

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO. 58 OF 2024**

MahaRERA on its own Motion	....	Complainant
Versus		
Trust Realty Pvt.Ltd.	....	Respondent

**MahaRERA Agent Registration No. A52100030573**

**Name of the Project :- Vitthal Heights**

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

**Appearance :-Mr. Navin Shah & Aarti Patil, A.R. for respondent.**

**ORDER**

11<sup>th</sup> June, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter, dated 27.02.2024 and thereby intimated the respondent-agent that the advertisement published by respondent-agent on Instagram of a real estate project under the name "Vitthal Heights" does not contain the MahaRERA Registration number, the MahaRERA Website address and QR Code and therefore, prima facie it is considered in violation of MahaRERA Act. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than March 06, 2024.
  
2. Since the respondent-agent has not complied with the directions issued by the ASCI vide intimation letter, dated 27.02.2024, the ASCI has sent mail, dated 15.03.2024 to MahaRERA, Pune and thereby referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent-agent for disposal in accordance with law.

3. On the basis of mail dated 15.03.2024 sent by ASCI, a notice of hearing has been sent to the respondent-agent on 27.03.2024 for attending the virtual hearing, dated 16.04.2024. In response to the said notice of hearing, respondent-agent has furnished his reply, dated June 11, 2024 wherein he has apologized for the impugned advertisement and has further submitted that they have already taken steps to rectify the issues as they have deleted the advertisement from instagram on immediate basis.
4. Mr.Navin Shah and Aarti Patil, A.R. appeared on behalf of respondent. Mr. Navin Shah has voluntarily admitted the charge leveled in the notice and stated that this is his first mistake, and requested to waive the charges without imposing any penalty.
5. Perused the intimation letter, dated 27.02.2024 issued by ASCI to respondent-agent. Also perused the impugned advertisement on record. The charge of Section 11(2) was framed against the respondent. So far as the charge under Section 11(2) of the RERA Act, 2016 is concerned, it is material in the first place to see what exactly the provision speaks. The said Section 11(2) is reproduced hereunder for the sake of brevity.

**"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".**

6. On perusal of the aforesaid provision of Section 11(2), it appears it mandates the promoter to include/mention the website address of the Authority containing all details of the registered project including the registration number obtained from the Authority. Thus this provision is to



be complied with by the "promoter" as defined in Section 2(zk) and not by the "real estate agent" as defined in Section 2(zm) of the Act, 2016. Therefore, this charge of Section 11(2) is not applicable to the respondent-agent. As such the question of imposing penalty under this Section of 11(2) would not arise.

7. Perused the emails sent by ASCI from time to time to the respondent-agent, which confirms that the impugned advertisement does not contain the QR Code at the time of its publication and surveillance by the ASCI and even during the period when the ASCI has allowed the respondent-agent to modify or withdraw impugned advertisement. In this context, MahaRERA Order No. 46B/2023, dated 21.08.2023 read with MahaRERA Order No. 46/2023, dated 29.05.2023 are necessary to be considered. By Order No. 46/2023, MahaRERA has introduced QR Code for each MahaRERA Project to assist homebuyer to get project related information easily and issued certain directions viz. (i) the promoter shall prominently display Quick Response ("QR") Code on each and every project promotion/advertisement published after "1<sup>st</sup> August, 2023"; (ii) the QR Code must be published in a manner that is legible, readable, and detectable with software application and (iii) the QR Code must be published besides the MahaRERA Registration number and the Website address. The mandates to be applied to the mediums of the promotion/advertisement and in any other medium have also been given in the said order. MahaRERA Order No.46B/2023, dated 21.08.2023 states that the directions issued in the MahaRERA Order No.46/2023, dated 29.05.2023 shall mutatis mutandis apply to all the registered real estate agents. The penalty for violation of the said directions has also been prescribed by the said MahaRERA Order No.46B/2023.
8. On perusal of the documentary evidence on record viz. advertisement, mails, etc. it can be said there is sufficient evidence to prove that the impugned advertisement does not contain the QR Code and

therefore, it manifestly proves that the respondent-agent has violated the directions issued by MahaRERA vide Order No. 46B/2023 read with Order No.46/2023. In view of the above, penalty under Section 65 of the Act, 2016 has to be imposed in this case against the respondent-agent.

9. Rule 14 of the Maharashtra Real Estate (Registration of real estate projects, Registration of real estate Agents, rates of interest and disclosures on website) Rules, 2017 ( hereinafter referred to as the "MahaRERA Rules, 2017) deals with the obligations of registered estate agents. Sub-rule (2) of Rule 14 is material in this matter, which reads as under :-

**"14(2) Every registered real estate agent shall quote his number of their registration all the documents relating to advertisement, marketing, selling or purchase issued by the real estate agent along with the number of registration certificate of the real estate project."**

10. On going through the impugned advertisement it appears it contained the Registration number of the real estate agent i.e. present respondent. However, it does not contain the registration number of the real estate project. It impliedly shows that the respondent is in violation of Rule 14(2) of the said MahaRERA Rules, 2017.

11. All in all it can be said that the evidence on record manifestly proves the violation of MahaRERA Order No. 46B/2023, dated 21.08.2023 read with MahaRERA Order No. 46/2023, dated 29.05.2023 by the respondent-agent. It also proves violation of Rule 14(2) of the MahaRERA Rules, 2017 by the respondent. In view of this, this respondent is liable to pay penalty for both the charges proved against him.



12. In view of the above, penalty of Rs. 20,000/- is imposed on the respondent-agent under Section 65 of the Act, 2016 for committing breach of the MahaRERA Order No. 46B/2023 read with MahaRERA Order No. 46/2023.
13. The penalty of Rs.20,000/- is also imposed on the respondent-agent under Section 65 of the Act, 2016 for violation of Rule 14(2) of the Rules, 2017.
14. The said penalty shall be payable by the respondent within 15 days from the date of this order, failing which respondent-agent shall be liable to penalty of Rs.250/- per day, in addition, (on each count) till the realization of entire amount.
15. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent-agent for renewal, corrections, change of name etc., with respect to his registration as a real estate agent.



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

12. In view of the above, penalty of Rs. 20,000/- is imposed on the respondent for contravening Section 15 of the Act, 2017 for contravening the provisions of the Maharashtra Control of Explosives Act, 2017.

13. The penalty of Rs. 20,000/- is also imposed on the respondent for contravening Section 15 of the Act, 2017 for contravening the provisions of the Maharashtra Control of Explosives Act, 2017.

14. The said penalty shall be payable by the respondent within 15 days from the date of the order. Filing of appeal against the order shall be to the effect of the order. In addition, for each count, the respondent shall be liable to pay a fine of Rs. 10,000/-.

15. The respondent is directed to deposit the amount of Rs. 20,000/- in the court of the District Judge, Mumbai, within 15 days from the date of the order. The respondent is also directed to deposit the amount of Rs. 10,000/- in the court of the District Judge, Mumbai, within 15 days from the date of the order.

For the District Judge,  
Mumbai.  
(Signature)  
District Judge,  
Mumbai.