

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.111 OF 2023**

MahaRERA on its own Motion Complainant

Versus

1. Vilas Javdekar Eco Housing LLP Respondent/Promoter
PALLADIO BALEWADI CENTRAL PHASE I

MahaRERA Project Registration No. P52100051590

2. Anarock Property Consultants Pvt.Ltd.

1002, B-Wing, One BKC,

Bandra-Kurla Complex, Mumbai-400051..... Respondent/Channel Partner

MahaRERA Real Estate Agent Registration No. A51900000108.

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

Appearance :- Adv. Vaibhav Kulkarni for respondent-promoter

Ms. Beena Thuthgar for respondent-channel partner (suo-motu)

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 "PALLADIO BALEWADI CENTRAL PHASE-I" on website <https://trespect-vj-palladio.sites.anarockdigital.com/> wherein the respondents have advertised the project without including Quick Response Code and have 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 and Order No.46A/2023, 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") vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notice, dated 08.09.2023 has been issued to the respondent-promoter calling upon it as to why necessary action should not be taken against it for imposing penalty under Section 63 read with MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46-A, dated 25.07.2023.

3. The respondent-promoter along with the channel partner Anarock Property Consultants Pvt.Ltd., the respondent No.2 herein, have filed its joint reply, dated 04.10.2023 wherein it has contended that missing of QR Code in the impugned advertisement was due to an unintentional oversight and was an inadvertent mistake/omission on the part of the Channel Partner/respondent No.2, and after receipt of the said notice, promptly rectified the said advertisement. It has been further contended in the para 7 of the said reply that the Channel partner fully accept the sole responsibility of the said non-compliance on its part and exempt the promoter from the responsibility, accountability, consequence and only liability arising thereof. It has been further contended that this is the first instance of non-compliance of mandatory provision on the part of the channel partner and lastly requested to adopt benign view and discharge them from any penalty liability.
4. On receipt of reply by the respondents, notice of hearing, dated 05.10.2023 was issued to the respondent-promoter and was asked to attend virtual hearing on 27.10.2023. Respondent-promoter appeared in the matter through Adv. Vaibhav Kulkarni. Respondent No.2 Channel Partner appeared suo-motu through Ms. Beena Thuthgar. Adv. Vaibhav Kulkarni has reiterated the contentions raised by the respondents in their reply and argued that the impugned advertisement has been issued by the respondent No.2-Channel Partner without including the QR Code without the permission and authority of promoter to that effect. Ms. Beena Thuthgar for respondent No.2-Channel Partner has also admitted to have

issued the impugned advertisement without including the QR Code and further admitted that the respondent No.2-Channel Partner is solely responsible for the same. Adv. Kulkarni has prayed to exclude the respondent-promoter from the action of penalty as the promoter has not violated any provisions of law and it is the channel partner who has breached the express provision of law/rules/orders issued by MahaRERA.

5. 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 i.e. 46B, the directions issued therein shall be followed by every real estate agents.

6. Heard Adv. Vaibhav Kulkarni for respondent-promoter in length. Also heard Ms. Beena Thuthgar on behalf of Channel Partner. Perused the impugned advertisement. The impugned advertisement is in respect of the project "PALLADIO BALEWADI CENTRAL PHASE I". It does not contain the QR Code. The advertisement itself sufficiently proves that this respondent has violated the Order 46B. Channel Partner also fairly admitted their mistake in non-inclusion of QR Code in the advertisement of project published by them through website.

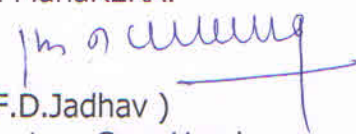
7. Order 46B/2023 specifically contends that Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents. By Order 46/2023, MahaRERA has introduced Quick Response (QR) Code for each registered real estate project to 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 in clause (a) issued in the Order No.46B/2023

says 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. Website/webpages of Projects is fourth medium as shown in the order No.46/2023.

8. In view of above, 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 QR Code of such project has been displayed 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-channel partner has not complied with the directions issued by MahaRERA Authority as envisaged in Order No.46B read with Order No.46. Respondent-channel partner has voluntarily admitted that it is solely responsible for the said impugned advertisement and promoter has no any role in publishing the said advertisement. On enquiry by the Authority about imposition of penalty, the Channel Partner unhesitantly replied that penalty be imposed on it and since promoter is not liable for any act in publishing advertisement, no penalty be imposed on promoter. It will be just, legal and proper that action under Section 65 of the Act, 2016 and the penalty thereunder shall be imposed against the channel partner only. As there is nothing comes on record against promoter regarding alleged violation, the promoter is not liable for any penalty.

9. Thus taking into consideration the aforesaid facts on record as well as relevant provisions of law and admission by respondent-channel partner for publishing the impugned advertisement, this is a fit case to impose penalty 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.

10. In view of above, the penalty of Rs.25,000/- is imposed upon the respondent-channel partner under Section 65 of the Act 2016.
11. The penalty imposed hereinabove shall be payable by the respondent-channel partner 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.
12. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by respondent-channel partner for renewal, corrections, change of name etc., with respect to its registration with MahaRERA.


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