

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE
SUO MOTU ADVERTISEMENT/
PUNE CASE NO.150 OF 2023**

MahaRERA on its own Motion Complainant

Versus

New Pawan Putra Developers Respondent
'Gajanan Residency'

MahaRERA Project Registration No.P51600050411

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

Appearance :- C.A. Mr.Paresh for Respondent.

ORDER

2nd February, 2024
(Through Video Conferencing)

1. MahaRERA Authority has issued show cause notice, dated 17.11.2023 to the respondent-promoter for publishing advertisement in daily newspaper "Maharashtra Times" dated 22.10.2023 in respect of real estate project "Gajanan Residency" situated at Pathardi, Nashik without registering the same with MahaRERA and thereby violating the provisions of Section 3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016").
2. The respondent-promoter has submitted his reply on 18.12.2023. The respondent has contended in the said reply that he has obtained commencement certificate from the Nashik Municipal Corporation and thereafter applied for registration of this project with MahaRERA on 30-03-2023. Accordingly he has received registration certificate on 12-04-2023 under certificate bearing No.P51600050411 in respect of this project. The promoter has

further contended that after obtaining the registration certificate he has published advertisement on 22-10-2023 in the daily newspaper "Maharashtra Times", however inadvertently due to oversight the project number as well as QR code could not be inserted in the said advertisement. According to the promoter the said mistake was due to oversight and unintentional.

3. The show cause notice though issued for violation of provision of Section 3 of the Act, 2016, as it has come in the reply of the respondent that the said project has been registered with MahaRERA, but the project registration number and QR Code has not been inserted in the impugned advertisement, the cognizance of violation of Section 11(2) of the Act, 2016 and the breach of MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023 is required to be taken into consideration in this matter.
4. C.A. Mr.Paresh appeared on behalf of the Respondent-promoter. He has reiterated the contentions made out by the respondent in his reply. C.A. Mr.Paresh has submitted that the said project is registered with MahaRERA vide registration number P51600050411 and the registration certificate is issued by MahaRERA Authority on 12th April 2023. However C.A. Mr.Paresh has voluntarily admitted that the project registration number and QR Code has not been displayed in the impugned advertisement due to oversight. C.A. Mr.Paresh has prayed for leniency while imposing penalty on the ground that such imposition of penalty will cause heavy financial burden on their project which they have launched only a few months back.

5. At this juncture, section 11(2) of the Act, 2016 is relevant in this matter, which reads as under:

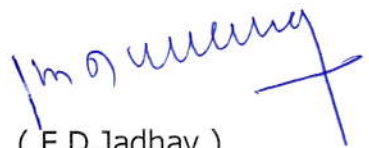
Sec-11(2):- "The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

6. On careful perusal of the Section 11(2) palpably shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project prominently in the advertisement issued by him. Further in this matter, admittedly, the respondent-promoter has not provided project registration number in the advertisement of this project published by him. It manifestly indicates that he has violated the provision of Section 11(2) of the Act, 2016 and thus, liable for the penalty under this provision of Section 11(2) of the Act, 2016.

7. MahaRERA has issued Order No.46/2023, dated 29.05.2023 and issued some directions therein in respect of QR Code i.e. (i) the promoter shall prominently display the QR Code on each and every project promotion/advertisement published after 1st August, 2023, (ii) the QR Code must be published in a manner that is legible, readable and detectable with the software application and (iii) the QR Code must be published besides the MahaRERA Registration number and the website address. The mediums for display QR Code are also described in the said Order. MahaRERA has also issued Order No.46A/2023, dated 25.07.2023 thereby prescribed the amount of penalty to be imposed for violation of the directions issued in the MahaRERA Order No. 46/2023.

8. In this matter, it can be seen from the advertisement that the project registration number as well as QR Code has not been displayed. The respondent has also voluntarily admitted in his reply as well as at the time of oral argument that the project registration number and QR Code has not been displayed in the impugned advertisement by virtue of oversight. Therefore, considering the evidence adduced on record, the legal provisions of the Act, 2016 as well as Orders issued by MahaRERA Authority to that effect and the voluntary admission by the respondent-promoter explicitly proves that this promoter has violated the provision of Section 11(2) of the Act, 2016 as well as directions of the MahaRERA Authority issued under Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
9. Considering the facts that this project is registered with MahaRERA and MahaRERA Authority has issued registration certificate on 12-04-2023, it can be said that Section-3 of the Act, 2016 has not been proved. However on going through the facts of this case, documentary evidence on record, *vis-a-vis* law provisions discussed hereinabove, it can be said that the charges leveled against the respondent in respect of Section 11(2) and QR Code are proved and therefore, this is a fit and suitable case to impose penalty against the respondent-promoter under Section 61 and 63 of the Act, 2016.
10. In view of the above, the penalty of Rs.25,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for committing violation of Section 11(2) of the Act, 2016.

11. Further penalty of Rs.25,000/- under Section 63 of the Act, 2016 is imposed upon the promoter for committing breach of the MahaRERA Order No. 46/2023 read with 46A/2023.
12. The aforesaid penalty shall be payable by the promoter within 15 days from the date of this order, failing which promoter shall be liable to penalty of Rs.500/- per day for each count, in addition, till the realization of entire amount.
13. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.


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