

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.5 OF 2023**

MahaRERA on its own Motion

....

Complainant

Versus

Ashadan Developers Pvt.Ltd.

....

Respondent

MahaRERA Project Registration No. P52100031691

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head
Mr.Ashutosh Bag A.R. appeared for promoter.

ORDER

06th June, 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 parties, heard the parties and thereafter matter is disposed of.
2. The MahaRERA Authority had issued a show cause notice dated 13-03-2023 to the promoter above named for publishing an advertisement in the 'Facebook' without mentioning the MahaRERA Registration number, in regards to the project "VTP Euphoria Phase-1" Pune, bearing MahaRERA Registration No.P52100031691 situated at Kharadi, Pune.
3. The promoter in his say dated 21-03-2023 and 23-05-2023 has submitted that there was a link provided in the said advertisement as

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.5 OF 2023**

"See More". On opening the same the complete advertisement was visible, which had the MahaRERA project registration number and MahaRERA website address mentioned in it. He has further stated in the said reply that they have not posted advertisement on facebook without MahaRERA registration number of the said project:

4. The hearing was scheduled on 06-06-2023 through Video Conferencing as per the MahaRERA Circular No.27/2023 and MahaRERA Order No.593/2023 wherein the Mr.Ashutosh Bag A.R. has reiterated the same contentions as mentioned in the reply. According to him they have not published any advertisement of the said project without mentioning MahaRERA Registration number. He has contended that in the alleged advertisement they have mentioned the words "See More". According to him on opening the same the entire advertisement alongwith MahaRERA Registration number is visible.
5. Perusal of the record palpably indicates that the advertisement which has been relied upon by the promoter is different than the advertisement on which action under Section 11 (2) of the Act, 2016 is initiated. In this impugned advertisement there was no mentioning of MahaRERA Registration number nor the mentioning of the words "See More". Besides the words "See More" in the advertisement does not fulfill the requirement of 'prominent part' as enunciated under section 11(2) of the Act, 2016. In this circumstances the contentions of the promoter cannot be accepted.
6. Mr. Ashutosh Bag A.R. while arguing the matter unhesitantly admitted that they have published advertisement without the MahaRERA registration number. The promoter has published the said advertisement as there were few flats remained to be sold out. Considering the admission on the part of promoter regarding the publication of advertisement without MahaRERA Registration number it is crystal clear that this promoter has violated the provision of Section 11(2) of the Act, 2016.

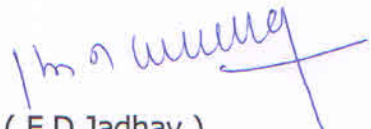
7. At this juncture it is necessary to go through Section 11(2) of the Act, 2016 which reads as under:

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."

8. 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. Since in this matter the advertisement issued by the promoter is without MahaRERA registration number which is mandatory, it can be said that the promoter has violated the provisions of section 11(2) of the Act, 2016 and thus this is a fit and suitable case to impose penalty on the promoter.
9. Section 61 of the Act, 2016 deals with penalty for contravention of other provisions of this Act. The said provision, inter alia, states that.....
..... promoter shall be liable to a penalty which may extend upto five percent of the estimated cost of the real estate project as determined by the Authority. However, considering the facts and circumstances of this case lenient view ought to be taken while imposing the penalty in the matter.
10. In view of the above, the penalty of Rs.10,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for violation of Section 11(2) of the Act, 2016.
11. 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.

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.5 OF 2023**

12. The Technical and the Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications viz. extension, corrections, change of name etc., with respect to the said project.


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