

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.57 OF 2023**

MahaRERA on its own Motion	....	Complainant
Versus		
Shivraj Developers	....	Respondent

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

Appearance :- Promoter Satish Patil

**ORDER**

11<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. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter. Promoter Satish Patil appeared in person.
2. It has been noticed by the MahaRERA Authority that an advertisement in daily newspaper 'Lokmat', dated 21.03.2023 of the project at Asha Baba Nagar, near Shiv Colony, Pimprala, Jalgaon has been published without registering the same with MahaARERA. On going through the record of MahaRERA Authority, it has been noticed that the said project of the promoter is not registered with MahaRERA. Therefore, show-cause notice, dated 28.03.2023 was issued to the promoter by speed post calling upon him as to why penal action under Section 59 of the said Act should not be initiated against him. The promoter filed his reply on 27.07.2023. The notice of hearing, dated 27.07.2023 was issued

to the promoter and promoter was asked to attend virtual hearing before this Authority on 02.08.2023.

3. The promoter has filed his reply, dated 27.07.2023. He has contended that his project is not big, which is below 500 sq. mtrs. and therefore, according to him, there is no need to register this project with MahaRERA. He has further submitted that promoter is constructing 5 row-houses over the said plot, out of 5 he has already sold two row-houses after obtaining completion certificate from Jalgaon City Municipal Corporation.
4. Promoter has submitted commencement certificate, two completion certificates, map and 7/12 extracts of the Gat No. 81/Plot 7, village Pimprala, Tal. and District Jalgaon. The 7/12 extract of the aforesaid plot indicates that the area of the total land of the said plot is 3.95 Ares. The commencement certificate of Plot No.7, Gat No. 81 of village Pimprala indicates the area of the project as 296.08 sq. mtrs. of the said plot. Two site plans of the aforesaid plot shows the area of plot as 195 sq. mtrs. each. The promoter has also submitted full completion certificate issued under Section 263 of the Mumbai Provincial Municipal Corporation Act under Outward No.226 and 228 issued in the name of Ramesh Ananda Patil and Satish Abhiman Patil and others respectively on 27.04.2023. Jalgaon City Municipal Corporation has issued N.A. certificate against the plot of Ramesh Patil and Satish Patil regarding Gat No. 81, Plot No. 7.
5. Considering the documentary evidence furnished by the promoter clearly shows that the total area of the plot is below 500 sq. mtrs. and as such the contention of the promoter that there is no requirement of registering this project with MahaRERA appears to be correct.
6. MahaRERA has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of the agreement for sale/sale-deed for the real estate projects. Later on, Circular No.25A/2023



has been issued on 09.06.2023 by MahaRERA in the matter of real estate projects excluded from MahaRERA Project Registration.

7. Para one of the circular No.25/2019 deals with real estate project that are excluded from MahaRERA Registration. Serial No.1 of Para 1 thereof states that the real estate projects where the area of land proposed to be developed is less than or equal to 500 sq. mtrs. MahaRERA has issued Circular No.25A/2023, dated 09.06.2023 in the matter of real estate projects excluded from MahaRERA Project Registration. This circular is further clarification with regard to serial Nos.1 and 2 of Circular No.25/2019, dated 11.10.2019.

8. Clause (a) of sub-section (2) of Section 3 of the RERA 2016 is material for the purpose of issue involved in this matter, which reads as under :-

**"3.(2)Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required –**

**(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases."**

9. At this juncture, it would be helpful to analyse the issue involved in the matter by referring the final order passed by Maharashtra Real Estate Appellate Tribunal. Maharashtra Real Estate Appellate Tribunal (hereinafter referred to as "Appellate Tribunal") has laid down the ratio at para 23 in its majority judgment, dated 10<sup>th</sup> July, 2019 reads as follows:-

**"Keeping in view the settled law on interpretation of a statute and language of clause (a) of Section 3(2) of the Act of 2016, we are of the firm view that on the happening of**

any of the two contingencies i) the area of land proposed to be developed does not exceed 500 sq. mtrs. or ii) the number of apartments proposed to be developed does not exceed eight inclusive of all phases, project needs no registration under sub-section (1) of Section 3 of RER Act. The unambiguous language of clause (a) of Section 3(2) of the Act of 2016 makes it clear that "or" is to be read disjunctively and not conjunctively as conjunctive reading would make legislative intent redundant and would amount to changing the texture of the fabric which is not permissible in law."

10. As mentioned hereinabove, it is material to mention that MahaRERA has given further clarification under Circular No.25A/2023, which reads as under :-

**"1) Real Estate Projects where the area of land proposed to be developed is less than or equal to five hundred square meters shall not require MahaRERA Project Registration irrespective whether the numbers of apartments/Units proposed to be developed is less than or more than eight apartments/units, as the case may be inclusive of all phases."**


11. In view of the judgment of the MahaRERA Appellate Tribunal, Circular No.25/2019 and 25A/2023, it is clear that where the area proposed to be developed is less or equal to 500 sq. mtrs. shall not require MahaRERA Project Registration.

12. Section 3(2)(a) of the Act 2016 specifically speaks about exemption from the registration of the project. It clearly states inter-alia that no registration of the real estate project is required where the area of land proposed to be developed does not exceed five hundred square meters.



13. In this matter, the area of the land proposed to be developed is less than 500 sq. mtrs. Moreover, the promoter has sold out two blocks/row houses after getting full completion certificate from Jalgaon City Municipal Corporation. Likewise, promoter has contended that he is selling the plots only after getting completion certificate from concerned Municipal Corporation. Therefore, Section 3 of the Act of 2016 would not attract in this matter.

14. In view of the above, there appears no prima facie evidence to prove that this promoter has violated Section 3 of the Act 2016. As in the case in hand, no registration of the project is required, the question of imposing penalty under Section 59 of the Act 2016 does not arise.

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