

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.169 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Clover Park. Respondent
(Unregistered Project)

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

Appearance :- Mr. Anil Chuttar, Partner, A.R.

ORDER

16th January, 2024
(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 17.11.2023 to the respondent-promoter calling upon him to show cause as to why penal action under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") for publishing advertisement of real estate project "Clover Park", situated at Golwadi, Aurangabad in daily newspaper "Lokmat", dated 21.10.2023 without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.
2. The respondent has filed his say on 29.11.2023 to the said show cause notice. The respondent in his reply contended that the said project is plotted development of lease land allotted by CIDCO. It is further contended by the respondent that he has obtained all necessary permissions from CIDCO and has also paid the development and other charges to the said planning authority. The respondent-promoter has further contended that he has completed the said project and completion certificates from the Executive Engineer of Electrical Department as well as Civil Department of Planning Authority have been obtained. It is further

contended by the respondent that after completing all the infrastructure work, he has also paid the balance development charges and other charges to the Planning Authority on 04.05.2022. The Additional Town Planner vide his letter, dated 13.05.2022 has issued "No Objection for Sale" of all the 19 plots. It is the contention of the respondent-promoter that no objection for sale of plot is issued by the CIDCO only after completion of all the development work and payment of all the development charges and only after issue of completion certificate by both the electrical and civil department of CIDCO. It is further contended by the respondent that the developer cannot sell any plot till the issue of completion certificate and till the NOC for sale is issued by the CIDCO. The respondent has further submitted that before giving the advertisement and before starting the sale of the open plots, he had consulted Architects and RERA Consultants in regard to MahaRERA Registration for plotted development of the said project, and the said consultants have informed the promoter that MahaRERA Registration is not required if the promoter has obtained completion certificate before commencement of the plot sale. The respondent has submitted that he has given the advertisement and started sale of the open plots only after issue of completion certificate from the competent authority and thus his project is excluded from MahaRERA Registration and hence he has not registered the said project under MahaRERA.

3. Mr. Anil Chuttar, partner of the respondent-promoter has appeared in the matter. He has reiterated the contentions raised by the promoter in his reply. He has submitted that the project is plotted development and the land has been given by CIDCO on lease. The promoter has carried out all the development in the said land and obtained completion certificate from the planning authority and also obtained NOC for sale of the plots from the CIDCO. He has further submitted that the advertisement has been given after the completion certificate and NOC is received. According to him, since the completion certificate and NOC is issued by

the competent authority to the plotted development, registration of the said project is not required.

4. Perused the impugned advertisement published in "Lokmat", dated 21.10.2023. It explicitly mentions "Fully Developed Luxurious Plots" and "CIDCO sanctioned layout with sale NOC" and the area of plots is also quoted therein. The respondent-promoter in support of his contentions, furnished the documents (1) Challan dated 03.05.2021 for the amount paid to CIDCO towards the development charges and service charges for the land Gut No. 35(P) Alternate Land of village Golwadi Nagar-IV, (2) Challan dated 04.05.2022 for the amount paid to CIDCO towards the balance development charges and service charges for the land Gut No. 35(P) Alternate Land of village Golwadi Nagar-IV, (3) letter, dated 21.10.2022 by the Executive Engineer (Elect-NT), CIDCO, New Aurangabad for NOC for street light scheme, (4) Completion Certificate, dated 14.01.2022 issued by the Executive Engineer (AUR), CIDCO New Aurangabad and (5) NOC for sale of plot Nos.1 to 19 at Gut No. 35(P), village Golwadi (Alternate Land), Walunj, Aurangabad dated 13.05.2022 issued by the I/C. Addl. Town Planning Officer, CIDCO Walunj Mahanagar, Aurangabad. It has been mentioned in the said NOC that final layout permission for plotted development has been granted by CIDCO vide letter No. CIDCO/ATPO/BP/AUR(WLJ)/2022(LP)/81, dated 13.05.2022. It has further been mentioned therein that Plot Nos.04 to 18 are permitted for 'Residential (R1)' and Plot Nos.1 to 3 and 19 are permitted for 'Residential (R2)' use. All these documents palpably shows that the promoter has paid the development charges for the land of the impugned plotted development project, received completion certificate and NOC for sale from the competent authority prior to publishing the impugned advertisement.
5. 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 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 of the Circular No. 25/2019 and therefore, it can be said, this project needs no registration as it has already received N.A. order prior to publishing impugned advertisement.

6. Considering the specific contentions in the impugned advertisement, the contentions raised out in the reply filed by the respondent-promoter supported by the documents issued by Planning Authority CIDCO and the relevant provisions of law, manifestly shows that there is no violation of Section 3 of the Act, 2016 on the part of the respondent-promoter. Considering the documents on record submitted by the promoter indicates that the Planning Authority CIDCO has/had issued N.A. permission to this plotted development project prior to publishing the impugned advertisement. Therefore, this Authority is constrained to observe that this project falls within the category of exemption as enunciated under the Circular No.25/2019 and thus, this project need not

to be registered with MahaRERA Authority. Consequently Section 59 of the Act 2016 will not attract in this matter. Therefore, the penal action cannot be imposed upon the respondent-promoter in this matter under Section 59 of the Act, 2016.

7. The matter is disposed off accordingly without imposing penalty.



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