

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.12 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Shiv Builders & Developers Respondent
'Venkatesh Nagar'
Unregistered Project of Open Plot

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

Appearance :- Absent

ORDER

19th March, 2024
(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 01.12.2023 to the respondent-promoter calling upon him as to why penal action under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") shall not be taken against him for publishing an advertisement in daily newspaper "Lokmat", dated 05.11.2023 of real estate project of open plots by name "Venkatesh Nagar" situated at Bhalgaon Road, Chharapati Sambhaji Nagar without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.
2. The respondent-promoter has failed to furnish his reply to the said show cause notice, dated 01.12.2023. Therefore, Notice of hearing, dated 30.01.2024 was duly served upon the respondent-agent. However, though opportunity of being heard was given to the respondent, respondent choose to remain absent on the scheduled dates of hearing i.e. 16.02.2024 and 01.03.2024. Consequently, matter was posted for passing exparte order today i.e. 19.02.2024. Even today

also the respondent remained absent. Therefore, the exparte order is being passed in the matter.

3. Perused the advertisement. The project is of plotted development and situated at land Gat No.113, Shendra Jahangi (Gat No. 213 Kumbhephal), Venkatesh Nagar, Bhalgaon Road. The amenities such as N.A.-44 sanctioned layout, large project area of 4.5 Acre, 150 Road touch N.A.-44 Layout, internal cement road, internal drainage, garden, electrical street light, separate transformer, wall compound single gate entry, etc. have been mentioned. The phone numbers of contact persons were also given. Also it has been mentioned that the loan facility from all banks is available. Thus by the said advertisement, promoter has invited the public at large to book open plots in the said project. The MahaRERA record shows that no such real estate project is registered with MahaRERA. Therefore, it can be said that the said project is unregistered one though liable to register with MahaRERA under Section 3 of the Act, 2016.

4. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

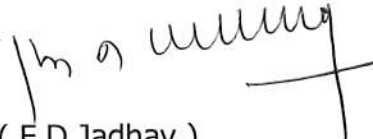
"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;

5. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate

project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. This project is of plotting scheme. It has been mentioned in the advertisement that the project is having sanctioned N.A. layout. The promoter had given sufficient opportunity of being heard and to produce documents showing that the project has received N.A. permission and sanctioned final layout. However, the promoter neither appeared in the matter nor has produced any such document. Therefore, it can be said this promoter has violated the provision of Section 3 of the Act of 2016.

6. In this matter, it is proved that this promoter had published advertisement. It is also proved that the impugned project was/is not registered with MahaRERA. Therefore, taking into consideration the facts and circumstances of the present case and failing the promoter to appear and defend his case despite sufficient opportunity of being heard was given to him, it can be said that this promoter is in clear violation of Section 3 of the Act of 2016.
7. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond reasonable doubt that the promoter has violated the provision of Section 3 of the Act, 2016 for publishing the advertisement without registering the project with MahaRERA.
8. Therefore, it is hereby directed that a written communication be sent to the concerned Planning Authority for the purpose of ascertaining whether the promoter has obtained any requisite authorization for the aforementioned project, and no additional authorization shall be granted for the said project until such time the aforementioned project has been duly registered with MahaRERA or obtains full occupancy certificate/completion certificate or N.A. order from competent authority. Moreover, it is directed that the concerned Registration and Stamp

Office shall be instructed to abstain from registering any sale agreements within the said project, until such time as the project is duly registered with MahaRERA Authority or obtains full completion certificate or N.A. order from competent authority.


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