

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.15 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Tria Lifespaces LLP

.... Respondent

MahaRERA Project Registration No.P52100032462

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

Appearance :- Mr. Saket Garg, A.R. for Promoter

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. Heard the parties and then decided the matter.
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 "Kosmic Kourtyard Wagholi" has been published. On going through the record at MahaRERA, Mumbai Office, it has been noticed that the project "Kosmic Kourtyard" is registered with MahaRERA vide Registration No. P52100032462 and its


location is shown as Wagholi, Pune. Therefore, by show-cause notice, dated 21.04.2023, the Respondent-Promoter was called to show cause as to why penal action under Section 61 of the said Act for the 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 not posted the advertisement and checked the same on Facebook portal and found that there are multiple people/organizations/brokers/channel partners that are misusing their brand name by creating pages under brand name and doing the advertisements of their project. They have not signed any contracts with any such people/organizations/brokers/channel partners and they are not liable for any such advertisement not done by them.
4. Heard the Respondent-Promoter. He has reiterated the contentions made in his written say and submitted that there is no violation of Section 11(2) of the Act and as such question of penal action under Section 61 does not arise. The Respondent-Promoter further submits that any other image/creative other than above circulated by Facebook on any online company are without their authority and permission and are liable strict action. The Respondent-Promoter further submits that they are not responsible for any act done online without their consent/approval. He has submitted that in all advertisements, the Promoter has mentioned the RERA No. of the project in question.
5. On going through the advertisement, it is found that there is no any RERA No. is mentioned. 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 Respondent-Promoter has not produced on record any action taken by him against the channel partner, who have allegedly published the advertisement without the consent/approval of the promoter. Therefore, the say of promoter cannot be considered to be genuine.
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. In this matter the Promoter has admitted that the advertisement of their project in question has been published by the channel partner. Mere stating that the advertisement has been published by the channel partner without the consent/approval of the promoter will not be sufficient. If really promoter had no consent to such advertisement, he would have certainly taken some action against this agent/channel partner. Thus, entire liability of this advertisement will fall on the promoter. In other words, it can be said it is proved that promoter has violated provision of Section 11(2) of the Act, 2016.
8. 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.
9. 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.

10. In view of the above, the penalty of Rs.10,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for violation of Section 11(2) of the Act, 2016.
11. 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.
12. 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