

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.168 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Biyani Developers  
'Raj Park D'

.... Respondent

**MahaRERA Project Registration No.P51100012601**

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

Appearance :- C.A. Mr. Pawan Mundada

**ORDER**

16<sup>th</sup> January, 2024  
(Through Video Conferencing)

1. MahaRERA Authority has issued show cause notice, dated 28.11.2023 to the respondent-promoter calling upon him as to why penal action under Section 61 and 63 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") should not be taken against him for publishing advertisement in daily newspaper "Lokmat" on 24.10.2023 in respect of real estate project "Raj Park D" situated at Malegaon Road, Nanded without mentioning the MahaRERA Project Registration Number as well as 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 Act, 2016 and MahaRERA Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
2. The respondent-promoter has submitted his reply, dated 15.01.2024. The respondent has contended that the firm of the respondent is a proprietary firm in the name of Late Shri Sanjay Biyani. He was brutally murdered in front of his own house by unknown killers on 05.04.2022 and thereafter, after 6 months, his only son Mr. Raj,

aged 18 years has taken over the business of ongoing projects of his father. It is further contended by the promoter that on 23.10.2023 he purchased a land at Vedant Nagar, Malegaon Road, Nanded with a plan to develop it and build residential units however, the plan was not finalized whether it would be residential apartments – Flats or Row Houses scheme. The land parcel consists of 7 plots of different sizes totalling to 1,292 sq. mtr. The respondent has further contended that RERA registration number mentioned in the notice P51100012601 pertains to a separate location wherein development was made through a joint development agreement and total 10 buildings were developed of which plot size was 10,044 sq. mtrs and overall name of project was Raj Park. The proposed project is named Raj Park-D, this is where confusion arose. The promoter has further contended in his reply that the upcoming project is not part of erstwhile project on JDA basis. The promoter was under the opinion that RERA number is mentioned in the advertisement and there was no intention of misleading public at large via advertisement and mistaken advertisement was made completely out of innocence. The respondent has further contended in his reply that the promoter being of a very nascent age of 19 years, made this mistake of publishing an advertisement without mentioning RERA Registration number and not displaying QR Code. Lastly the respondent has submitted for lenient view and to impose minimum possible penalty.

3. C.A. Mr. Pawan Mundada appeared on behalf of respondent. He has reiterated the contentions raised out by the promoter in his reply. He has submitted that the original promoter is expired and his son, aged 19 years has taken the responsibility of the business and the advertisement was published out of excitement of completion of first ever land purchase deal and without consulting finance and accounts department of the firm and this promoter is not well versed with the RERA law. Mr. Pawan Mundada has however, admitted the charges

leveled in the show cause notice, dated 28.11.2023 and prayed for leniency while imposing penalty.

4. Section 11(2) of the Act, 2016 is relevant in this matter, 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."**

5. 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 prominently in the advertisement issued by him. In this matter, admittedly, the respondent-promoter has not provided project registration number in the advertisement of this project published by him. It unequivocally indicates that he has contravened the provision of Section 11(2) of the Act, 2016.

6. MahaRERA has issued Order No.46/2023, dated 29.05.2023 and issued some directions in respect of QR Code viz. (i) the promoter shall prominently display the QR Code on each and every project promotion/advertisement published after 1<sup>st</sup> August, 2023, (ii) the QR Code must be published in a manner that is legible, readable and detectable with the software application and (iii) the QR Code must be published beside the MahaRERA Registration number. The mediums for display of QR Code are also described in the said Order. MahaRERA has also issued Order No.46A/2023, dated 25.07.2023 thereby prescribed the amount of penalty for violation of the directions issued in the MahaRERA Order No. 46/2023.

7. In this matter, it can be seen from the advertisement on record, dated 24.10.2023 published in daily newspaper "Lokmat" that the

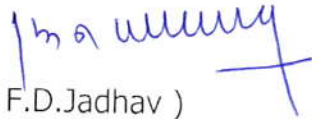


project registration number as well as QR Code has not been displayed in the said advertisement. Also the respondent has voluntarily admitted in his reply that the project registration number and QR Code has not been inserted in the impugned advertisement by virtue of oversight. Therefore, considering the evidence adduced on record, the legal provisions as well as Orders issued by MahaRERA Authority to that effect and the voluntary admission by the respondent-promoter manifestly proves that this promoter has violated the provision of Section 11(2) of the Act, 2016 as well as directions of the MahaRERA Authority issued under Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023 in the matter.

8. Considering the facts, of this case, documentary evidence produced by the respondent, *vis-a-vis* law discussed hereinabove, it can be said the charges leveled against the respondent in respect of Section 11(2) and QR Code are proved and therefore, this is a fit and suitable case to impose penalty against the respondent-promoter under Section 61 and 63 of the Act, 2016. However, considering the submissions made by the promoter that the promoter was murdered by unknown killers and his 19 years old son took over the charge, lenient view ought to be taken in this matter, as prayed by the promoter therefor.
9. In view of the above, the penalty of Rs.10,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for committing violation of Section 11(2) of the Act, 2016.
10. Further penalty of Rs.10,000/- under Section 63 of the Act, 2016 is imposed upon the promoter for committing breach of the MahaRERA Order No. 46/2023 read with 46A/2023.
11. The said penalty shall be payable by the promoter within 15 days from the date of this order, failing which promoter shall be liable

to penalty of Rs.500/- per day (for each count), in addition, till the realization of entire amount.

12. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.

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

