

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 149 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Disha Group
'DISHA GOVARDHAN'
Unregistered Project

.... Respondent

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

Appearance :- Adv. Nikhil Runwal for Respondent.

ORDER

5th January, 2024
(Through Video Conferencing)

1. MahaRERA has issued show cause notice, dated 17.11.2023 to the respondent as to why penal action under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") should not be taken against him for publishing advertisement in respect of real estate project "Disha Govardhan" situated at Paithan Road, Georai in daily newspaper "Lokmat", dated 19.10.2023 without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.
2. In pursuance of the aforesaid show cause notice, the respondent-promoter has filed his reply dated 05.01.2024. It has been contended by the respondent in his reply that the promoter has received completion for the physical infrastructure works vide CIDCO letter, dated 18.04.2023. The promoter has further contended in his reply that he has received NOC for street light scheme vide CIDCO letter, dated 18.04.2023 and NOC for sale of plots vide letter, dated 04.05.2023. The respondent-promoter has further

contended that since he has received completion and permission to sell the plots much before the impugned advertisement and he has not taken any booking/sold before these dates, the project is not registered with MahaRERA.

3. Adv. Nikhil Runwal appeared on behalf of the promoter. He has also reiterated the contentions made out by the promoter in his reply. He has submitted that since the promoter has received the completion certificate and NOC from CIDCO long back of the impugned advertisement, the project is not required to be registered to be registered with MahaRERA. He has also submitted that the promoter has not executed any agreement for sale and has not taken any booking of any of the plots in the project before receiving NOC and completion certificate from the CIDCO. According to learned counsel, there is no any violation of the provision of the Act, 2016 by the promoter.

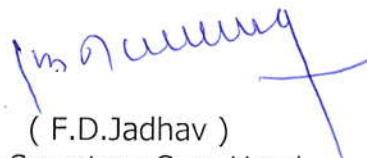
4. In support of his reply, the promoter has filed copies of (1) Sanad issued by the Addl. Tahsildar, Aurangabad, dated 29.08.2022 along with copy of Challan for payment of land revenue of Gut No. 32 Part, Georai, (2) letter dated 18.04.2023 issued by Asst. Executive Engineer (Elect-NT) CIDCO, New Aurangabad, (3) letter dated 18.04.2023 issued by the Executive Engineer (AUR), CIDCO, New Aurangabd and (4) letter, dated 04.05.2023 issued by the Senior Planner (New Towns), Aurangabad Fringe Region, CIDCO, New Aurangabad. The Sanad, dated 29.08.2022 issued by the Addl. Tahsildar, Aurangabad under Section 42-A of the Maharashtra Land Revenue Code, 1966 in respect of land admeasuring 10000.00 sq. mtrs. from land bearing Gat No.32 of village Georai indicates that on 11.07.2022 Senior Planner (New Towns), Aurangabad Fringe Area, CIDCO, New Arangabad has issued Tentative Layout Permission for Plotted Development on the land in Gut No.32 (Part) village Georai, Ta. & Dist. Aurangabad has been obtained for development of the said land for N.A. purpose and the yearly N.A. taxes have

been fixed on certain terms and conditions. The letter, dated 18.04.2023 issued by the Asst. Executive Engineer (Elect-NT), CIDCO, New Aurangabad indicates that street light scheme completed by the promoter in the said land has been approved on certain conditions. Another letter dated 18.04.2023 issued by the Executive Engineer (AUR), CIDCO, New Aurangabad indicates that completion certificate for providing internal physical infrastructure works in the said land has been issued. The letter, dated 04.05.2023 issued by the Senior Planner (New Towns), Aurangabad Fringe Area, CIDCO has issued NOC for sale of plots from the layout of said land.

5. Perused the impugned advertisement published in daily newspaper "Lokmat" dated 19.10.2023. It indicates for sale of CIDCO Approved N.A. Plots. The advertisement is after the issuance of the aforesaid N.A. Sanad/permission, NOC and completion certificate by the Competent Authorities. According to the respondent, in view of the circulars No. 25/2019 and 25A/2023 issued by MahaRERA, this project is exempted and therefore, there is no requirement to register the said project with MahaRERA and as such according to him, there has been no violation of the provision of Section 3 of the Act, 2016.
6. Considering the N.A. permission and other documents issued by the competent authorities manifestly indicates that the said orders have been issued prior to the issuance of advertisement in this matter. The MahaRERA Authority has issued Circular No.25/2019, dated 11.10.2019 in respect of clarification regarding registration of agreement for sale/sale-deed for real estate projects. Para 1 of the said Circular deals with real estate projects that are excluded from MahaRERA Registration. Clause 3 of the said Para (1) states that real estate projects where promoter has received completion certificate/occupancy certificate/N.A. order (in case of plotted development) from competent authority, any time before agreement for sale/sale-deed registration are excluded from MahaRERA registration. The MahaRERA has

further issued Circular No.25A/2023, dated 09.06.2023 and thereby supplements Circular No.25/2019, dated 11.10.2019 regarding Serial No.1 and 2 enumerated therein under the heading 'real estate projects that are excluded from MahaRERA Project Registration'. However, Clause No.3 of para (1) of the Circular No.25/2019 remains as it is. On going through the said Clause No.3 of para (1), it is clear that the project which has received N.A. Certificate from the Competent Authority are excluded from MahaRERA Registration. Since in this matter, this project has received N.A. permission from Competent Authority, this project can be said to be exempted from the registration with MahaRERA.

7. Considering the evidence on record adduced by the respondent-promoter and the provisions of the Act, 2016 and also Clause No.3 of Para (1) of the Circular No.25/2019, it can be said that this project squarely falls within the purview of Clause No.(3) of para (1). Resultantly, this project needs no registration as it has already received N.A. permission from the Competent Authority prior to publishing the impugned advertisement.
8. In view of the aforesaid discussion and the documentary evidence, there is no case made out against the respondent for violation of Section 3 of the Act, 2016. There is no iota of evidence to prove that this respondent has breached Section 3 of the Act, 2016. Under these circumstances, Section 59 of the Act, 2016 cannot be invoked in the matter. Consequently, penalty under Section 59 of the Act, 2016 cannot be imposed in the present matter.
9. The matter therefore, stands disposed off without imposing penalty.


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