

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 170 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Sun Developers & Construcion
'Green Park Sunrise'
Unregistered Project Respondent

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

Appearance :- Adv. Mr. Yatish Wadekar for Respondent.

ORDER

2nd January, 2024
(Through Video Conferencing)

1. MahaRERA has issued show cause notice, dated 01.12.2023 to the Respondent-Promoter as to why penalty should not be imposed upon him under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016" for the sake of brevity) for publishing advertisement of his real estate project "Green Park Sunrise" situated at Barshi Road, Solapur in daily newspaper "Lokmat", on dt. 12.11.2023 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, Respondent-Promoter has filed his reply, dated 14.12.2023 and contended that the said project is completed 100% on site and also received final completion certificate and N.A. order, on date 13.04.2012. It is further submitted by the respondent that as the project stands as completed, therefore, does not require to be registered with MahaRERA. The respondent has also referred Circular No.25/2019 vide No. MahaRERA/Secy/File No.27/1004 para 1 point No. 3 which speaks 'Real Estate Projects where promoter has received completion certificate/occupancy certificate/N.A. (in case of plotted

development) from competent authority, any time before Agreement for Sale/Sale Deed, are excluded from MahaRERA registration. The Respondent-promoter in support of his reply, has submitted N.A. order, dated 13.04.2012 issued by the Tahsildar, North Solapur.

3. Heard Mr. Bhumesh Shivling Yangandul for Respondent-promoter. He has reiterated the contentions made out in the reply by the Respondent-promoter. He has contended that the project is of plotted development and N.A. order has been received from the competent authority prior to issuance of advertisement. Therefore, according to Mr. Yangandul, the project is not required Rera registration.
4. Perused the N.A. order, dated 13.04.2012 issued by the Tahsildar, North Solapur. The said order has been issued under Section 44 of the Maharashtra Land Revenue Code, 1966 on certain terms and conditions. The said order is issued prior to enforcement of the Act, 2016 i.e. much prior to the publication of the impugned advertisement i.e. of the year 2012. The impugned advertisement dated 12.11.2023 is on record. It bears the words "NA Plot", "ADTP Sanctioned layout", "N.A. Open Plot".
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 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.

6. Considering the evidence on record adduced by the respondent-promoter and the provision of the Act, 2016 and Serial No.3 from para 1 of 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. Resultantly, this project needs no registration as it has already received N.A. order from Competent Authority prior to publishing advertisement.
7. In view of the above, it can be said, no case is made out against the respondent-promoter for violation of Section 3 of the Act, 2016. There is no iota of evidence to prove that this respondent has breached the Section 3 of the Act of 2016. Under these circumstances, Section 59 of the Act of 2016 cannot be invoked in the matter. Consequently, the penalty under Section 59 of the Act, 2016 cannot be imposed in the present matter.
8. The matter therefore, stands disposed off without imposing any penalty.



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