

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.34 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Ashok Ramesh Pashankar

'GURUPRASAD'

.... Respondent

MahaRERA Project Registration No. P52100009382

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

Appearance :- ASHOK Ramesh Pashankar, promoter in person.

ORDER

8th August, 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. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter. Promoter Mr. Ashok Ramesh Pashankar appeared in person.

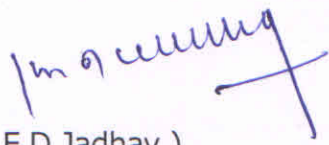
2. It has been noticed by the MahaRERA Authority that an advertisement in 'facebook' without mentioning the MahaRERA Registration number, in regards to the project "GURUPRASAD" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "GURUPRASAD" is registered with MahaRERA vide Project Registration No. P52100009382. Therefore, show-

cause notice, dated 10.05.2023 was issued to the promoter by speed post calling upon him as to why penal action under Section 61 of the said Act should not be initiated against him. The promoter filed his reply on 18.05.2023. The notice of hearing, dated 04.07.2023 was issued to the promoter and promoter was asked to attend virtual hearing before this Authority on 07.07.2023.

3. The promoter by his reply, dated 18.05.2023, has submitted that one real estate agent created a 'Facebook page' and posted the advertisement of the impugned project of promoter, without approval and knowledge of the promoter. It has been further submitted by the promoter that he has obtained part completion certificate of the said project. The promoter has further submitted that the said agent has sent a letter dated 17.05.2023 to the MahaRERA and thereby apologized for such advertisement. The promoter has placed on record the letter issued by the real estate agent Mr. Ganesh Laxman Gaikwad, dated 17.05.2023, wherein he has admitted to have posted the advertisement on facebook of the impugned project of the promoter.
4. Heard promoter Mr. Ashok Pashankar in person. He has also reiterated the contentions raised out in his reply, dated 18.05.2023. Considering the submissions made by the promoter, directions were given to the promoter to lodge police complaint against the said real estate agent who had posted advertisement of the project without the consent of the promoter. According to promoter, since the impugned advertisement is not posted by him and it is posted by the said real estate agent without his approval and consent, there is no violation of Section 11(2) of the Act of 2016 on the part of the promoter and hence no any action of imposing penalty under Section 61 of the Act of 2016 can be taken against him.
5. Promoter has lodged police complaint, dated 31st July, 2023 before the Hinjwadi Police Station against the said real estate agent and furnished a copy of the same to this office. Perused the copy of complaint

filed by the promoter against the agent Shri Gaikwad. It has been stated in the said complaint that the agent Shri Ganesh Laxman Gaikwad has created facebook account in the name of promoter's company and published advertisement without MahaRERA Registration number and without the consent of promoter, and he has urged therein to take criminal action against this agent.

6. Perusal of the reply, dated 18.05.2023 submitted by the promoter, coupled with the complaint, dated 31.07.2023 lodged with Hinjwadi Police Station against said real estate agent Mr. Ganesh Gaikwad and the letter, dated 17.05.2023 by the said real estate agent Mr. Ganesh Gaikwad unequivocally shows that the promoter is not liable for publishing the impugned advertisement in 'facebook' of his project "GURUPRASAD". The fact is that the promoter has neither given approval for such impugned advertisement, nor the person who published the advertisement sought approval from promoter. It explicitly indicates that this promoter was not aware of the advertisement published by the said agent in the 'facebook'. Therefore, I am of the opinion that the promoter cannot be held liable for the breach of Section 11(2) of the Act 2016.
7. As there is no prima facie evidence against this promoter to prove that he has violated Section 11(2) of the Act 2016, this is not a fit case to impose penalty in the matter under Section 61 of the Act of 2016.


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