

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO. 05 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Godavari Developers  
'NAMAN HEIGHTS'  
Unregistered Project

.... Respondent

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

Appearance :- Adv. Vishal Bagdiya for Respondent.

**ORDER**

1<sup>st</sup> March, 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 publishing advertisement of his real estate project 'NAMAN HEIGHTS' situated at Akola Road, Balsond, Hingoli in daily newspaper "Lokmat" on dt. 11.11.2023 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 04.01.2024. The respondent has contended that the impugned advertisement has been given after obtaining the required N.A. permission, building permission and completion/occupancy certificate issued by the competent authority. The respondent has further contended that the N.A. permission has been granted by the Tahsildar under the provisions of Section 42 of the Maharashtra Land Revenue Code, 1966 on 20.01.2023, and the final layout permission is granted by the Asst. Director of Town Planning by letter No. 864, dated 23.12.2022, further the construction

permission is also been granted by the Tahsildar on dtd. 09.05.2023. It is further contended by the respondent that the completion certificate has been granted by the Tahsil Office, Hingoli on 18.10.2023. It has also been contended by the promoter/respondent that the owner Mr. Mohammed Irfan Mohd. Rafiq Thara has executed registered sale deed of the said Plot N.1, admeasuring 3914.05 sq. mtr. in Gat No.108 to the extent of area 2024.71 sq. mtr. and in Gat No. 109 to the extent of area admeasuring 1889.34 sq. mtr. bearing Sale deed No.3813, dated 14.06.2023 registered in the office of the Sub Registrar, Hingoli in favour of the partner of the respondent/promoter. It is contended by the respondent he has complied with the formalities in regard to completion of the development work for the said project. Lastly, the respondent has contended that as per the GR issued by the Hon'ble Court, the respondent has complied with all the necessary formalities and as such the notice issued is required to be withdrawn.

3. Adv. Vishal Bagdiya appeared on behalf of respondent. Initially he has also reiterated the contentions raised out in the reply by the respondent. He has submitted that the promoter has obtained all the required permissions from the competent authority and has completed the project and received completion certificate and then the advertisement has been published. Adv. Mr. Bagdiya has argued that since the project is completed, there is no any violation of Section 3 of the RERA Act.
4. Perused the impugned advertisement. It is for a commercial project of shopping complex. It has mentioned in the advertisement that only few shops left. Perused the Sanad, dated 20.01.2023 issued by the Tahsildar, Hingoli. It has been issued under Section 42(C) of the Maharashtra Land Revenue Code, 1966 for Non-Agricultural Use of the land total admeasuring 12300 sq.mtrs. from Gat No.108 and Ga No.109 of village Balsond, Tal. & District Hingoli. Perused the layout plan comprising of total 21 plots having different areas from 115.20 sq. mtrs. to 3920.10 sq. mtrs. and different permissible built up areas from 177.40 sq. mtrs. to 6027.63 sq. mtrs. Also perused the sanctioned building plan. It is for the Ground Floor, First Floor



and Second Floor. Perused the completion/occupancy certificate issued on 18.10.2023 by Tahsil Office, Hingoli. It is in respect of Plot No.1, admeasuring 3914.05 sq.mtr. out of land Gat No.108 and 109 of village Balsond, Tal. & District Hingoli. It has been issued for the construction on the Ground floor only subject to terms and conditions mentioned therein. The total built up area as per the sanctioned layout plan is 6027.63 sq. mtr. Perused the Ground floor plan. It is for 28 blocks, out of which 12 blocks are on the ground floor having total area of 1521.27 sq. mtr., 12 blocks on First floor having total area of 1521/27 sq. mtr. and the 4 blocks on Second floor having total area of 58.26 sq. mtr. Therefore, it is obvious that the completion/occupancy certificate, dated 18.10.2023 issued by Tahsil Office, Hingoli is not the full completion/occupancy certificate, but it is part completion/occupancy certificate and therefore, it cannot be said that the entire project of the respondent/promoter has been completed and has received full occupancy certificate. The contentions raised out by the respondent/promoter therefore, has no substance and hence cannot be accepted.

5. The show cause notice has been issued to the promoter for contravention of Section 3 of the Act, 2016. Section 3 of the Act, 2016 deals with registration of a real estate project. It is reproduced hereunder.

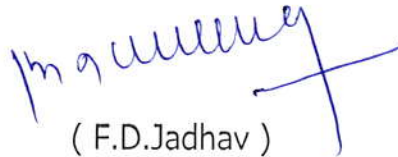
**"Section 3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real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

6. Adv. Vishal Bagdiya during the course of further hearing of the matter, has voluntarily admitted that the impugned advertisement has been issued before receiving full completion/occupancy certificate and therefore, there is violation on the part of the promoter under Section 3 of the Act, 2016, as per

the show cause notice, dated 01.12.2023. However, he urged 30 days time to pay penalty amount as this respondent is staying in another district and he is required that much time to communicate and pay the amount of penalty.

7. The evidence on record explicitly proves that prior to publication of the impugned advertisement, the promoter has not obtained full completion/occupancy certificate. This is the project of shopping complex and not a plotting project. Therefore, N.A. order issued in this matter would not absolve respondent from the mandatory provision of registration of the project with the MahaRERA. Full completion certificate of the project only will exempt this project from registration as enunciated under Section 3(2)(b) of the Act, 2016. MahaRERA authority has also clarified the said point in its Circular No. 25/2019 explaining therein as to which real estate projects are excluded from MahaRERA Registration. Since in this matter, the project is of shopping complex, N.A. order from Competent authority would not suffice. Full O.C. is needed for exemption from registration with MahaRERA. As in this matter, no completion certificate of entire project is produced, it can be said this respondent has violated the provision of Section 3 of the Act, 2016.
8. Considering the evidence on record adduced by the promoter, the provision of Section 3 of the Act, 2016 and the unequivocal admission by Adv. Vishal Bagdiya on behalf of the respondent, it is clear that there is violation of Section 3 of the Act, 2016 on the part of the respondent. Therefore, the penal action under Section 59 of the Act, 2016 has to be invoked in the present matter. Thus, this promoter is liable for the penalty under Section 59 of the Act, 2016 for contravention of Section 3 of the Act, 2016.
9. In view of the above, the promoter shall pay penalty of Rs. 40,000/- for violation of Section 3 of the Act, 2016, within 30 days from the date of passing this order, failing which, respondent-promoter shall be liable to penalty of Rs.250/- per day, in addition, till the realization of entire amount.

10. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent-promoter for extension, corrections, change of name etc. with respect to the aforesaid real estate project.

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