

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.107 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Vandana Jeetnarayan Mourya

MahaRERA Agent Registration No. A52100024028

.... Respondent

**Codename Hadapsar New Launch
(Unregistered Project)**

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

Appearance :- Adv. Makarand Paradkar for respondent.

ORDER

27th October, 2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the real estate agent for publishing advertisement of real estate project "Codename Hadapsar New Launch" on website <https://reliantinfraspace.in/properties/codename-hadapsar-new-launch/> wherein the respondent-agent has advertised the project which is not registered with MahaRERA and thereby violated the provision of Section 10(a) of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016) and Rule 14 of the Maharashtra Real Estate (Regulation & Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Websites) Rules, 2017 (hereinafter referred to as "Rules, 2017). By publishing the said advertisement, the respondent-agent has also violated the direction issued by the Maharashtra Real Estate

Regulatory Authority under MahaRERA Order No. 46B/2023, dated 21.08.2023 read with Order No.46/2023, dated 29.05.2023.

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") vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notice, dated 08.09.2023 has been issued to the respondent-agent calling upon her as to why necessary action should not be taken against her for imposing penalty under Section 65 read with MahaRERA Order No.46B/2023, dated 21.08.2023 and MahaRERA Order No.46-A, dated 25.07.2023.
3. The respondent-agent has filed her reply, dated 14.09.2023 wherein it has contended that the project in question is registered with MahaRERA having RERA Number P52100049839. However, the respondent-agent admitted that there was no project number/QR Code mentioned in the aforementioned advertisement. It is further contended by respondent-agent that the said omission was an oversight on their part and it was not intentional but rather a bonafide mistake.
4. On receipt of reply by the respondent-agent, Notice of hearing, dated 05.10.2023 was issued to the respondent-agent, whereby she was asked to attend virtual hearing on 27.10.2023. Respondent-agent appeared in the matter through Adv. Makarand Paradkar. He has reiterated the contentions raised by the respondent-agent in her reply. Adv. Paradkar has admitted to have issued the impugned advertisement without proper registration number and including QR Code. However, according to him, this is the first case of the respondent which has occurred due to bonafide mistake and the respondent follows each and every rule/order passed by Hon'ble Authority in its true spirit. Therefore, he has prayed for leniency while imposing penalty.

5. Section 10(a) of the Act, 2016 is relevant in this matter, which reads as under :-

"Section 10. Every real estate agent registered under Section 9 shall

—

(a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority."

(b)

(c)

(d)

(e)

6. Rule 14 of the Rules 2017 reads as under :-

"Rule 14. - **Obligations of registered real estate agents** :-

(1) Every registered real estate agent shall prominently display number of his Registration Certificate at the principal place of his business and at its branch offices.

(2) Every registered real estate agency shall quote his number of all 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."

7. Order 46B issued by MahaRERA, dated 21.08.2023 specifically contends that directions issued by the Authority in MahaRERA Orders No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents, and in

view thereof with effect from the date of coming into force of this order, the directions issued therein shall be followed by every real estate agents.

8. Heard Adv. Paradkar for respondent-agent in length. Perused the impugned advertisement. The impugned advertisement is in respect of the project "Codename Hadapsar New Launch". The respondent-agent in her reply has contended that the project in question is registered with MahaRERA having RERA Number P52100049839. In support of her contentions, she has filed RERA Registration Certificate issued by MahaRERA Authority bearing Project Registration No. P52100049839. Perusal of the said Project Registration Certificate, it is issued for the project "Kumar Parc Residences-B-2 situated at Hadapsar, Pune. It is not issued for the project "Codename Hadapsar New Launch". Therefore, there is no substance in the contentions raised out by the respondent-agent in her reply that the project in question is registered with MahaRERA under Project Registration No.P52100049839. Merely contending that it was an oversight and not intentional on her part will not suffice.

9. In fact, the advertisement itself is a vague advertisement of a project, which is not in existence or even not registered with the Authority. As contended by the respondent-agent, the advertisement is in respect of the project registered under RERA Registration No. P52100049839. As contended supra, the said registration Number is issued for the project "Kumar Parc Residences-B2" and not for "Codename Hadapsar New Launch", as mentioned in the impugned advertisement. The impugned advertisement therefore, cannot be said to be in respect of the project registered with MahaRERA under the aforesaid Registration Number. The advertisement itself sufficiently proves that this respondent has violated the provisions of RERA law as well as Orders issued by MahaRERA to that effect. Considering the impugned advertisement therefore, definitely facilitates purchase of apartments in real estate project or part of it, being sold by the promoter, which is not registered with the MahaRERA

Authority, and thus in violation of Section 10(a) of the Act, 2016 read with Rule 14 (2) of the Rules, 2017.

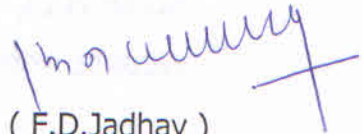
10. As stated above, Order 46B specifically contends that Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents. By Order 46/2023, MahaRERA has introduced Quick Response (QR) Code for each registered real estate project to assist home buyers/allottees to get real estate project information. By Order No.46/2023, specific directions are issued to the promoter that he shall prominently display Quick Response (QR) Code on each and every project information/advertisement published after 1st August, 2023. The direction (a) issued in the said Order No.46B/2023 that the Real estate agents shall prominently display QR Code on each and every real estate project promotion/advertisement published in the mediums as more specifically listed in MahaRERA Order No.46/2023, dated 29.05.2023 i.e. fourth mandate which is Website/webpages of Projects.

11. In view of this, it is obligatory on the part of the respondent-agent to confirm whether the real estate project of which is advertisement is to be published, is registered project with MahaRERA or not and whether the promoter has displayed the QR Code of such project or not in the first instance. In absence of display of any QR Code in the impugned advertisement, it can be said that the respondent-agent has not complied with the directions issued by MahaRERA Authority in Order No.46B read with Order No.46.

12. Thus taking into consideration the aforesaid facts on record as well as relevant provision of law and admission by respondent-agent for publishing the impugned advertisement, this is a fit case to impose penalty under Section 62 of the Act, 2016 for violation of provision of Section 10(a) read with Rule 14 of the Rules, 2017 and also under Section 65 of

the Act, 2016 for violation of the Order No. 46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21.08.2023 issued by the MahaRERA.

13. In view of above, the penalty of Rs.25,000/- is imposed upon the respondent-agent under Section 62 and 65 of the Act 2016.
14. The penalty imposed hereinabove shall be payable by the promoter within a period of 15 days from the date of this order, failing which a further penalty of Rs.250/- per day on, in addition, would be imposed till the realization of entire amount.
15. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of both the said penalties before processing any applications by respondent-agent for renewal, corrections, change of name etc., with respect to his registration with MahaRERA.


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