

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.46 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

9, Castle Hills

.... Respondent

9, Castle Hills.

Unregistered Project.

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

Appearance :- Absent

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 etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter. But promoter remained absent.
2. It has been noticed by the MahaRERA Authority that an advertisement in daily newspaper 'Maharashtra Times', dated 22.03.2023 without registering the project "9, CASTLE HILLS" with MahaRERA has been published. On going through the record of MahaRERA, it has been found that the project of the Respondent is not registered with MahaRERA. Therefore, by Show Cause Notice, dated 28.03.2023, the

Respondent-Promoter was called upon to show cause as to why penal action under Section 3 r.w. 59 of the said Act should not be initiated against him. The promoter has failed to file his reply to said show cause notice. Notice of hearing was issued to the Respondent on 14.07.2023 and directed to attend the virtual hearing on 21.07.2023. However, the promoter remained absent and therefore, the matter was adjourned to 28.07.2023 and 08.08.2023. In spite of sufficient opportunity of being heard is given, the promoter remained absent. Therefore, this Authority proceeded further to pass the order in the matter.

3. Perused the advertisement. It is related to the project "9, Castle Hills" situated near Sahara Aambi Valley at Lonavala, Tal. Mawal, District Pune containing 4 BHK independent bungalow and the people are invited for booking in the said project.

4. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;

5. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. At this juncture Section 3(2)(b) is relevant which is reproduced hereunder :-

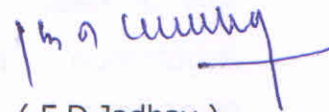
"Section 3 - (2) Notwithstanding anything contained in sub-section (1) no registration of the real estate project shall be required –

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act."

6. As the promoter in the instant case has failed to appear and file his reply to the said show cause notice, it is clear that the contentions mentioned in the show cause notice remained unrebutted and as such it can be said this case squarely falls within four corners of Section 3 of the Act 2016.

7. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as 'MahaRERA') has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of agreement for sale/sale-deed for real estate projects. It has been mentioned in the said circular in regards to real estate projects that are excluded from MahaRERA Registration. Serial No.3 in the said circular specifically states that real estate projects where promoter has received completion certificate/occupancy certificate/N.A. order (in case of plotted development) from competent authority, any time before agreement for sale/sale-deed registration are excluded from MahaRERA registration. As such, real estate project where promoter has received N.A. order in relation to plotted development or full completion certificate in the case of sale of flats, the said project has been exempted from MahaRERA Registration. MahaRERA has issued Circular No. 25A/2023, dated 09.06.2023 regarding real estate projects that are excluded from MahaRERA Registration. This circular supplements circular No.25/2019, dated 11.10.2019 regarding serial Nos.1 and 2 enumerated therein. Serial No.3 in the earlier circular, dated 11.10.2019 however remained in force till the date as it is.

8. In this matter, it is proved that this promoter had published advertisement in the Maharashtra Times newspaper on 22.03.2023. It is also proved that the impugned project was/is not registered with MahaRERA. Therefore, taking into consideration the facts and circumstances of the present case and failing the promoter to appear and defend his case, it can be said that this promoter is in clear violation of Section 3 of the Act of 2016.
9. 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 3 of the Act, 2016 for publishing the advertisement in the Maharashtra Times newspaper without registering the project with MahaRERA.
10. Therefore, it is hereby directed that a written communication be sent to the Planning Authority for the purpose of ascertaining whether the promoter has obtained any requisite authorization for the aforementioned project, and no additional authorization shall be granted for the said project until such time as the aforementioned project has been duly registered with MahaRERA or obtains full occupancy certificate/completion certificate or N.A. order from competent authority. Moreover, it is directed that the Registration and Stamp Office shall be instructed to abstain from registering any sale agreements within the said project, until such time as the project is duly registered with MahaRERA Authority or obtains full completion certificate or N.A. order from competent authority.



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