

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.37 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Varad Property Solutions Pvt.Ltd.

1. @Sonde Karle (Unregistered)
2. NA Plots@Adavali (Unregistered)
3. Suvarnabhumi@Sind

**MahaRERA Project Registration No.P52100013293**

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

Appearance :- Adv. Harshad Nanaware

**ORDER**

18<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. Adv. Harshad Nanaware appeared on behalf of promoter.
2. It has been noticed by the MahaRERA Authority that advertisements have been published in daily newspapers 'Lokmat', dated 13.05.2023, "Maharashtra Times", dated 13.05.2023, "Loksatta", dated 20.05.2023 and "Sakal" dated 27.05.2023 with regards to the projects (1)

@Sonde Karle situated at Velhe, (2) NA Plots@ Advali situated at Velhe and (3) Suvarnabhumi@Shind situated at Bhor, without registering the same has been published. Therefore, by show-cause notice, dated 30.05.2023, the Respondent-Promoter was called upon to show cause as to why penal action under Section 59 of the said Act should not be initiated against him. Notice of hearing was issued to the Respondent on 04.07.2023 and directed to attend the virtual hearing on 07.07.2023. Promoter has filed his reply on 06.07.2023.

3. The promoter by his reply dated 06.07.2023 has submitted that the project at Serial No.(1) @Sondekarle and project at Serial No.(2) NAPlots@Adavali are agricultural plots and therefore, the said projects do not fall within the definition of Section 2(zn) of the said Act, 2016, which deals with 'real estate project'. It has also been submitted by the promoter that the Maharashtra Real Estate Appellate Tribunal in Appeal No. U-21 in SC10000227 – Mohammed Zain Khan v/s. Emnory Properties India and others, has held that, "Since the first project continues to be an agricultural land in the absence of any orders, there is no need to register the said projects with the MahaRERA Authority.

4. The promoter has submitted copies of sale-deeds of the land admeasuring 00 H. 72 Ares from land bearing Gat No.48, situated at village Sonde Karle, Tal.Velha, District Pune and lands admeasuring 01 H. 99.40 Are from and out of land bearing Gat Nos.300, 312 and 317 situated at village Adavali, Tal. Velha, District Pune. The said lands have been shown in the sale-deeds, dated 28<sup>th</sup> March, 2023 and 6<sup>th</sup> April, 2023 respectively, as agricultural lands. The purchaser of the said lands is the director of the Varad Properties Solutions Pvt. Ltd. The 7/12 extracts of the said lands also shows that the said lands are agricultural lands. The director of Varad Properties Solution Pvt. Ltd. Mr. Mahesh Vijay Kunte has also submitted affidavit on 17.07.2023, wherein he has mentioned specifically that the projects at Sonde Karle, Velhe and Adavali, Velhe comprises of agricultural lands. Hon'ble Appellate Tribunal in Appeal No.



U-21 in SC10000227 – Mohammed Zain Khan v/s. Emnoy Properties India and others, has observed that, "After hearing the parties, the MahaRERA Authority, held that, 'The subject plot purchased by the complainant is an agricultural land as no competent authority has so far granted any N.A. order or permission otherwise for development of the said land. It was further held that the subject plot was not a real estate project and is therefore, not liable for registration under Section 3 of the Act'.

5. The Hon'ble Appellate Tribunal in the aforesaid matter, in para 13(v) has held as under :-

"In above circumstances, in agreement with the Authority and limited to the facts of this case, it is concluded that land pertaining to the First Project continues to be an agricultural land in the absence of any N.A. orders for its development. Therefore, we find no illegality or infirmity as such in the view taken by the Authority to hold that the First Project is not a real estate project for the reasons stated in the impugned order and therefore, the same is not liable to be registered under the Act."

6. Considering the 7/12 extracts of the aforesaid two projects at Serial Nos.1 and 2, sale-deeds, affidavit of the director of Varad Properties Solutions Pvt.Ltd. as well as the judgment and order passed by the Appellate Tribunal in the aforesaid matter, it is crystal clear that the plots/lands of the aforesaid two projects being the agricultural lands, do not fall within the four corners of the definition of the 'real estate project', as defined under Section 2(zn) of the Act of 2016. Considering this, it can be said that there is no violation of Section 3 of the Act of 2016 in regards to both these projects. As such Section 59 of the Act of 2016 for the purpose of imposing penalty would not attract so far as these projects are concerned.

7. So far as the project No.3 "Suvarnabhumi@shind" is concerned, the promoter has contended that the project is of M/s. Sai Samruddhi Realtors, and the same is duly registered with MahaRERA Authority. The MahaRERA Authority has issued a registration certificate No. P52100013293 thereto. It is also submitted in reply that in the advertisement of the said project given in 'Loksatta' dated 20.05.2023, only "RERA Registered" is mentioned. In other words, RERA Registration Number has not been mentioned in the advertisement.
8. Heard Adv. Harshad Nanaware for promoter. He has also admitted that RERA Registration Number has not been mentioned in the advertisement in regards to this project. He further submitted that M/s. Sai Samruddhi Realtors is sister concerned to the Varad Property Solutions Pvt. Ltd.
9. At this juncture it is necessary to peruse 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."**

10. 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. Perused the advertisement published in 'Loksatta' daily newspaper dated 20.05.2023 which is 1/4<sup>th</sup> page in size. There are four projects advertisement in one full page. The other three projects are Sonde Karle, Velhe, NA Plots Adavali and Vinzer, Velhe. The project Suvarnabhumi is ongoing and the advertisement clearly indicates there was only mentioning "RERA registered project" and no MahaRERA Registration number is

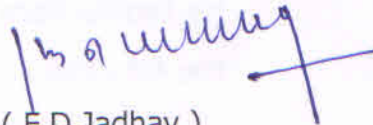


mentioned. It explicitly shows there was violation of Section 11(2) of the Act of 2016.

11. The act of the promoter publishing the advertisement without mentioning MahaRERA registration number definitely is for the sale of plots in the said 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.
12. Though the notice was issued to the Varad Properties Solution Pvt. Ltd. as regards to this project, Adv. Harshad Nanaware submits that "Sai Samruddhi Realtors", who is the promoter of this project, is a sister concern of "Varad Properties Solution Pvt.Ltd.". He further unhesitantly submitted that though the show cause notice is issued under Section 3 of the RERA Act on the presumption that the said project is not registered with MahaRERA Authority, action for violation of Section 11(2) of the Act for not mentioning the RERA Registration No. in the advertisement of this project can be taken against this promoter.
13. Considering this admission given by the promoter, this is fit and suitable case to impose penalty under Section 59 of the Act of 2016 against the promoter for not mentioning the RERA Registration Number while publishing the advertisement of its project bearing Registration No.P52100013293.
14. In view of the above, the penalty of Rs.40,000/- under Section 61 of the Act, 2016 is imposed upon the promoter of the project mentioned at Serial No.3 Suvarnabhumi for violation of Section 11(2) of the Act, 2016.
15. 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

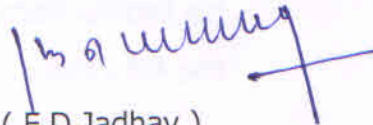
penalty of Rs.1,000/- per day, in addition, till the realization of entire amount.

16. 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,  
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