BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY, PUNE

SUO MOTU ADVERTISEMENT/ PUNE CASE NO.21 OF 2023

MahaRERA on its own Motion .... Complainant

Versus

Life Seasons Development LLP .... Respondent

MahaRERA Project Registration No.P52100025586

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

Appearance :- Mr. Kiran Porwal

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 "Parklane Life Seasons,Dhanori" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "Parklane Life

Seasons" is registered with MahaRERA vide Registration No. P52100025586 and its location is shown as Dhanori, Pune. Therefore, by show-cause notice, dated 13.04.2023, 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.

3. The Respondent-Promoter filed his say and submitted that they have always cited MahaRERA Registration No. in all their advertisement and attached approved advertisement copy they have circulated with Facebook with MahaRERA No. The Respondent-Promoter further submits 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.

4. Heard the Respondent-Promoter. He has reiterated the contentions made in his written say. He has submitted that in all advertisements, the Promoter has mentioned the RERA No. of the project in question. On going through the copy of the advertisement submitted by the Promoter, the RERA No. is in small size and faint and it is not legible even after zoom. The promoter highlighted it in yellow colour in the copy with a view to locate it. However, the number cannot read, being not clear and legible. 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. Mere mentioning the number in smaller font will not serve the said purpose as enunciated under Section 11(2) of the Act, 2016.

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. In this matter the Promoter has mentioned MahaRERA number in the advertisement, but it is not legible nor readable. Mere mentioning of RERA number, which cannot be seen with open eyes, does not serve the purpose and object enunciated under Section 11(2) of the Act, 2016.

7. 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.

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.10,000/- 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