

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.47 OF 2023**

MahaRERA on its own Motion Complainant
Versus
Om Sai Real Estate Consultants
'Anjale' Unregistered project Respondent

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

Appearance :- A.R. Vikram Munot

ORDER

28th 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 59 of the Act for contravention of Section 3 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. A.R. Vikram Munot appeared on behalf of promoter.
2. It has been noticed by the MahaRERA Authority that an advertisement in the daily newspaper 'Divya Marathi Divya City' without registering the project with MahaRERA has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "Anjale" is not registered with MahaRERA. Therefore, by show-cause notice, dated 10.05.2023, the Respondent-Promoter was called to show cause as to why penal action under Section 59 of the said Act should not be initiated against him. The promoter filed his reply on 23.05.2023. The notice of hearing was given on 14.07.2023 and promoter was called

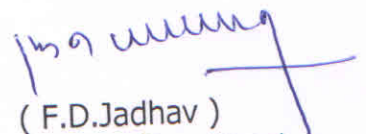
upon to attend the virtual hearing on 21.07.2023. On 21.07.2023, promoter sought adjournment for submitting N.A. order and accordingly, the matter was adjourned to 28.07.2023.

3. The promoter has submitted reply, dated 23.05.2023. It has been mentioned in the said reply that the promoter was never intended to develop any real estate project. The promoter was intending to sell N.A. plots. The promoter has further contended that he has not given any promise to develop the said plot and the said advertisement was for sale of residential plots on "As is where is basis".
4. The promoter has submitted final N.A. order dated 21.07.2022, 7/12 extracts as well as approved layout of the said project.
5. Perusal of the N.A. order manifestly shows that it has been issued on 21.07.2022 on certain terms and conditions by the Sub-Divisional Office, Faizpur. The advertisement so given unequivocally shows that it was sale of N.A. plots. The 7/12 extracts submitted by the promoter also clearly shows that the said plots were already converted into N.A. Thus the documents submitted by the promoter clearly indicates that the impugned project was converted into N.A. plots and accordingly N.A. Order was issued on 21.07.2022.
6. 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, 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, remained in force till the date.

7. In view of the aforesaid circulars, it is clear that the projects wherein N.A. order has been obtained by the promoter is exempted from registration with MahaRERA. In this matter Sub-Divisional Officer, Faizpur has issued final N.A. Order on 21.07.2022 under Section 44 of the Maharashtra Land Revenue Code, 1960. It shows that there is no need to register these projects with MahaRERA. Besides, the advertisement is published in 'Divya Marathi Divya City' newspaper on 07.05.2023 after obtaining the N.A. Order for the said project and it has been specifically mentioned by the promoter that the advertisement was given only for sale of N.A. plots in the completed project. Thus there is no violation of Section 3 of the Act 2016.

8. In view of the above, the provision of Section 3 of the Act of 2016 will not be attracted in this matter. Consequently, penalty under Section 59 cannot be invoked in the matter.


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