

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 21 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

1. Joyville Shapoorji Housing Pvt.Ltd.

.... Respondent-Promoter

2. Propbizz Real Estate

.... Respondent-Agent

JOYVILLE CELESTIA

MahaRERA Project Registration No.P52100053165

MahaRERA Agent Registration No.A52100039446

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

Appearance :-

1. Mr. Divyesh Trivedi, Asst. General Manager/A.R. for Respondent-promoter.
2. Mr. Abhay Choudhar and Mr. Nitin Lokhande for Respondent-Agent.

ORDER

20th February, 2024
(Through Video Conferencing)

1. MahaRERA has issued show-cause notice, dated 23.01.2024 to the respondent-promoter calling upon him as to why penal action under Section 61 and 63 of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as 'the said Act') should not be taken against him for publishing advertisement in daily newspaper 'Lokmat', dated 17.12.2023 in respect of real estate project "JOYVILLE CELESTIA", situated at Shewalwadi, Hadapsar, Pune without including MahaRERA Project Registration No. and without including the Quick Response (QR) Code of the said real estate project in the said advertisement and thereby violating the provisions of Section 11(2) of the said Act and also contravening the directions issued by the Maharashtra Real Estate Regulatory Authority Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46A, dated 25.07.2023.

2. Respondent-promoter has filed his reply, dated 29.01.2024 to the said show-cause notice dated 23.01.2024 and denied the contentions in the notice. It is contended by the respondent that on inquiry in the subject matter it was discovered that the respondent-agent had published the impugned advertisement, and the same is apparent from the bottom part of the advertisement. The cell numbers of employees of the respondent-agent are also appearing in the advertisement. The respondent-promoter has further contended that they have not violated any provisions of the Act, 2016 or the MahaRERA Orders pertaining to the QR Code. On 02.02.2024, respondent-promoter has filed say again and thereby further contended that in response to their communication to the respondent-agent, dated 31st Jan. 2024, the respondent-agent given its reply on the same date 31st Jan. 2024, and communicated to the promoter that the omission happened inadvertently and have apologized their error. The respondent has furnished the copies of communication made by him dated 31.01.2024 to the respondent-agent and reply of the respondent-agent, dated 31st Jan. 2024 to this promoter.
3. Upon receipt of reply of respondent-agent through the respondent-promoter, notice of hearing was issued to the respondent-agent on 09.02.2024 and opportunity of being heard was given to the respondent-agent.
4. Mr. Divyesh Trivedi, Asst. General Manager appeared on behalf of respondent-promoter. He has reiterated the contentions raised out by the respondent-promoter in its reply. Mr. Trivedi has contended that the impugned advertisement has been published by the respondent-agent and therefore, there is no violation of any of the provisions of the Act, 2016 and the MahaRERA Orders mentioned in the show cause notice. He prayed that no penalty be imposed against the respondent-promoter.

5. Mr. Abhay Choudhar and Mr. Nitin Lokhande appeared on behalf of the respondent-agent. Mr. Nitin Lokhande has contended that there is RERA Registration No. mentioned in the advertisement however, voluntarily admitted that the QR Code is not included in the advertisement. Mr. Lokhande submitted that the said error has been occurred inadvertently.
6. Perused the impugned advertisement, dated 17.12.2023 published in daily newspaper 'Lokmat'. By the said advertisement, the respondent-agent has invited the citizens of Latur City to book the units in the project "Joyville Celesia" and location of the said project is mentioned as Hadapsar, Pune. The said advertisement further has mention of the venue as Aroma Hotel, Opp. Yashwant Printing Press, A-74/1, M.I.D.C., Latur, Maharashtra-413531, including date 17th December, 2023 and Time 9.30 a.m. to 7.00 p.m.
7. So far as the show cause notice, dated 23.01.2024 is concerned, the charges leveled against the respondent-promoter for violation under Section 11(2) of the Act, 2016 and violation of directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023. However, the contentions of the promoter that he has not published the impugned advertisement, but it was the respondent-agent, who has published it, and since the same has been admitted by the agent, there is no violation of any of the provisions of the Act, 2016 as well as MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023 on the part of promoter. The respondent-agent has voluntarily admitted to have published the impugned advertisement without displaying QR Code.
8. It is the contention of the respondent No.2-Agent that the impugned advertisement is included RERA Registration number. On careful perusal of the advertisement, it appears the project registration number has been inserted at the bottom of the advertisement. Therefore, there clearly

appears no violation of Section 10(a) of the Act, 2016 on the part of the respondent agent.

9. So far as second violation of QR Code is concerned, it can be said MahaRERA Order No.46B/2023 is required to be discussed for deciding that whether there is violation of the same on the part of the respondent-agent. Relevant part of MahaRERA Order No.46B reads as under :-

"And whereas, MahaRERA, having introduced QR Code for each and every registered real estate project, the directions issued by the Authority in MahaRERA 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 and in view thereof with effect from the date of coming into force of this order, the following directions shall be followed by every registered real estate agents.

(a) 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.

(b) The QR Code published shall be legible, readable, and detectable with software application and shall be published besides MahaRERA project registration number.

(c) Failure to comply with (a) and (b) above shall be construed as violation of the directions issued by the Authority and penalty which may extend upto Rs.50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 65 of the Act shall be imposed upon real estate agents for each such violations.


10. The impugned advertisement does not contain the QR Code of the aforesaid real estate project. As stated above, by MahaRERA Order No.46B, dated 21.08.2023, it has been made clear that the directions issued in MahaRERA 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. Further the real estate agents have been directed to 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 and failure to comply, shall be construed as violation of the directions issued by the Authority and penalty which may extend up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 65 of the Act shall be imposed upon real estate agents for each such violations.

11. Therefore, by publishing the said advertisement in question without mentioning QR Code the real estate agent-respondent No.2 has committed the violation of the directions issued in the MahaRERA Order No.46B, dated 21.08.2023 read with MahaRERA Order No.46, dated 29.05.2013.
12. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt that the respondent-agent has violated the directions issued in the MahaRERA Order No.46B/2023, dated 21.08.2023 read with MahaRERA Order No.46/2023, dated 29.05.2023 for publishing the advertisement without QR Code, and thus this is a fit and suitable case to impose penalty upon the respondent-agent.
13. Unequivocal admission by the respondent-agent indicates the violation is on his part and not the promoter. In view of this, the respondent-agent only has to be held responsible for the breach of the directions issued by MahaRERA Order No.46B/2023, dated 21.08.2023 read with MahaRERA Order No.46/2023, dated 29.05.2023.
14. Respondent-agent shall pay a penalty of Rs.25,000/- for violation of the directions issued by the MahaRERA Authority by Order No.46B/2023, dated 21.08.2023 read with Order No.46/2023, dated 29.05.2023.

15. The said penalty shall be payable by the respondent-agent within 10 days from the date of this order, failing which respondent-agent shall be liable to penalty of Rs.250/- per day, in addition, till the realization of entire amount.

16. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent agent 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