admission of the appellant in his written reply to the show cause notice issued by the learned Authority in the Suo Motu Complaint Case, there remains no doubt that the appellant had certainly taken steps for development of a land at Belgachhia, Cuttack into plots and had also displayed an advertisement through hoarding on the bank of river Kathajodi, Cuttack inviting general public to purchase plots of the said project. The plea of the appellant-promoter that, being unaware of the RERA rules he had mistakenly displayed the advertisement board of his project but had immediately removed it after receiving notice from the learned Authority, are not acceptable as ignorance of law is no excuse. The appellant being a promoter-company engaged in development of real estate projects is expected to possess minimum knowledge in real estate law. Putting up the advertisement board when the conditions imposed by the CDA to obtain permission under Section 16(3) of the ODA Act, 1982 had still not been complied with and registration with the ORERA had not been done, clearly shows that the act of the appellant-promoter was not at all bonafide.

From the above discussions, it is clearly established that, the appellant-promoter has contravened Section 3(1) of the Act, 2016 by displaying the advertisement for the project “Riverdale” at Belgachhia, Cuttack, without registering it with the ORERA.

9. The alleged contravention of Section 3(1) of the Act, 2016 having been established against the appellant-promoter, it is now necessary to determine whether the penalty of Rs.50,00,000/- imposed upon him is justified or not. Section 59(1) of the Act, 2016 provides that, *If any promoter contravenes the provisions of Section 3 he shall be liable to a penalty which may extend up to ten percent, of the estimated cost of the real estate project as determined by the Authority*. The Enforcement Officer, ORERA has estimated the project cost at Rs.202,51,20,000/- basing on the price of 100 duplex houses and 253 plots @ Rs.75,00,000/- per duplex house and Rs.2800/- per square feet taking the area of each plot to be 1800 sqft.. However, the estimation appears to be apparently incorrect as the inspection report itself reveals that, the duplex houses and residential plots will be developed, which means none of the plots and duplex houses was in existence at the project site at the time of inspection. However, the area of the project site stated to be Ac.25.00 in the inspection report remains unchallenged.

But, as revealed from the admitted approval of Sub-division lay out plan for residential purpose, issued by the CDA on 3.3.2025, the appellant-promoter has deposited Rs.1,22,00,000/- (Rupees One Crore Twenty two lakhs) towards land Compounding fee thereby conveying fact that no duplex houses were constructed by that time. The project was only in process of development for a plotted scheme, as per its approval.

Therefore, the estimated cost of the real estate project "Riverdale" need not include the cost component of the Duplex Houses, which was estimated at Rs.75,00,00,000/- for 100 such houses (@ Rs.75,00,000/- per each Duplex House). Thus, the estimated cost of real estate project needs to be modified from Rs.202,51,20,000/- to Rs.1,27,51,20,000/- by deducting the cost of one hundred duplex houses, estimated at Rs.75,00,000/- per each by the Enforcement Officer as on the date of inspection.

The penalty of Rs.50,00,000/- imposed on the appellant-promoter works out to be 0.392% with respect to the reduced estimated cost of the project as Rs.1,27,51,20,000/- which is well within the maximum 10% of the estimated cost of the project.

10. In view of the discussions made in the preceding paragraphs no.8 & 9, we are of the considered opinion that the impugned order dated 18.10.2024 passed in SMCC No.364 of 2024 as a whole being correct in facts on record as well as law, needs no interference by this Tribunal.

Accordingly the appeal is dismissed on contest against the respondent.

The appellant is accordingly directed to deposit the penalty amount of Rs.50,00,000/- (Fifty lakhs) before the learned ORERA and on submission of the acknowledgement receipt of the ORERA before this Tribunal, he shall be refunded back the statutory amount

deposited by him, together with the accrued interest thereon, on proper application and identification.

Send an authentic copy of this order, along with the record of the Suo Motu Complaint Case No.364 of 2024 to the learned Regulatory Authority for information and necessary action. Also send a copy of this order to the appellant.

Shri S.K.Rajguru
(Judicial Member)

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Dr.B.K.Das
(Tech./Admn. Member)