

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.10 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Shree Sai Creatives Respondent

MahaRERA Project Registration No.P52100030759

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Absent

ORDER

16th June, 2023

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on dated 26.04.2023 under Section-81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"). The said powers, inter alia, contains imposing of penalty under Section 59 of the Act, 2016 for contravention of the provision of Section 3 by the promoter and to impose penalty under Section 61 of the Act for contravention of Section 11(2) of the Act etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter however, Respondent-Promoter remained absent in spite of sufficient opportunity given.
2. It has been noticed by the MahaRERA Authority that an advertisement in the 'Facebook' without mentioning the MahaRERA Registration number, in regards to the project "Sai Signature" has been published. On going through the record, it has been noticed that the project "Sai Signature" is registered with MahaRERA vide Registration No.

P52100030759 and its location is shown as Mamurdi, Pune. Therefore, by show-cause notice, dated 20.03.2023, the Respondent-Promoter was called to show cause as to why penal action under Section 61 of the said Act for violation of Section 11(2) of the Act, 2016 should not be initiated against him.

3. The Respondent-Promoter filed his say and submitted that they have always cited MahaRERA Registration No. in all their advertisement and attached prints of screen shots thereof. The Respondent-Promoter however, admitted that the advertisement in the Facebook was done by any of the Channel Partners who are promoting its projects and it is beyond the knowledge and control of the Respondent-Promoter. The Promoter apologized on behalf of the channel partner, who has published the advertisement of the project of Respondent.

4. The notice of each hearing was served to the Respondent-Promoter. However, the Respondent-Promoter remained absent, in spite of sufficient opportunity of hearing given. Therefore, in absence of oral arguments, the matter is lastly adjourned for passing order.

5. Considering the admission given by the Respondent-Promoter, and after going through the advertisement annexed to it, though the RERA No. is mentioned therein, however, in the impugned advertisement published in "Facebook", the RERA No. of the project of the Respondent-Promoter is missing and the same has been admitted by the Respondent-Promoter. The purpose of mentioning RERA No. is that the public-at-large can go through it and view at a glance all the required particulars in respect of the project. The advertisement in social media like "Facebook" clearly indicates the intention of the promoter to attract the public at large with a view to promote the sale of the units in the project as fast as possible.

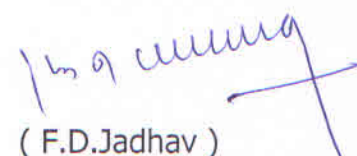
6. At this juncture it is necessary to go through Section 11(2) of the Act, 2016 which reads as under:

Sec-11(2):- "The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of

the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

7. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project in the advertisement issued by him. Though the advertisement actually published by the channel partner, the entire onus is on the promoter of the project for said advertisement. In fact the advertisements are given for the purpose of attracting public at large towards the project. Intention behind the advertisement is that the public at large should know about their project and other important things/features about the project and book the Flat.
8. Section 11(2) of the Act, 2016 does not speak regarding the channel partner. The said provision put responsibility on the promoter to mention prominently the registration number of the project in the advertisement. Section 61 *inter-alia* states that if any promoter contravenes any other provisions of this Act, other than provided under Section 3 or Section 4, he shall be liable to a penalty as mentioned therein. As said provision clearly empowers the Authority to impose penalty on the promoter on the violation of the said provision of Section 11(2), it will not be legal and proper to impose penalty on the channel partner.
9. It is the fact that no promoter is giving advertisement personally. The promoter has to appoint either channel partner, Ad agencies or agent to publish advertisement of the project. The promoter has clearly stated in his reply that their projects are promoted by many channel partners and after receipt of RERA Notice, they had informed to all their advertising agencies and channel partners not to do such acts henceforth. In this background it cannot be said promoter has/had no role in publishing the alleged advertisement.

10. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that the promoter has violated the provision of Section 11(2) of the Act, 2016 for publishing the advertisement without MahaRERA registration number, and thus this is a fit and suitable case to impose penalty.
11. Section 61 of the Act, 2016 deals with penalty for contravention of other provisions of this Act. The said provision, inter alia, states that.....
..... **promoter shall be liable to a penalty which may extend upto five percent of the estimated cost of the real estate project as determined by the Authority.** However, considering the facts and circumstances of this case lenient view ought to be taken while imposing the penalty in the matter.
12. In view of the above, the penalty of Rs.25,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for violation of Section 11(2) of the Act, 2016.
13. The said penalty shall be payable by the promoter within 30 days from the date of this order, failing which promoter shall be liable to penalty of Rs.1,000/- per day, in addition, till the realization of entire amount.
14. The Technical and the Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications viz. extension, corrections, change of name etc., with respect to the said project.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune