

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.50 OF 2023**

MahaRERA on its own Motion Complainant
Versus
Harman Infra
'Harman Infra' Unregistered project Respondent

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

Appearance :- A.R. Jaideep Navandar

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. Jaideep Navandar appeared on behalf of promoter.

2. It has been noticed by the MahaRERA Authority that an advertisement in the daily newspaper 'Divya Marathi', dated 02.04.2023 without mentioning the MahaRERA Registration number, in regards to the project "Harman Infra" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "Harman Infra" is not registered with MahaRERA. Therefore, by show-cause notice, dated 06.04.2023, 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 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 to file his reply and accordingly, the matter was adjourned to 28.07.2023. The promoter filed his reply on 26.07.2023.

3. The promoter has submitted his say and contended therein that there are 4 plots and they have obtained completion certificates for all the plots separately. It is further submitted by the promoter that they have received completion certificate for Plot No.11 and 12 on 02.02.2019, for Plot No. 13 and 14 on 02.02.2019, for Plot No.15 and 16 on 30.09.2020 and for Plot No.17 and 18 on 29.12.2021, 11.02.2022 and final occupancy certificate/completion certificate on 18.02.2022. It is further submitted that after receiving completion certificates from Jalgaon City Municipal Corporation, the promoter has published advertisement in daily newspaper 'Divya Marathi' on 02.04.2023 for sale of balance inventories in completed project.

4. The promoter has submitted completion certificates of all the 4 plots along with sanctioned plan of the said project. On perusal of the completion certificates issued by Jalgaon City Municipal Corporation, it appears that the said municipal corporation has issued completion certificates to the promoter under Section 263 of the Bombay Provincial Municipal Corporation Act, 1949 (hereinafter referred to as "BPMC Act"). The said provision of BPMC Act reads as under :-

"263. Completion certificates permission to occupy or use :- (1) Every person shall, within one month after the completion of the erection of a building or the execution of any such work as is described in Section 254, deliver or send or cause to be delivered or sent to the Commissioner at his office notice in writing of such completion, accompanied by a certificate in the form prescribed in the bye-laws signed and subscribed in the manner so prescribed, and shall give to the Commissioner all necessary

facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any work, until -

(a) permission has been received from the Commissioner in this behalf; or

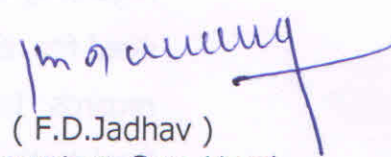
(b) the Commissioner has failed for twenty-one days after receipt of the notice of completion to intimate his refusal of the said permission."

5. 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. In view of this clarification, real estate project where promoter has received completion certificate, has been exempted from MahaRERA Registration. MahaRERA has also 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. It manifestly shows serial No.3 in the circular dated 11.10.2019 remained in force till the date.

6. In view of the aforesaid circulars, it is clear that the projects wherein completion certificate has been obtained by the promoter is exempted from registration with MahaRERA. In this matter Jalgaon City Municipal Corporation has issued final occupation certificate/completion

certificate separately for all 4 plots under Section 263 of the BPMC Act. It explicitly shows that there is no need to register these projects with MahaRERA. Besides, the advertisement has been published in 'Divya Marathi' newspaper after obtaining the completion certificate 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.

7. Considering the provision of Section 263 of BPMC Act and circulars issued by MahaRERA and the completion certificates issued by Jalgaon City Municipal Corporation, it is crystal clear that the provision of Section 3 of the Act of 2016 will not be attracted in this matter. Consequently, penalty under Section 61 of the Act of 2016 cannot be invoked in the matter.


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