

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.161 OF 2023**

MahaRERA on its own Motion	Complainant
Versus		
Shree Varadlaxmi Enterprises.		
"Shree Varadlaxmi Residency"		
Unregistered Plotting Project	Respondent

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

Appearance :- C.A. Mr. Yash Nagar

ORDER

29th December, 2023
(Through Video Conferencing)

1. This case has been initiated by MahaRERA suo-motu against the respondent-promoter for publishing advertisement in daily newspaper "Lokmat", dated 24.10.2023 of real estate project "Shree Varadlaxmi Residency", without registering it 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 said advertisement and in exercise of the powers delegated under Section 81 of the Act, 2016, show-cause notice, dated 23.11.2023 was issued to the respondent-promoter calling upon him as to why penalty under Section 59 of the Act, 2016 should not be imposed upon him for violation of provision of Section 3 of the Act, 2016.
3. During the course of hearing, Respondent-promoter has orally submitted before this Authority that he is adopting his reply, dated 25.11.2023 filed in Suo-Motu Case No. 144/2023. It has been contended in the said reply that the project is of plotted area and has received N.A. order from competent authority prior to the publishing of advertisement.

The internal work such as roads, drainage, pipeline and other work as mandated by commencement certificate has been completed. The final approval letter has been received and as per MahaRERA Circular No.25/2019, once N.A. order is received in case of plotting project, no RERA Registration is required. Lastly, it is requested by the promoter that no penal action be taken against the promoter since there is no violation of Section 3 of the Act, 2016.

4. C.A. Mr. Yash Nagar appeared on behalf of the promoter. He has reiterated the contentions raised out by the promoter in his reply. He submits that the N.A. order and approval to the final layout has been received by the promoter for the said project much prior to the impugned advertisement. Hence according to him the project is not required to be registered as per the MahaRERA Circular No.25/2019. Thus according to C.A. Mr. Yash Nagar, there is no violation on the part of the promoter of any of the provisions of the Act, 2016.
5. The respondent-promoter in support of his reply, has furnished copy of the N.A. Order, dated 07.02.2023 issued by the Tahsildar, Paithan, District Aurangabad, copy of final approval of layout, dated 30.12.2022 issued by the Asst. Director, Town Planning, Aurangabad. Copy of advertisement is on record. Perused the impugned advertisement, dated 24.10.2023. It has been mentioned therein as "NA-42 Town Planning Layout". Perusal of the N.A. Order, dated 07.02.2023 shows that N.A. permission has been granted by the Competent Authority under Section 42(C) of the Maharashtra Land Revenue Code, 1966 for the area admeasuring 81000 sq. mtr. from land Gat No. 9, 14, 16, 17 of village Jainpur, Tal. Paithan, District Aurangabad.
6. Perusal of the N.A. order issued under Section 42(C) of the Maharashtra Land Revenue Code, 1966 manifestly shows that it has been issued on 07.02.2023 by the Tahsildar, Paithan on certain terms and conditions. The final layout approval issued by the Asst. Director, Town

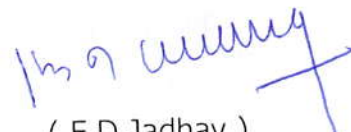
Planning, Aurangabad, dated 30.12.2022 also mentioned that the final approval for N.A. use of the area admeasuring 81000 sq. mtrs. from land Gat No. 9, 14, 16, 17 of village Jainpur, Tal. Paithan, District Aurangabad has been granted on certain terms and conditions.

7. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as 'MahaRERA') has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of agreement for sale/sale-deed for real estate projects. It has been mentioned in the said circular in regards to real estate projects that are excluded from MahaRERA Registration. Para 1 of said Circular deals with "Real estate projects that are excluded from MahaRERA Registration". Serial No.3 therein specifically 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 (emphasis supplied). In other words, real estate project where promoter has received N.A. order in relation to plotted development prior to the date of advertisement, the said project can be said to be exempted from MahaRERA Registration. MahaRERA has issued another Circular No. 25A/2023, dated 09.06.2023 regarding real estate projects that are excluded from MahaRERA Registration. This circular supplements circular No.25/2019, dated 11.10.2019 regarding serial Nos.1 and 2 enumerated therein. However, Serial No.3 in the earlier circular, dated 11.10.2019, remained unchanged and still in force till the date. By invoking Serial No.3 from circular No.25/2019, dated 11.10.2019, it can be said this project squarely falls within the scope of serial No.3 of Para 1 and therefore, it can be said, this project needs no registration as it has already received N.A. order prior to publishing advertisement.

8. In this matter the Tahsildar, Paithan, District Aurangabad has issued N.A. Order on 07.02.2023 under Section 42(C) of the Maharashtra Land Revenue Code, 1960 for the use of the said lands for residential

purpose. The final approval for layout has been granted by the Asst. Director, Town Planning Aurangabad on 30.12.2022 for using these lands for non-agriculture purpose. The advertisement is published in 'Lokmat Hello Chhatrapati Sambhajinagar' newspaper on 24.10.2023 after obtaining the N.A. Order and approval to final layout for the said project. Moreover, in the advertisement published by the promoter it has been mentioned as "NA-42 Town Planning Layout". Thus it appears this case squarely falls within the scope of Circular No.25/2019. Consequently, there appears no violation of Section 3 of the Act 2016 by the Respondent-promoter. There is no prima-facie evidence to prove the charges leveled against the promoter.

9. In view of the above, the provision of Section 3 of the Act of 2016 will not be attracted in this matter as this project falls within the category of exemption as enunciated under Circular No.25/2019 issued by MahaRERA Authority. Consequently, the question of imposing penalty under Section 59 would not arise.
10. This matter, therefore, stands disposed off without imposing penalty.


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