

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.53 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Jainam Park

Jainam Park

Unregistered Project

.... Respondent

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

**Appearance :- Absent**

**ORDER**

8<sup>th</sup> 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. However, Respondent-Promoter remained absent in spite of sufficient opportunity of being heard is given.

2. It has been noticed by the MahaRERA Authority that an advertisement through newspaper 'Lokmat Hello Nandurbar' in regards to the project "JAINAM PARK" situated at Nandurbar without registering it with MahaRERA. On going through the record of MahaRERA Authority, it has been noticed that the said project "JAINAM PARK" is not registered

with MahaRERA. Therefore, by show-cause notice, dated 07.06.2023, 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 through Adv. Ganesh N. Bairagi, has filed his say to the said show cause notice. The notice of hearing was issued to the promoter on 14.07.2023 and promoter was asked to attend the virtual hearing of the matter on 21.07.2023. The promoter however, remained absent in spite of sufficient opportunity was given to him by adjourning the matter on 28.07.2023 and 08.08.2023. In this circumstance, this Authority has proceeded further to pass orders in the matter.

3. Promoter by his reply, dated 07.07.2023, has submitted that the Section 3 r.w. 59 of the Act 2016 is not applicable to him, as he is not a builder and has not violated any provision of the Act 2016. According to promoter, the impugned advertisement published by him is of house/row house/bungalow and it is not related to sale of flats.

4. Perused the advertisement of the impugned project published in "Lokmat Hello Nandurbar. It does not contains that it is of a house/row house, bungalow or open plot, as contended by the promoter in his reply. However, the picture shown in the advertisement shows a row house/bungalow with amenities like concrete road, garden, street light, water connection, entrance gate and N.A. title clear layout. The price mentioned in the advertisement as Rs. 21,11,000/- along with availability of loan up to 99%. The said advertisement clearly shows that it is of N.A. Plotting with construction of row-house/bungalow. Map of the project "Jainam Park" has also been shown in the advertisement. Thus the intention of the promoter appears to sale the N.A.Plot along with construction. Thus it clearly indicates that it is an ongoing project. After going through the record of MahaRERA, it seems that the said project is not registered with MahaRERA.



5. 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;**

6. 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."**

7. The promoter remained absent in spite of sufficient opportunity was given to him to appear before the Authority and plead/defend his case. But promoter chose to remain absent. He has merely contended in his reply that he has not violated any of the provision of the Act of 2016. However, the advertisement given by him on 04.06.2023 squarely falls within four corners of Section 3 of the Act 2016.

8. 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 case of sale of flats, the said project can be said to be 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.

9. Therefore, taking into consideration the facts and circumstances of the present case and failing of the promoter to appear and defend his case, it can be said that since promoter has not registered the project with MahaRERA prior to publishing advertisement, it amounts to clear violation of Section 3 of the Act of 2016.

10. 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 Lokmant 'Hello Nandurbar' newspaper without registering the project with MahaRERA.



11. 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 obtain completion certificate or N.A. order, as the case may be. Moreover, it is further 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 occupancy certificate or full completion certificate or N.A. order, as the case may be.



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