

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.79 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Vascon Engineering Ltd.

1) Winderemere Phase 1

2) Windermere Phase 2

.... Respondent

MahaRERA Project Registration No.P52100003865 & P52100002368

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

Appearance :-Adv. Suraj Wagwani for respondent.

ORDER

17th October, 2023


(Through Video Conferencing)

1. The present matter has been initiated by MahaRERA suo-motu against the respondent-promoter for publishing advertisement of his projects "Windermere Phase 1" and "Windermere Phase 2" in the daily newspaper "The Times of India", dated 03.08.2023 wherein the respondent-promoter has not included project registration numbers, thereby violating the provisions of Section 11(2) of the Maharashtra Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016).
2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"), dated 26.04.2023 show cause notice, dated 03.08.2023 has been issued to the respondent-promoter calling upon him as to why necessary action should not be taken against him for imposing penalty under Section 61 of the Act 2016.

3. The respondent-promoter has filed his reply, dated 09.08.2023 wherein he has contended that the said projects are completed project and completion certificates have been issued by the concerned Pune Municipal Corporation on 23.03.2018 and 29.12.2018 respectively and co-operative housing society of all the homebuyers of the said project has already been formed.
4. After receiving reply by the promoter, Notice of hearing, dated 27.09.2023 was issued to the respondent-promoter whereby he was asked to attend virtual hearing on 17.10.2023. Adv. Suraj Wagwani has been appeared in the matter for respondent. He has reiterated the contentions raised by the respondent-promoter in his reply. Adv. Wagwani argued that the projects of the respondent has already been completed and it was a corporate EPC advertisement and it is not for sale of any units from the said projects. Adv. Wagwani also relies upon the order passed by this Authority in Suo Moto Advertisement/Pune Case No.35 of 2023, dated 2nd August, 2023 in the matter of Mr. Mahesh Bhagwat. In support of its contentions, respondent has filed occupancy/completion certificates, dated 23.03.2018 and dated 29.12.2018 issued by the Pune Municipal Corporation and also registration certificate of Windermere Co-op. Housing Society, dated 18.01.2022 issued by Dy. Registrar, Cooperative Societies, Pune City(4), Pune.
5. The documents filed by the respondent-promoter are on record, which are self explanatory. Perused impugned advertisement. It nowhere speaks for sale of any units, price of unit, amenities, etc. Adv. Mr. Wagwani has submitted that it is an EPC advertisement. EPC means Engineering, Procurement and Construction in relation to affordable housing schemes like Prime Minister's Awas Yojna (PMAY). It is stated in the reply that promoter's corporate EPC division was awarded a construction contract under PMAY scheme at Sinhgad Road, Wadgaon, Pune, which contract was successfully completed by it and the same was inaugurated by Hon'ble Prime Minister, in pursuance to which this company have published the corporate EPC advertisement in daily

newspaper together with their other completed projects namely Windermere at Koregaon, Park, Pune.

6. Occupancy certificates issued under Section 263 of the Bombay Provincial Municipal Corporation Act, manifestly shows that the projects of the respondent are completed in the year 2018 itself i.e. long before publication of the impugned advertisement. The homebuyers have already started residing in their respective flats of the said buildings long before and they have registered their housing society with the Co-operative Society Office and certificate to that has been issued by Dy. Registrar, Co-operative Societies, Pune on 18.01.2022 i.e. long before the advertisement.
7. The respondent-promoter has referred the order passed by this Authority in the matter of Shri Mahesh Bhagwat. It can be seen that in the order of Mahesh Bhagwat, the earlier orders passed by Mumbai Authority in the cases of MahaRERA on its own motion v/s. Avi Constructions and MahaRERA at its own motion v/s. A.K. Surana were referred wherein it was held that, **"since the promoter had already obtained O.C. for the said project before advertisement was published, the promoter is not in violation of Section 11(2)"**. Similar facts exist in this matter also. Therefore, the ratio laid down in all above referred cases will be applicable to the facts of this case.
8. Considering the facts of the present case along with the documents produced on record, as well as the ratio laid down by the Authority in the above referred matters, it can be said that there is no violation of Section 11(2) of the Act, 2016. Therefore, this is not a fit case to invoke the provisions of Section 61 for imposing penalty upon the respondent-promoter. The matter is therefore, stands disposed off without imposing any penalty upon the respondent-promoter.


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