

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.13 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Namoh Builders & Developers

.... Respondent

MahaRERA Project Registration No.P52100013445 & P52100024175

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 "Shine City, Chikhali" has been published. On going through the record of MahaRERA Authority, it has been noticed that Shine City Phase-III is registered with MahaRERA

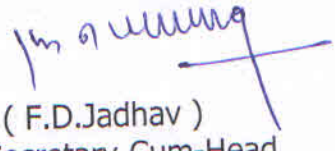
vide Registration No. P52100013445 and Shine City Phase-IV is registered vide Registration No. P52100024175 and its location is shown as Chikhali, Pune. Therefore, by show-cause notice, dated 11.04.2023, the Respondent-Promoter was called to show cause as to why penal action under Section 61 of the said Act should not be initiated against him. However, in spite of receipt of said notice, the Respondent-Promoter did not respond to the said notice.

3. The matter therefore, was posted for virtual hearing on 18.05.2023, of which notice, dated 12.05.2023 was served to the Respondent-Promoter. The Respondent-Promoter in spite of receipt the said notice, the Respondent-Promoter neither appeared before this Authority nor filed his say. The matter was adjourned to 06.06.2023 as a last chance. However, on the said date also, Respondent-Promoter remained absent. Therefore, the matter was adjourned to 12.06.2023 for passing exparte order. On 12.06.2023, again the Respondent-Promoter remained absent and again opportunity was given to him to defend the matter and matter was posted to 16.06.2023. Today also, the respondent remained absent and failed to make any submission with regard to the lawful action against him.
4. It has come on record that the Respondent-Promoter has published the advertisement of his project "Shine City Phase III" and "Shine City Phase IV" situated at Chikhali, Pune on the 'facebook' on 27th March and Contact No. mentioned as 95132166762 wherein no MahaRERA Registration No. of both the said project has been mentioned. This clearly indicates that the advertisement published by Respondent-Promoter on the social media on 'facebook' page of Pune Real Estate, with an intention to attract the public-at-large to purchase flats in the said project. However, as the said advertisement did not mention the MahaRERA Registration No., there is clear violation of the provisions of Section 11(2) of the Act.
5. 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."

6. 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. However, in this matter, the Respondent has not mentioned the MahaRERA Registration number in the advertisement published by him. As such, it has been proved that this Promoter has breached Section 11(2) of the Act, 2016.
7. Considering the facts *vis-a-vis* law discussed hereinabove and considering the failure by the promoter to defend his case in spite of sufficient opportunity given to him, 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.
8. 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.

9. 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.
10. 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.
11. 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