

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.31 OF 2023**

MahaRERA on its own Motion  
Versus

Sunil Popatrao Adhav  
'Shree Vighnagar Ganesh Apartment'  
MahaRERA Project Registration No.P51600029624

.... Complainant

.... Respondent

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

**Appearance :- Absent.**

**ORDER**

28<sup>th</sup> July, 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. None present on behalf of promoter.
2. It has been noticed by the MahaRERA Authority that an advertisement in 'Lokmat' newspaper dated 16.04.2023 without mentioning the MahaRERA Registration number, in regards to the project "Shree Vighnagar Ganesh Apartment" has been published. On going through the record of MahaRERA, it has been found that the project "Shree Vighnagar Ganesh Apartment" is registered with MahaRERA vide Registration No. P51600029624. Therefore, by show-cause notice, dated 25.04.2023, the Respondent-Promoter was called upon to show cause as to why penal action under Section 11(2) r.w. 61 of the said Act should not

be initiated against him. In spite of issuance of show cause notice, the Promoter failed to file his reply to the said show cause notice, dated 25.04.2023. Notice of hearing was issued to the Respondent on 16.06.2023 and directed to attend the virtual hearing on 27.06.2023. Since on the date of hearing, the respondent remained absent, the matter was adjourned thrice to 04.07.2023, 11.07.2023 and 18.07.2023. Therefore, the matter was decided ex parte.

3. Perused the advertisement published in daily "Lokmat", by promoter of his project "Shree Vighnagar Ganesh Apartment", situate at Panchkrishna Colony, Jail Road, Nashik. The advertisement speaks that it is given for booking of the flats in the said project, and the building is comprising only six flats and on each floor one flat. The said advertisement does not reflect the MahaRERA Project Registration number. On going through the project registration with MahaRERA online on the MahaRERA portal, it appears that the total area of plot is shown as 426.84 sq. mtrs. The plot area admeasuring 457.32 sq. mtrs. is shown in Architect's certificate, Form 1 as well as in Title Report. The webpage of the promoter with MahaRERA further reflects that the promoter has received full occupancy certificate issued by Nashik Municipal Corporation on 28.06.2022 of the said project.
4. Circular No. 25/2019 dated 11<sup>th</sup> Oct. 2019 issued by MahaRERA deals with clarification regarding registration of agreement for sale, etc. Para 1 thereof deals with "Real Estate Projects that are excluded from MahaRERA registration. Serial No.1 of said para states that real estate projects where the area of land proposed to be developed is less than or equal to five hundred square meters.
5. Circular No.25A/2023, dated 09.06.2023 issued by MahaRERA deals with real estate projects excluded from MahaRERA Project registration. It has been specifically inter-alia, clarified therein that (1) Real estate projects where the area of land proposed to be developed is less or equal



to five hundred square meters shall not require MahaRERA project registration irrespective whether the numbers of apartments/units proposed to be developed is less than or more than eight apartments/units as the case may inclusive of all phases.

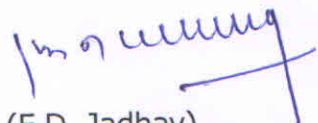
6. Section 3 of the Act, 2016 deals with prior registration of real estate projects with Real Estate Regulatory Authority. Sub-section (2)(a) is substantial for the purpose of this matter, which reads as under :-

"(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required -

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases."

7. In this matter Nashik Municipal Corporation has issued full occupation certificate/completion certificate on 28.06.2022 and the impugned advertisement has been published in 'Lokmat' newspaper on 16.04.2023 i.e. after obtaining the full occupancy certificate for the said project. Moreover, the total plot area of the project is below 500 sq. mtrs. Consequently, the facts of this case clearly falls within the scope of exemption as enunciated under both the circulars issued by MahaRERA Authority as mentioned hereinabove.

8. In view of the above circumstances, I am of the opinion that since the promoter has obtained completion certificate prior to publishing the impugned advertisement, besides the plot area of the project is below 500 sq. mtr., the provision of Section 11(2) of the Act of 2016 will not be attracted in this matter. As such, provision of penalty under Section 61 of the Act cannot be invoked in the matter.

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