

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 91 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

1. Jhamtani Realty Pvt. Ltd.

.... Respondent-Promoter

2. 360 Realty LLP.

.... Respondent-Agent

"ACE VILLAS"

MahaRERA Project Registration No.P52100048327

MahaRERA Real Estate Agent Registration No.A51900000246

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

Appearance :- Adv. Avani Barve for Respondent-Promoter.

Adv. Deiksha Kapur for Respondent-Agent

ORDER

29th December, 2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondent-promoter and respondent-agent for publishing advertisement of a registered real estate project namely, "ACE VILLAS" on website <https://www.360jhamtaniacevillas.co.in/> wherein the Quick Response (QR) Code has not been included, thereby violating the direction issued by the Maharashtra Real Estate Regulatory Authority under MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46-A, dated 25.07.2023 and MahaRERA Order No.46B/2023, dated 21.08.2023.
2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") vide No. MahaRERA/Secy/Notice/378/2023, dated 04.09.2023, show cause notice, has been issued to the respondent-promoter calling upon him as to why

necessary action should not be taken against him for imposing penalty under Section 63 of the Maharashtra Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act of 2016" for the sake of brevity) read with MahaRERA Order No.46/2023, dated 29.05.2023, MahaRERA Order No.46-A, dated 25.07.2023.

3. The respondent-promoter have filed their reply, dated 14.09.2023, whereby it has been contended that the website mentioned in the show cause notice does not belong or owned by them and is not been operated by it. It is further contended by the respondent-promoter that they have never given any authority or permission in writing to any person to do such advertisement. The respondent-further submits that their website for the project of ACE Villas is <https://xosignatureseries.com> and website of Jhamtani is <https://jhamtani.com>. The respondent-promoter have further contended that they are the owners and operators of these websites and QR Codes for all their projects are already uploaded over the same. It is further contended by the respondent-promoter that they have also communicated all these QR Codes and MahaRERA orders to all their Channel Partners and Advertising agencies. The respondent-promoter has further contended that they are investigating and enquiring about the said website mentioned in the show-cause notice to take action against the owner and operator of the said website to prevent further breach and violation of rules and regulations issued by MahaRERA. Lastly, the promoter has prayed not to take any coercive or penal action against them as they have not done any violation of any orders of MahaRERA.

4. Adv. Avani Barve for respondent-promoter appeared. She has reiterated the contentions raised out by the promoter in their reply. She has argued that since the respondent-promoter has not published the impugned advertisement, there is no violation of any of the provisions of the Act, 2016 and the MahaRERA Orders. She has further argued that

since there is no violation on the part of the promoter, no penal action can be taken against the promoter.

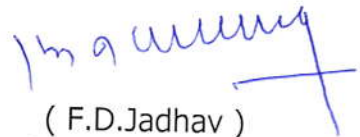
5. During the course of further hearing of this matter, the respondent-promoter by email, dated 18.12.2023 have furnished the details of the respondent-agent who had published impugned advertisement and requested to add party to the said respondent-agent to the present case. Accordingly, notice of hearing was issued to the respondent-agent on 20.12.2023.
6. Adv. Deiksha Kapur appeared on behalf of respondent-agent. She admits that the respondent-agent has published the impugned advertisement on the website without including QR Code of the project "ACE Villas". However, she argued that it is an unintentional error on the part of respondent-agent and due to very short time, the respondent-agent could not get sufficient opportunity to check the advertisement given for publishing. Adv. Kapur has prayed to take lenient view while imposing penalty.
7. It has come on record that the respondent-agent has issued the impugned advertisement of the aforesaid real estate project of the respondent-promoter on the website mentioned above without including the QR Code. The directions were issued by the MahaRERA under Order No.46/2023, dated 29.05.2023 read with Order 46A, dated 25.07.2023 and Order No. 46B, dated 21.08.2023 that the real estate agent shall prominently display Quick Response (QR) Code on each and every real estate project promotion/advertisement published in the mediums as more specifically listed in MahaRERA Order No. 46/2023, dated 29.05.2023. The mandate as mentioned in clause (a) of Order No.46/2023 shall apply to the mediums of promotion/advertisement mentioned thereunder. The fourth medium shown thereunder is advertisement on websites/webpages of projects, which is relevant in the matter. The respondent-agent has

thus violated the directions issued by the MahaRERA by not including the QR Code in the advertisement.

8. It can be seen from the record that the promoter has not breached any provision of law. According to him, without his authorisation, approval or knowledge, Channel Partner has given advertisement on website without including QR Code. Channel Partner has also admitted his fault as he has not included QR Code in the advertisement of the project on website which according to him, is an inadvertent and unintentional error occurred for want of sufficient opportunity and time to check the advertisement. It unequivocally indicates the violation is on the part of the Channel Partner and not the promoter. In view of this, Channel Partner only has to be held responsible for the breach of the QR Code in the advertisement.
9. Thus taking into consideration the aforesaid facts on record and admission by respondent-agent for publishing the impugned advertisement without QR Code, this is a fit case to impose penalty under Section 65 of the Act, 2016 against the respondent-agent for violation of the Order No. 46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21.08.2023 issued by the MahaRERA. Since it is a violation solely on the part of respondent-agent, it is just and proper in the interest of justice that no penalty be imposed on the respondent-promoter.
10. Considering the evidence on record, provisions of law and the MahaRERA Orders quoted hereinabove as well as the arguments advanced by Adv. Deiksha Kapur for respondent-agent for lenient view, the penalty of Rs.20,000/- is imposed upon the respondent-agent under Section 65 of the Act 2016 for violation of MahaRERA order No.46/2023 read with MahaRERA Order No. 46B/2023.
11. The said penalty shall be payable by the respondent-agent within a period of 15 days from the date of this order, failing which a further

penalty of Rs.250/- per day, in addition, would be imposed till 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 agent for renewal of license, corrections, change of name etc., with respect to his registration as an agent.



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

