

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 50 OF 2024**

MahaRERA on its own Motion	Complainant
Versus		
Pooja Dudeja/Homesca Realtors Pvt.Ltd.	Respondent

MahaRERA Agent Registration No. A52100041007

Name of the Project :- Tathawade

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

Appearance :-Pooja Dudeja in person

ORDER

4th June, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued a intimation letter, dated 13.02.2024 and intimated the respondent-agent that the advertisement published by respondent-agent on Instagram of a real estate project under the name "Tathawade" that the QR Code included in the said advertisement is not accessible and it does not contain the MahaRERA Registration number, the MahaRERA Website address and Agent Registration number and therefore, it is considered to be prima facie in violation of MahaRERA regulation. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than February 23, 2024.

2. Since the respondent-agent has not complied the directions issued by the ASCI vide intimation letter, dated 13.02.2024, the ASCI has sent mail, dated 15.03.2024 and referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent-agent for disposal according to law.

3. On the basis of mail dated 15.03.2024 sent by ASCI, a notice of hearing has been sent to the respondent-agent on 27.03.2024 for attending the virtual hearing, dated 19.04.2024. In response to the said notice of hearing, respondent-agent has furnished her reply, dated 19.04.2024 wherein she has contended that she has replied the ASCI on 23.02.2024 that QR redirected to MahaRERA website, but access was denied by website. Respondent-agent has further contended that on receipt of further mail from ASCI on 14 March, 2024, wherein it has been stated that respondent-agent has added the QR Code to the said advertisement however, it does not contain the MahaRERA Registration number, the MahaRERA Website address, or the agent registration number as mandated in the RERA Act. The respondent-agent has further contended that she did not add the QR, but it was already present in the video and it was the same QR and when she scanned it, it shows "an unauthorized access came". Respondent has further contended that the QR was detectable and directed to MahaRERA website, but sometimes "Unauthorized Access" is displayed on the screen instead of opening the details and sometimes the details are properly opened. The respondent-agent has further contended that after receiving the email dated 14 March, 2024 from ASCI, she has updated the MahaRERA Registration number in the advertisement and replied accordingly to the ASCI on 15 March, 2024 however, ASCI has further informed by mail dated 27th March, 2024 that the modification of the said advertisement does not detect the MahaRERA Registration number, Website address, agent registration number and the QR Code. Respondent agent has further contended that from 31st August, 2023 QR Code as well as MahaRERA Registration number, website address and agent registration number can be found in the impugned advertisement.

4. Ms. Pooja Dudeja appeared on behalf of respondent and has reiterated the contentions raised in the reply furnished by the respondent. She has submitted that as per her point of view, the impugned

advertisement contains the QR Code, but sometimes it was detecting and sometimes it was not detecting. She has further submitted that there is no any violation on the part of respondent-agent of any of the provisions of the RERA Act, rules, regulations or Orders issued by the MahaRERA and prayed to waive the charges leveled against the respondent-agent in the notice of hearing.

5. Perused the intimation letter, dated 13.02.2024 issued by ASCI to respondent-agent. Also perused the impugned advertisement on record. That so far as the charge under Section 11(2) of the RERA Act, 2016, it is reproduced hereunder for the sake of brevity.

"11(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto".

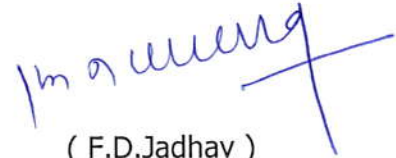
6. Considering the aforesaid provision, Section 11(2) mandates the promoter to include/mention the website address of the Authority containing all details of the registered project including the registration number obtained from the Authority. Thus this provision is to be complied by the "promoter" as defined in Section 2(zk) and not by the "real estate agent" as defined in Section 2(zm) of the Act, 2016. Therefore, this charge is not applicable to the respondent-agent.
7. Perused the emails sent by ASCI from time to time to the respondent-agent, which confirms that the impugned advertisement does not contain the QR Code at the time of its publication and surveillance by the ASCI and even during the period when the ASCI has allowed the respondent-agent to modify it. In this context, MahaRERA Order No. 46B/2023, dated 21.08.2023 read with MahaRERA Order No. 46/2023,

dated 29.05.2023 are to be considered. By Order No. 46/2023, MahaRERA has introduced QR Code for each MahaRERA Project to assist homebuyer to get project related information easily and issued certain directions viz. (i) the promoter shall prominently display Quick Response ("QR") Code on each and every project promotion/advertisement published after "1st August, 2023"; (ii) the QR Code must be published in a manner that is legible, readable, and detectable with software application and (iii) the QR Code must be published besides the MahaRERA Registration number and the Website address. The mandate mentioned above shall apply to the mediums of the promotion/advertisement and in any other medium as may be directed by the Authority. MahaRERA Order No.46B/2023, dated 21.08.2023 states that the directions issued in the MahaRERA Order No.46/2023, dated 29.05.2023 and Order No.46A/2023, dated 25.07.2023 shall mutatis mutandis apply to all the registered real estate agents. The penalty for violation of the said directions has also been prescribed by the said MahaRERA Order No.46B/2023.

8. The evidence on record is substantial to hold that the impugned advertisement though contained QR Code, but same is not accessible and therefore, it manifestly proves that the respondent-agent has violated the directions issued by MahaRERA vide Order No. 46B/2023 read with Order No.46/2023. In view of the above, penalty under Section 65 of the Act, 2016 has to be imposed in this case against the respondent-agent.
9. In view of the above, penalty of Rs. 10,000/-under Section 65 of the Act, 2016 is imposed upon the respondent for committing breach of the MahaRERA Order No. 46B/2023 read with Order No. 46/2023 and 46A/2023.
10. The said penalty shall be payable by the respondent within 15 days from the date of this order, failing which respondent shall be liable to

penalty of Rs.500/- per day in addition, till the realization of entire amount.

11. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by respondent for renewal, corrections, change of name etc., with respect to his license as a real estate agent.


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