

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.175 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Shivam Developers & Constructions Respondent

Unregistered Project of Open Plot

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

Appearance :- Absent

ORDER

20th February, 2024
(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 01.12.2023 to the respondent-promoter through post as well as through email, calling upon him as to why penal action under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") shall not be taken against him for publishing an advertisement in daily newspaper "Lokmat", dated 14.11.2023 of real estate project of open plots situated at Pune Road, Solapur, without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.
2. The respondent-promoter has failed to furnish his reply to the said show cause notice, dated 01.12.2023. Therefore, Notice of hearing, dated 28.12.2023 was served upon the respondent-agent through post and also email. However, though opportunity of being heard was given to the respondent, respondent choose to remain absent on the scheduled dates of hearing i.e. 12.01.2024, 06.02.2024 and 23.01.2024 and consequently matter was posted for passing order to 13.02.2024. Even on 13.02.2024, the respondent remained absent.

Therefore, the exparte order is being passed in the matter today i.e. 20.02.2024.

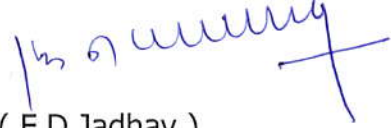
3. Perused the advertisement. The name of the project is not mentioned in the impugned advertisement. However, the location of the project has been mentioned as "At Pune Road, within the limits of Solapur Municipal Corporation", the consideration amount of the open plot is mentioned as Rs. 6 lakhs only, the main amenities such as internal roads, trees and garden, light, water, drainage line, wall compound, temple, etc. has been mentioned. Further in the lower part of the said advertisement, it has been mentioned "Open Plot for investment", consideration amount is mentioned as "Rs. Two lakh). It is also mentioned "ADTP (N.A.) Clear Title, Sanctioned layout, separate online 7/12 extract and designed as per "Vastushastra". By the said impugned advertisement, the public at large are invited to book the plots in the said project. However, neither the name nor the RERA Registration Number of the said project has been mentioned in the said impugned advertisement. Therefore, it can be said that the said project is unregistered one.

4. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;

5. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. No any documents adduced to prove that the present project is exempted from RERA Registration as being stated in the advertisement that this promoter has/had received N.A. permission from Competent Authority. Therefore, it can be said this promoter has violated the provision of Section 3 of the Act of 2016.
6. In this matter, it is proved that this promoter had published advertisement. It is also proved that the impugned project was/is not registered with MahaRERA. Therefore, taking into consideration the facts and circumstances of the present case and failing the promoter to appear and defend his case despite sufficient opportunity of being heard was given to him, it can be said that this promoter is in clear violation of Section 3 of the Act of 2016.
7. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt that the promoter has violated the provision of Section 3 of the Act, 2016 for publishing the advertisement without registering the project with MahaRERA.
8. Therefore, it is hereby directed that a written communication be sent to the concerned Planning Authority for the purpose of ascertaining whether the promoter has obtained any requisite authorization for the aforementioned project, and no additional authorization shall be granted for the said project until such time the aforementioned project has been duly registered with MahaRERA or obtains full occupancy certificate/completion certificate or N.A. order from competent authority. Moreover, it is directed that the concerned Registration and Stamp

Office shall be instructed to abstain from registering any sale agreements within the said project, until such time as the project is duly registered with MahaRERA Authority or obtains full completion certificate or N.A. order from competent authority.



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