

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 42 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Krushna Properties Respondent

Name of the Project :- Krushna Properties-11 Gunthe

(Unregistered project)

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

Appearance :- Absent

ORDER

7th June, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued a intimation letter, dated 14.02.2024 and intimated the respondent that the advertisement published by respondent on Instagram of a real estate project under the name "Krushna Properties-11 Gunthe" that the impugned advertisement does not contain the MahaRERA Registration number, the MahaRERA Website address and QR Code and therefore, it is considered to be prima facie in violation of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than February 26, 2024.

2. Since the respondent has not complied the directions issued by the ASCI vide intimation letter, dated 14.02.2024, the ASCI has sent mail, dated 15.03.2024 and referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent for disposal according to law.
3. On the basis of mail dated 15.03.2024 sent by ASCI, a notice of hearing has been sent to the respondent on 26.03.2024 for attending the virtual hearing, dated 12.04.2024. Despite service of notice of hearing by mail id of respondent provided by ASCI, the respondent has failed to furnish his reply and also failed to attend before this Authority though sufficient opportunity of being heard was given to him on 12.04.2024, 23.04.2024 and 31.05.2024. Therefore, today the matter is posted for passing exparte order against the respondent.
4. Copy of impugned advertisement given by respondent is on record. Perused the impugned advertisement on record, which clearly speaks that the project is of 11 Gunthe open bungalow farm house plots. At this juncture, Section 3 of the Act, 2016 is necessary for perusal. Section 3 of the Act deals with prior registration of real estate project with Real Estate Regulatory Authority. The said section 3 of the Act, 2016 mandates every promoter to register the real estate project with the Real Estate Regulatory Authority, as provided therein.
5. Section 2 of the Act, 2016 deals with definitions. Section 2(zn) of the said Act, 2016, defines the expression '**real estate project**', which reads as under :-

"the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto."

6. MahaRERA Authority in the complaint No. SC10000227 has held that, "the subject plot purchased by the complainant is an agricultural land as no Competent Authority has granted any N.A. order or permission otherwise for development of the said land". It was further held by MahaRERA Authority that the subject project was not a real estate project and is therefore, not liable for registration under Section 3 of the Act." This order of MahaRERA Authority was challenged before the MahaRERA Appellate Tribunal. The Hon'ble Appellate Tribunal in the case of Mohammed Zain Khan v/s. Emnoy Properties India and others, has held *inter-alia*, as under :-

"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."


7. The Hon'ble MahaRERA 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."

8. The Hon'ble MahaRERA Appellate Tribunal has further *inter-alia*, held in para 13(vii) as under :-

"The contention of the Complainant, that he has been denied reliefs under the Act by the Authority by taking erroneous view (in para 13 of the Order) that provisions of the Act are applicable to the registered projects only, itself appears to be erroneous. Simply put, in our view, provisions of the Act shall apply to i) Registered projects, being liable to be registered and ii) projects liable to be registered but not registered (unregistered). However, in case a project is unregistered being not liable to be registered, as is the case in this appeal, provisions of the Act shall not apply to such a project. (Emphasis supplied).

9. In this matter, it can be seen from the impugned advertisement that the 11 Gunthas plots on sale are farm house plots. It means the plots are neither residential nor N.A. plots. It certainly implies that the impugned plots are agriculture land. As such they do not fall within the scope of definition "real estate project" as defined under Section 2(zn) of the Act, 2016. Thus the aforesaid rulings of MahaRERA Authority and MahaRERA Appellate Tribunal are applicable in this matter.
10. In view of the specific contentions in the impugned advertisement that the project is of open bungalow **farm house plots** and considering the aforesaid definition of "real estate project" and the observations of the Hon'ble MahaRERA Authority and Hon'ble Appellate Tribunal in the aforesaid decisions, Section 3 of the RERA Act is not applicable in the given facts and circumstances of the case in hand. Therefore, the penal provision under Section 59 does not attract in the present case.
11. The present case therefore, stands disposed off accordingly.


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