

18.06.2026
Court No.25
D/L No.8
S. Gayen

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 23328 of 2023

Fabworth Promoters Private Limited & Anr.
Versus
West Bengal Real Estate Regulatory Authority
(WBREERA) & Ors.

Mr. Jishnu Saha, Sr. Adv.
Mr. Ishan Saha

...for the Petitioners

Mr. Avishek Guha
Mr. Subhajit Das

...for the ICICI Bank

1. The petitioners have filed the present writ application challenging the show cause notice dated August 7, 2023 wherein, the West Bengal Real Estate Regulatory Authority (WBREERA) directed the petitioners to show cause in writing why steps should not be taken against the petitioners as per law for violation of Section 3 of the Act and penalty should not be imposed upon them as per Section 59 of the Act.
2. Learned counsel appearing for the petitioners submits that the RERA came into effect w.e.f. March 26, 2016 but has relied upon the notification dated February 3, 2023 wherein, it is mentioned that the projects in the State of West Bengal that are ongoing on the date of commencement of the website of WBREERA that is on January 31, 2023 and for which the completion certificate or occupancy certificate, as the case may be, has not been issued, the promoters shall make an application to the WBREERA Authority for registration of

the said project within a period of three months from the date of commencement of the website of WBRERA, that is within April 30, 2023.

3. Learned counsel for the petitioners submits that the petitioners have obtained certificate twice from Kolkata Municipal Corporation (KMC) on October 24, 2016 and August 17, 2018 but the private respondent Nos. 4 and 5 made a written complaint to the RERA and on the basis of the said complaint, the RERA has initiated the proceeding. Learned counsel for the petitioners submits that as per Section 2(q) of the West Bengal Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the 2016 Act), the completion certificate means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been developed according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws.
4. Learned counsel for the petitioners submits that as per first proviso of Section 3 of the 2016 Act, the projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act. Learned counsel for the

petitioners submits that the petitioners have obtained two completion certificates issued by the KMC. As per Section 2(q) of the 2016 Act, it can be treated as the completion certificate of the project.

5. Learned counsel appearing for the ICICI Bank submits that the petitioners have paid the total loan amount and the bank has already issued the No Due Certificate.
6. Heard the learned counsel for the respective parties and perused the materials on record.
7. As per first proviso of Section 3 of the 2016 Act, the projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act. Admittedly, the petitioners have not made any application for registration either in terms of Section 3 of the 2016 Act or the Notification dated February 3, 2023.
8. The petitioner has relied upon the certificate issued by the KMC dated October 24, 2016 wherein, it is mentioned that the applicant must obtain full OC after completion of the work. Again on August 17, 2018, the petitioners have obtained another certificated from the KMC. In the said certificate also it is mentioned that the applicant must obtain full CC after completion of

this work. The petitioners have not filed any further documents to prove that the petitioners have obtained certificate with regard to the completion of the work. The learned counsel for the petitioners has further relied upon Section 28 of the Kolkata Municipal Corporation Building Rules, 2009 wherein, it is mentioned within fifteen days of the receipt of notice of completion of building work, the Municipal Commissioner shall inspect the building or work and shall satisfy himself that the ejection or the execution of the work has been completed in accordance with completion plan.

9. Sanction was granted for a hotel building of 24 storied and service apartment for 28 storied. It is the case of the petitioners that if two partial completion certificates are read together, the projects have been completed in two phases for the entire sanction of 24 storied hotel building and 28 storied service apartment.
10. The first partial completion certificate dated October 24, 2016 provides that this building is certified to have been partially completed as per sanction plan. The second partial completion certificate dated August 17, 2018 provides that the building is certified to have been partially completed as per sanction plan. Applicant must obtain full completion certificate of the completion of this work.

11. The petitioners have also taken jurisdiction of RERA as the project completed before the Act come into force with respect to ongoing project but the petitioners, other than the two certificates, have not produced any further documents to say that on or before April 30, 2023 the project was completed.
12. The petitioners have already filed an application before the authority regarding maintainability of the complaint. The petitioners are at liberty to take all points before the authority by giving reply to the show cause notice and the authority shall decide the same in accordance with law without being influenced of any observation made in this order.
13. Accordingly, **WPA 23328 of 2023** stands **disposed of**.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)