

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 92 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

- | | | |
|---|------|---------------------|
| 1. M/s. Goldway Realty | | Respondent-Promoter |
| 2. Anarock Property Consultants Pvt.Ltd. | | Respondent-Agent |

"KOHINOOR WESTVIEW RESERVE"

MahaRERA Project Registration No.P52100048589

MahaRERA Real Estate Agent Registration No.A5190000108

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

Appearance :- Adv. Sandeep Dhumal for Respondent-Promoter.

Mary Teddy Anarock & Mr. Nishkarsh Chauhan,

A.Rs. for Respondent-Agent

ORDER

19th December, 2023

(Through Video Conferencing)

1. MahaRERA has issued show-cause notice, dated 04.09.2023 to the respondent-promoter for publishing advertisement on website <https://kohinoorpuneprojects.co.in/> in respect of its real estate project "Kohinoor Westview Reserve", situated at Punawale, Tal. Mulshi, District Pune without mentioning Quick Response (QR) Code and MahaRERA Rera Registration number, and thereby violating the provision of Section 11(2) of the Real Estate (Regulation and Development) Act, 2016(hereinafter referred to as the "Act of 2016" as well as 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 (hereinafter referred to as Order No.46/2023 & 46A/2023).

2. Respondent-promoter has furnished his reply, dated 06.11.2023 and contended that the impugned advertisement has been published by TRESPECT, a company registered with MahaRERA vide Registration No. A51900000108 and the name of this company along with its registration number is prominently seen in the advertisement cited. The respondent-promoter has further contended that despite of having clear details of the advertiser, the Authority has erred in serving the above mentioned notice to the promoter for the violating of the third party, especially when the act of this third party is way beyond the control of the promoter. The respondent-promoter has further contended that the erroneous actions of the third party cannot become a cause of action to any penalty to be imposed on the promoter unless the violation is done by any authorized person of the promoter. The respondent-promoter has further contended that any act of the third party acting erroneously, specially without authorization or beyond authority, with reference to the project promoted by the promoter mentioned herein is nothing but misuse of the position and privilege/freedom, hence such acts of third party are to be treated as deliberate act to defame the promoter and hence punishable by law. Lastly, the promoter has contended that the promoter has not violated any rules and regulations of the Hon'ble Authority and hence is not liable to any penalty nor any corrective action.
3. In pursuance of the reply of the respondent-promoter, MahaRERA has issued notice of hearing to the respondent-agent. Respondent-agent has furnished it's reply, dated 14th December, 2023 and admitted to have published the impugned advertisement. The respondent-agent has further contended that they acknowledge that the RERA registration number was not displayed in the screenshot provided by MahaRERA as a part of the evidence. The respondent-agent has further contended that however, the number was indeed present in the original advertisement on their project landing page (Microsite Link – Kohinoor Westview Reserve at Kohinoorpuneprojects.co.in). The respondent-agent submits that they believe this is a technical glitch causing the number not to be displayed in

the screenshot. The Respondent-agent has further contended that they acknowledge that the QR Code in the advertisement was an unintentional oversight and is an inadvertent omission on their part and they acknowledge full responsibility for the non-compliance for not mentioning the QR Code of the said real estate project in the said advertisement. Lastly, the respondent-agent has contended that this is an isolated and a onetime incident and prayed to take lenient view in the matter.

4. Adv. Sandeep Dhumal appeared on behalf of respondent-promoter whereas Mr. Nishkarsh Chauhan has appeared on behalf of the respondent-agent. Adv. Sandeep Dhumal has reiterated the contentions raised out in the reply by the respondent-promoter. He has argued that the promoter has not violated any of the provision of RERA Act or the Orders issued by MahaRERA and therefore, the promoter cannot be penalized for publishing the advertisement by the channel partner. Mr. Nishkarsh Chauhan has submitted that the QR Code and RERA registration number is not reflecting in the screenshot due to technical error. He has however, admitted that there was no QR Code and RERA registration number in the advertisement. He prayed that lenient view be taken while imposing penalty on the respondent-agent.
5. MahaRERA Authority has issued Order No.46/2023 in respect of display of QR Code in promotion/advertisement material relating to real estate projects registered with MahaRERA. The MahaRERA Authority has given some directions under the said order. They are as follows :-
 - (a) The promoter shall prominently display Quick Response ("QR") Code on each and every project promotion/advertisement published after "1st August, 2023".
 - (b) The QR Code must be published in a manner that is legible, readable, and detectable with software application.

- (c) The QR Code must be published besides the MahaRERA Registration Number and the Website Address.

The mandate as mentioned in clause (a) above shall apply to the mediums of promotion/advertisement mentioned therein. The fourth medium shown thereunder is advertisement on websites/webpages of projects, which is relevant in the matter. By not including the QR Code in the impugned advertisement, the respondent-promoter has thus violated the directions issued by the MahaRERA.

6. Later on, MahaRERA has issued another Order No. 46B/2023, dated 21.08.2023. In this order, it is mentioned that Section 10(a) of the Act, mandates a registered real estate agent not to facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by promoter in any planning area, which is not registered with the Authority. This order further mentioned that Rule 14 of the Rules mandates every registered real estate agent to quote the registration number in all the documents relating to the advertisement, marketing, selling or purchase issued by the real estate agent along with the number of registration certificate of the real estate project. This order further directs the real estate agents to prominently display 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. Clause (b) thereunder is in respect of penalty against the violation of QR Code, which may extend up to Rs.50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 63 of the Act, shall be imposed upon the real estate agents for each such violation.
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 as well as RERA registration number. The directions were

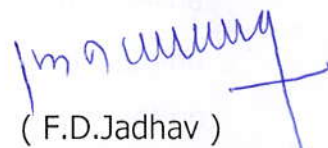
issued by the MahaRERA under Order No.46B/2023, dated 21.08.2023 read with Order 46/2023, dated 29.05.2023 that the real estate agent shall prominently display Quick Response (QR) Code on each and every project promotion/advertisement published after 1st August, 2023. By not including the QR Code as well as RERA registration number in the impugned advertisement, the respondent-agent has thus violated the provision of Section 10(a) of the Act, 2016, Rule 14 of the Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017 and directions issued by the MahaRERA under aforesaid Order No.46B/2023 read with Order No.46/2023.

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 and Registration number of his real estate project. Respondent-Channel Partner has also voluntarily admitted his fault as he has not included QR Code as well as Rera registration number in the advertisement of the project on website which is according to him unintentional and technical error. 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 as well as Rera registration number 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 and without RERA registration number, this is a fit case to impose penalty under Section 62 for violation of the provision of Section 10(a) of the Act, 2016, as well as under Section 65 of the Act, 2016 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. In view of above, the penalty of Rs.25,000/- 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. Also penalty of Rs. 15,000/- is imposed upon the respondent-agent under Section 62 of the Act, 2016 for violation of Section 10(a) of the Act, 2016.
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, per count, 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