

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.80 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Vascon Engineering Ltd.

1) Windermere 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**

17<sup>th</sup> 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). Besides this, the respondent-promoter has not included Quick Response (QR) Code in the said advertisement and thereby violated the directions issued by the MahaRERA Authority under MahaRERA Order No.46/2023, dated 29.05.2023 read with MahaRERA Order No.46A, dated 25.07.2023.

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 and 24.08.2023 show cause notice, dated 04.09.2023 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 as well as Section 63 of the Act, 2016.

3. It has come on record that the promoter has issued the impugned advertisement without mentioning registration number as well as QR Code. Therefore, show cause notice was issued against him, to which the respondent-promoter has filed his reply, dated 08.09.2023 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 unit holders of the said project has been formed.
4. On receipt of 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. Respondent-promoter appeared in the matter through Adv. Suraj Wagwani. 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. He relies upon the order passed by this Authority in Suo Moto Advertisement/Pune Case No.35 of 2023, dated 2<sup>nd</sup> 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. Perused the documents filed on record by the respondent-promoter. Perused impugned advertisement. It nowhere speaks for sale



of any units, price of unit, amenities, etc. As argued by Adv. Mr. Wagwani, 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 promoter's corporate EPC division was awarded a construction contract under PMAY scheme at Sinhgad Road, Wadgaon, Pune, which contract was completed successfully completed by it and the same was inaugurated by Hon'ble Prime Minister, in pursuance of 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. Perusal of 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 the said buildings long before and they have registered their housing society with the Co-operative Society Office and certificate to that effect has been issued by the Dy. Registrar, Co-operative Societies, Pune on 18.01.2022 i.e. long before the advertisement. This also clearly indicates that the society has been formed and registered much prior to publication of the impugned advertisement.
7. In the order of Shri Mahesh Bhagwat case, 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 exists in this matter also, therefore, the ratio laid down in all above referred cases will be applicable to the facts of this case.

8. Taking into consideration the facts of the present case, supported with the documents produced on record, it can be said that there is no violation of Section 11(2) of the Act, 2016 read with Order No.46/2023 and 46A/2023 issued by MahaRERA. Therefore, this is not a fit case to invoke the provisions of Section 61 of the Act, 2016 as well as Section 63 of the Act, 2016 read with Order 46 and 46A/2023. The matter therefore, stands disposed off without imposing any penalty upon the respondent-promoter.



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