

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.177 OF 2023**

MahaRERA on its own Motion	Complainant
Versus		
Ayush Developers		
"Gokul Heights"		
Unregistered Project	Respondent

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

Appearance :- Adv. Vikrant Jamdar

ORDER

2nd February, 2024
(Through Video Conferencing)

1. MahaRERA has initiated the present suo-motu proceedings against the respondent-promoter for publishing and circulating an advertisement in a pamphlet of its real estate project "Gokul Heights" situated at Professor Colony, behind Racca Lawns, near Dream Castle, Panchvati, Nashik without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called as "Act 2016").
2. In pursuance of the show cause notice, respondent-promoter filed its reply, dated 02.12.2023. Respondent-promoter has contended in its reply that the project is having area admeasuring 175.50 sq. mtrs. consisting 5 residential number of units and the respondent has not violated any section or clause of the Act, 2016 and therefore, there is no need to register the project with MahaRERA as per Section 3(2)(a) of the Act, 2016.

3. Adv.Mr. Vikrant Jamdar appeared on behalf of the respondent-promoter. He has reiterated the contentions raised out by the respondent in its reply. Adv. Jamdar argued that the area of the said project is 175.50 sq. mtrs. and there are only five units in the said project and therefore, as per the provision of Section 3(2)(a) of the Act, 2016, the project is exempted from registration.

4. At this stage, it is apt to reproduce Section 3(2)(a) and Section 59 of the Act 2016, which are as follows :-

Section 3 (2)(a) reads as under :-

3. (2) "Notwithstanding anything contained in sub-section (1) no registration of the real estate project shall be required –

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed, does not exceed eight, inclusive of all phases.

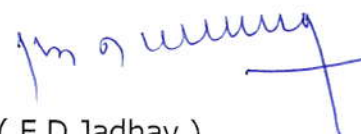
Section 59 reads as under :-

"If any promoter contravenes the provisions of Section 3, he shall be liable to a penalty, which may extend up to ten per cent of the estimated cost of the real estate project, as determined by the Authority."

5. Respondent-promoter in support of his contentions made in reply, furnished 7/12 extract of land bearing Gat/Survey No.15/5/Plot/12 of Nashik City, Tal. Nashik, District Nashik. In the column of area of the said land the area is shown as 1.75.50

Are/Sq.Mtrs and non-agricultural. In the column of owners, the name of owners are mentioned as Vrushali Sudhir Deore and Sudhir Moreshwar Deore. The class of land is shown as Class-I. The respondent has also filed on record Mutation entry number 112824 and area of the said plot has been shown as 175.50 sq.mtr. The Respondent has also submitted Sanction of Building Permission and Commencement Certificate, dated 27.03.2023 issued by Executive Engineer, Nashik Municipal Corporation.

6. Considering the documents furnished on record including 7/12 extract and Mutation entry it appears the area of the land proposed to be developed does not exceed five hundred square meters. Besides this the number of apartments proposed to be developed does not exceed eight. These facts unequivocally indicates that this case squarely falls within the four corners of the Section 3(2)(a) of the Act, 2016. As such it can be said that this promoter has not violated the provision of Section 3 of the Act, 2016.
7. In view of the above, the provision of Section 3 of the Act of 2016 will not be attracted in this matter. Consequently, penalty under Section 59 cannot be invoked in the matter.
8. The matter therefore, disposed off without imposing any penalty.



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