

**SUO MOTU ADVERTISEMENT
CASE NO. 51 OF 2023**

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

SUO MOTU ADVERTISEMENT CASE NO. 51 OF 2023

MahaRERA on its Own Motion

.... Complainant

Versus

Arkade Developers Pvt. Ltd.

.... Respondent/ Promoter

MahaRERA Project Registration No. P51800050953

Coram: Dr Vasant Prabhu, Secretary, MahaRERA

Adv. Smita Sawant appeared on behalf of the Promoter / Respondent

ORDER

11th August 2023

(Through Video Conferencing)

1. The MahaRERA Authority had issued a show cause notice dated 23/05/2023 to the Promoter above named for publishing an advertisement on website namely "<https://arkademulund.new-booking.co/>" without mentioning the MahaRERA project registration number, in respect of their real estate project "**Arkade Nest**" bearing MahaRERA registration no. **P51800050953**, situated at Mulund, Mumbai.
2. The Promoter through its written submission dated 02/06/2023, had stated that the said project "**Arkade Nest**" is registered with the MahaRERA Authority bearing the project registration number P51800050953 and the said project was registered with the MahaRERA Authority on 15th May 2023. The Promoter had further stated that the said website was not created or operated by their Company or used by them for the said project nor any advertisements had been issued by them through the said website for the said project. The Promoter had stated that they are not the owner nor associated with the above-mentioned website in any manner whatsoever. At the further outset, the Promoter had placed on record that they have an official website namely - <https://www.arkade.in> and the same has been used by them to display, advertise and/or market information regarding their company, their completed, ongoing and upcoming projects. The Promoter had further stated that their project

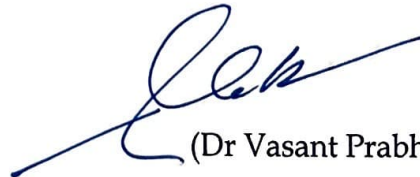
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website contains an official disclaimer. The Promoter had also informed that they are in the process of finding out the owner/operator of the said website and will soon initiate legal recourse available under the law against the owner/operator of the said website.

3. In this regard, a hearing was scheduled on 09/06/2023 through video conferencing as per the MahaRERA Circular No. 27/2020 and MahaRERA Order No. 593/2023, when the Promoter can appear through its representative and make its submissions.
4. During the aforementioned hearing, the Promoter had asserted that the advertisement on the website in question was neither created nor operated by the Promoter's company, nor was it utilized by them for the mentioned project. Additionally, the contact number displayed on the website in question is unknown and unrelated to the Promoter. The Promoter further had claimed that their project website used for marketing and advertisement of the said project became operational only after receiving the MahaRERA's project registration number on 15/05/2023. The Promoter had further expressed their inability to ascertain and identify the operator of the website in question. They had even attempted to contact the email address provided on the website, but unfortunately, the email bounced back. The Promoter had also stated that they were in the process of approaching the cyber cell to file a complaint against the fraudulent practice.
5. Considering the circumstances, the Promoter was directed to submit a detailed report outlining the actions taken within a period of 7 days from the date of hearing.
6. Accordingly, through written submission dated 20/06/2023, the Promoter had stated that they had sent a cease-and-desist notice to the operator of the said website to forthwith cease its illegal operations and had also filed a formal complaint against the above website and its illegal operations with the Cyber Cell of Mumbai on 15/06/2023. The Promoter had also mentioned that they had tried to check the status of the said website and found that the same was not active/operational and thus appeared that the said website had been taken down.

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7. In this regard, it is necessary to peruse the provision of section 11(2) of the RERA which reads as under:
- “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. Upon interpretation of Section 11(2), it becomes apparent that the Promoter bears the responsibility to conspicuously display the MahaRERA registration number of the project in any advertisements or prospectus disseminated by them.
9. However, in the present case, the Promoter, herein referred to as **Arkade Developers Pvt.Ltd.**, had not engaged in the dissemination of any advertisement on the website in question. Consequently, **Arkade Developers Pvt. Ltd.** cannot be held accountable for the infringement of Section 11(2) of the Real Estate (Regulation and Development) Act.
10. In view of the above, the present case stands disposed of.


(Dr Vasant Prabhu)
Secretary, MahaRERA