

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.33 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Vilas Javadekar Eco Homes
'Palladio Kharadi Cental', Pune

.... Respondent

MahaRERA Project Registration No.P52100050357

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

Appearance :- Adv. Vaibhav Kulkarni

ORDER

7th 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. Adv. Vaibhav Kulkarni appeared on behalf of promoter.

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 "Palladio Kharadi Central" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "Palladio Kharadi Central" is registered with MahaRERA vide Registration No. P52100050357 and its location is shown as Ravet, 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 should not be initiated against him. The promoter sought time to file his say, which was granted for 10 days on dtd.08.05.2023. The promoter filed his say on 12.05.2023. Thereafter second show cause notice was issued to the promoter on 04.07.2023. The matter was posted to 07.07.2023 for virtual hearing and notice of hearing was issued to the promoter accordingly.

3. The promoter by his reply, dated 12.05.2023, contended that this is first instance of non-compliance of mandatory provision under Section 11(2) of the Act, 2016 on the part of their channel partner, which was beyond their control and undertakes to provide training to their broker/channel partner including their employees in compliance of MahaRERA Circular/order, dated 10.01.2023.
4. Heard Adv. Vaibhav Kulkarni for promoter. He reiterated the contentions raised out in the reply filed by promoter. He argued that the promoter is not liable for any act of real estate agent. However, he has admitted to have published the impugned advertisement without mentioning Rera Registration number. Perused the advertisement posted on facebook. It is related to the project 'Palladio Kharadi Central' and no any RERA Project Registration No. is mentioned in the advertisement. The purpose of mentioning RERA Registration No. in the advertisement is that the public-at-large can go through it and view at a glance all the required particulars in respect of the project. Promoter has admitted to have published the said advertisement on social media 'facebook' however, argued that it is published by the employee of their real estate agent and the promoter cannot be held liable for any act of the real estate agent.
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 admitted to have published the advertisement by their real estate agent. The act of the estate agent of publishing the advertisement without mentioning RERA registration number definitely is for the sale of units in the project of the promoter and therefore, the promoter cannot escape from his liability from complying the mandatory provision under Section 11(2) of the Act 2016. Therefore, it is proved that by publishing the said advertisement in question without mentioning MahaRERA registration number, manifestly shows that promoter has breached Section 11(2) of the Act, 2016.
7. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt 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. Learned Counsel Shri Kulkarni has prayed for lenience in the matter. Considering the facts and circumstances

of this case and this being the first instance of the promoter, 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 Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.

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