

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.109 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Shree Mahalaxmi Realty

'Kamdheni Sparsch'

"Not Registered with MahaRERA"

.... Respondent

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

Appearance :- Adv. Sujata Bhavne

ORDER

29th December, 2023
(Through Video Conferencing)

1. The present case has been initiated suo-motu by MahaRERA against the Respondent-promoter for publishing advertisement of real estate project 'Kamdheni Sparsch' situated at Bopgaon, Tal. Purandhar, District Pune, through circulating pamphlets without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016" for the sake of brevity).
2. In pursuance of the aforesaid advertisement and in exercise of the said powers delegated under Section 81 of the Act, 2016, show cause notice, dated 07.09.2023 was issued to the respondent-promoter, calling upon him as to why penalty under Section 59 of the Act, 2016 should not be imposed on him for violation of the provision of Section 3 of the Act, 2016.

3. The promoter has not filed any reply to the said show-cause notice. However, Adv. Sujata Bhave appeared on behalf of the respondent-promoter and contended that her oral arguments be considered as the reply on behalf of the respondent-promoter.
4. Heard Adv. Sujata Bhave for promoter. She admits the charges leveled in the show cause notice. She has argued that the publication of the impugned advertisement is unintentional one and prayed for lenient view.
5. It has been noticed by the MahaRERA Authority that pamphlet of real estate project by name "Kamdhenu Sparsh" has been circulated amongst the public at large. The said pamphlet is on record. It is mentioned in the said pamphlet that the Phase-I of the said project is of 5 Acres land and the rate is quoted as Rs.4,90,000/- per Guntha and booking amount is mentioned as Rs.5000/-. The location of the project is also mentioned as Near Kanifnath Temple, Bopgaon, Tal. Purandhar, District Pune. Daily site visit is also arranged by the promoter from their office. Contact numbers are also given.
6. 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 :-

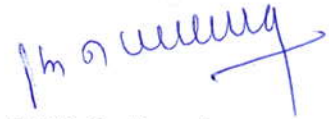
"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;
7. From the plain reading of Section 3, the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite

persons to purchase any plot, apartment etc. without registering real estate project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. The promoter has not furnished on record any material to show that the said project is registered with MahaRERA or he has obtained N.A. permission and sanctioned layout for the said project prior to publication of the said advertisement. The advertisement explicitly proves that the promoter has invited the public at large to book the plot in the said project, which has no any N.A. permission and sanctioned layout and it has not been registered with MahaRERA. Therefore, taking into consideration the facts and circumstances of the present case, publication of the advertisement without project registration with MahaRERA, indicates clear violation of Section 3 of the Act of 2016.

8. 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 for sale of flats without registering the project with MahaRERA, and thus this is a fit and suitable case to impose penalty under Section 59 of the Act 2016.
9. Taking into consideration the evidence on record, provision of law, and arguments advanced by learned Adv. Sujata Bhawe for lenient view, penalty of Rs.40,000/- under Section 59 of the Act, 2016 is imposed upon the promoter for violation of Section 3 of the Act, 2016.
10. The said penalty shall be payable by the promoter within 30 days from the date of this order, failing which promoter shall be liable to penalty of Rs.1,000/- per day, in addition, till the realization of entire amount.
11. Further it is hereby directed that a written communication be sent to the 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 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.

12. In view of above, this matter stands disposed off.



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