

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.03 OF 2023**

MahaRERA on its own Motion

....

Complainant

Versus

Rising Associates
Promoters & Developers

....

Respondent

MahaRERA Project Registration No.P52100022378

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head
Adv.Sandeep Dhumal appeared for respondent / promoter.

ORDER

12th June, 2023

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on dated 26-04-2023 under Section-81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"). The said powers, inter alia, contains imposing of penalty under Section-59 of the Act, 2016 for contravention of the provision of Section-3 by the promoter and to impose penalty under Section-61 of the Act for contravention of Section 11(2) of the Act etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the parties, heard the parties and thereafter matter is disposed of.
2. The MahaRERA Authority had issued a show cause notice dated 13-03-2023 to the promoter above named for publishing an advertisement in the 'Facebook' without mentioning the MahaRERA Registration number, in regards to the project "Kohinoor Sapphire" bearing MahaRERA Registration No.P52100022378 situated at Tathawade, Pune.

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3. The promoter has filed reply on 07-06-2023 and 12-06-2023. He has submitted in reply that he has not published the advertisement without MahaRERA Registration number. He has further submitted that the promoter in order to maintain his goodwill has always taken utmost care and diligence to ensure strict compliance with all provisions of the Real Estate (R & D) Act, 2016 and corresponding rules and regulations. The promoter has further submitted that he has proactively implemented measures and procedures to prevent any violations, thereby upholding their commitment to ethical practices and legal obligations.
4. This matter was scheduled for hearing on 12-06-2023. Adv.Dhumal has submitted on behalf of promoter that the promoter has never appointed or given any authorization to any Ad agency or channel partner to publish the advertisement in respect of their project. He has contended that this promoter has not given any advertisement without publishing MahaRERA Registration number. According to him since the project has been completed and all the units booked by the allottees have already been handed over to them and since there is almost all the flats are sold out, therefore there was no reason to the promoter to publish advertisement of the said project in social media.
5. Perusal of the advertisement shows that it is the screen shot of the advertisement taken from the Facebook. It is also not known from which source, the said advertisement is published. The name of the sponsorer of the said advertisement is also not appearing on the advertisement on which basis action is initiated in this matter. It unequivocally shows that there is no prima facie evidence to prove that this promoter or his agent has given alleged advertisement without MahaRERA Registration number. Under these circumstances the contentions of the promoter appears to be acceptable.

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6. At this juncture, it is necessary to go through the provision of Section 11(2) of the aforesaid Act, 2016 which reads as under:

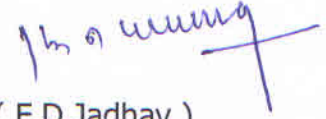
Sec-11(2):- "The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental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

7. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project in the advertisement issued by him. In this matter as stated hereinabove, the advertisement has been published in the Facebook without the MahaRERA Registration number but it is not known as to exactly who has / had published this advertisement. The promoter consistently states that he has himself neither published the advertisement nor authorized any agent or agency to publish the said advertisement. According to the promoter there was no any reason to him to publish advertisement as he has already received OC and nearly all flats are sold out.

8. Considering the fact that the source of advertisement is not known and the promoter's defence is that he has not published such advertisement, it can be said there is no prima facie evidence to prove the case. There appears nothing on record to prove that this promoter or his agent or any other person on the authorization of promoter has published the alleged advertisement. As such it can be said that Section 11 (2) of the Act, 2016 would not attract in this matter. It is to be reiterated that there is no prima facie evidence to prove that this promoter has violated section 11(2) of the Act, 2016.

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9. In view of above, there is no order regarding penalty under section 61 of the Act, 2016. Consequently this matter stands closed.



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