

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.6 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Vinod Premchand Chandwani
'AARCON' Respondent
MahaRERA Project Registration No. P52100030862

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

Appearance :- Adv. Sandeep Dhumal

ORDER

2nd 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. Adv. Sandeep Dhumal appeared on behalf of promoter.
2. It has been noticed by the MahaRERA Authority that an advertisement in 'facebook' without mentioning the MahaRERA Registration number, in regards to the project "AARCON" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "AARCON" is registered with MahaRERA vide Project Registration No. P52100030862. Therefore, by show-cause

notice, dated 13.03.2023 was issued to the promoter by speed post calling upon him as to why penal action under Section 61 of the said Act should not be initiated against him. However, the said notice was returned unserved. Therefore, the second notice, dated 17.04.2023 was issued to the promoter. The promoter filed his reply on 15.06.2023. The notice of hearing, dated 08.05.2023 was issued to the promoter and promoter was asked to attend virtual hearing before this Authority on 17.05.2023.

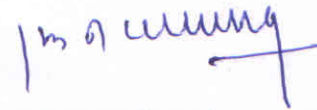
3. The promoter by his reply, dated 15.06.2023, has denied to have published the said advertisement and further submitted that the impugned advertisement has been published by unknown person and the promoter has not permitted the concerned person to publish the advertisement. Further the promoter has submitted that he has identified the concern person who has published advertisement without his approval and has violated Section 11(2) of the Act of 2016.

4. Heard Adv. Sandeep Dhumal for promoter. He has also reiterated the contentions raised out by the promoter in his reply. Adv. Dhumal vehemently argued that the promoter is not liable for an act of a person to whom the promoter has not authorized to publish the impugned advertisement. The promoter was therefore, directed to lodge a complaint with the police, if really the impugned advertisement has been published by a person to whom the promoter has not authorized to publish such advertisement. It was further directed to the promoter to furnish a copy of the said complaint to the Authority. Accordingly, promoter has lodged two complaints, dated 01.07.2023 with Ravet Police Station, Pimpri-Chinchwad against the persons who had published advertisement without consent of promoter. The promoter has furnished copies thereof before the Authority. On 11.07.2023, letter was issued by the Authority to the Police Inspector, Ravet Police Station, Pimpri-Chinchwad calling upon to submit his report with regard to the said complaint along with copy of F.I.R., if registered against the concerned persons. The matter was

thereafter adjourned to 21.07.2023 and 02.08.2023. However, no any report has been submitted by the concerned police station till date.

5. In view of such circumstances, it is evident from the reply, dated 15.06.2023 submitted by the promoter, coupled with the complaints, dated 01.07.2023 lodged with Ravet Police Station against Asset Scout Pvt. Ltd. represented through its Director Rugved Sanjay Umbarkar and Mr. Anand N., Century 21 Acres that the promoter is not liable for publishing the impugned advertisement in 'facebook' of his project "AARCON". The promoter has not given approval for such impugned advertisement, nor the person who published the advertisement sought approval from promoter. It explicitly indicates that this promoter was not aware of the advertisement published by these persons in the 'facebook'. Therefore, it is difficult to hold guilty to the promoter for the breach of Section 11(2) of the Act 2016.
6. As the promoter was ignorant of the impugned advertisement, he had lodged complaint against the two persons named hereinabove before the Police Inspector, Ravet Police Station, Pimpri-Chinchwad, Pune. This promoter has specifically contended in the said complaints that these persons had unauthorizedly without asking our permission and without our consent had published the advertisement of our scheme "AARCON" , S.No.25(P)+27(P), village Punawale, Tal. Mulshi, District Pune, by way of online publication. In this backdrop, it cannot be said that this promoter has any role into publishing the impugned advertisement. Therefore, he is not liable for violation of Section 11(2) of the Act, 2016.
7. In view of the aforesaid facts, circumstances and the law, there appears no prima facie case established against this promoter. Therefore, this promoter cannot be held for the violation of Section 11(2) of the Act, 2016.

8. Consequently this is not a fit case to impose penalty in the matter under Section 61 of the Act of 2016.



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