

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.179 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

**(1) Kumar Construction and Properties Pvt.Ltd. .... Respondent-Promoter**  
**Project – Kumar Prospera-A7 & A8**  
**MahaRERA Project Registration No.P52100035207**

**(2) Dreamz Real Estate. .... Respondent-Agent**  
**MahaRERA Agent Registration No. A52100004136**

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

**Appearance :-** Mr. Sameer Patil, A.R. for Respondent-Promoter.

Mr. Ganeshrao Jadhav, A.R. for Respondent-Agent.

**ORDER**

23<sup>rd</sup> January, 2024

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondents for publishing advertisement of the aforesaid registered real estate project in website <https://prosperakumarproperties.co.in/index.html> wherein the MahaRERA Project Registration Nos. and Quick Response (QR) Code were not included, thereby violating the provisions of Section 11(2) of the Real Estate (Regulation & Development) Act, 2016 ( hereinafter referred to as "Act, 2016) and the directions issued by the Maharashtra Real Estate Regulatory Authority under MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46A, dated 25.07.2023 and MahaRERA Order No. 46B, dated 21.08.2023.

2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of "Act 2016" vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notice, dated 21.12.2023 was issued to the Respondent-promoter calling upon him as to why action of imposing penalty against him under Section 61, 63 of the Act, 2016 for violation of provisions of Section 11(2) and for violation of the MahaRERA Order No.46 and 46A should not be taken.
3. In response to the show cause notice, dated 21.12.2023, the respondent-promoter filed his reply dated 27.12.2023 thereby contended that there is no violation of provision of Section 11(2) of the Act, 2016 on the part of the promoter. It is further contended by the respondent-promoter in his reply that the promoter is not aware and has no knowledge of any such website by the name <https://prosperakumarproperties.co.in/index.html> mentioned in the notice and the promoter is not owner of the said website. The promoter has further contended in his reply that upon taking information, it has been revealed that one of the Real Estate Agent firm known by the name "Dreamz Real Estate" Agent RERA Number : A52100004136 has without their consent or approval published on the website the details of the project. The respondent-promoter has further contended in his reply that upon receipt of notice from MahaRERA, the same was informed to the Agent, after which the Agent has immediately loaded the QR Code and RERA Registration number of the project on the publicity material used by the Agent. Lastly, the promoter has contended that there is no involvement or participation of the promoter in the above publication or advertisement done by the Agent, it is therefore, requested that no penal action be taken against the promoter.
4. After perusing the contents of the reply filed on behalf of the promoter, MahaRERA has issued Notice of Hearing, dated 12<sup>th</sup> Jan. 2024 to the Respondent No.2 - Channel Partner. In response to the said notice of hearing, Mr. Ganeshkumar Jadhav, A.R. has appeared on behalf of the



Channel Partner. He has voluntarily admitted to have published the impugned advertisement without including RERA Registration number and without displaying QR Code of the said real estate project and prayed for leniency while imposing penalty.

5. So far as the show cause notice, dated 21.12.2023 is concerned, the charges leveled against the promoter for violation under Section 11(2) of the Act, 2016 and violation of directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023. However, the contentions of the promoter that he has not authorized or given consent to the channel partner to publish advertisement of their project on the website has been admitted by the channel partner. This channel partner has taken all responsibility of publishing the impugned advertisement on the website. Considering the voluntary admission of channel partner in respect of breach of the provisions in the matter, it can be said that, this promoter is not liable for the contravention of Section 11(2) of the Act, 2016 as well as violation of displaying QR of the project as enunciated under MahaRERA Order number 46/2023 r.w. 46A/2023.
6. Admittedly, it has come on record that the impugned advertisement has been published by the respondent-agent on its own website and the respondent-promoter is not responsible for the same. Therefore, there cannot be said to be any violation of Section 11(2) of the Act, 2016 and the directions issued by MahaRERA Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively, on the part of the respondent-promoter.
7. Now, it is necessary to discuss on the point of Section 10(a) of the Act, 2016, Rule 14(2) of the Rules, 2017 and the MahaRERA Order No.46B/2023, dated 21.08.2023. This provision of Section 10 deals with functions of real estate agents. Clause (a) of Section 10 is specifically concerning with the real estate project which is not registered with the

Authority. The real estate projects mentioned in the impugned advertisement are registered with MahaRERA and therefore, there cannot be said to be any violation of Section 10 of the Act, 2016 in the present case.

8. Now, Rule 14 of the MahaRERA Real Estate (Registration of Real Estate Projects, Registration of Real Estate Agents, rates of interest and disclosures on website) Rules, 2017 (hereinafter referred to as "RULES,2017") is material for the purpose of this matter. Rule 14 deals with "Obligations of registered real estate agents." Sub-rule (2) of rule 14 is essential for the purpose of this matter, which reads as under :-

**Rule-14(2) – Every registered real estate agent to quote the registration number in all the documents relating to advertisement, marketing, selling or purchase issued by the real estate agent along with the number of registration certificate of the real estate project.**

9. Rule 14 speaks regarding obligations of registered real estate agents. It has been voluntarily admitted by the respondent-agent that the impugned advertisement does not include the MahaRERA Registration number of the project mentioned in it and also MahaRERA Registration number of the real estate agent/channel partner. It explicitly indicates that this channel partner/agent has failed to discharge his obligations as envisaged under this rule of 14. Therefore, on the face of record itself, there is clear violation of Rule 14(2) of the Rules, 2017 on the part of the respondent-agent.

10. Now so far as second violation of QR Code is concerned, it can be said MahaRERA Order No.46B/2023 is required to be discussed for deciding that whether there is violation of the same on the part of the respondent-agent. Relevant part of MahaRERA Order No.46B reads as under :-



"And whereas, MahaRERA, having introduced QR Code for each and every registered real estate project, the directions issued by the Authority in MahaRERA Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents and in view thereof with effect from the date of coming into force of this order, the following directions shall be followed by every registered real estate agents.

(a) Real estate agents shall 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 29.0.2023.

(b) The QR Code published shall be legible, readable, and detectable with software application and shall be published besides MahaRERA project registration number.

(c) Failure to comply with (a) and (b) above shall be construed as violation of the directions issued by the Authority and penalty which may extend upto Rs.50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 65 of the Act shall be imposed upon real estate agents for each such violations.

11. The impugned advertisement does not contain the QR Code of the aforesaid real estate project. As stated above, by MahaRERA Order No.46B, dated 21.08.2023, it has been made clear that the directions issued in MahaRERA Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents. Further the real estate agents have been directed 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 and failure to comply, shall be construed as violation of the directions issued by the Authority and penalty 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 65 of the Act shall be imposed upon real estate agents for each such violations.

12. Therefore, by publishing the said advertisement in question without mentioning MahaRERA registration number and without including QR Code, manifestly shows that there is violation on the part of the respondent-agent of Rule 14(2) of the Rules, 2017 and directions issued in the MahaRERA Order No.46B, dated 21.08.2023 read with MahaRERA Order No.46, dated 29.05.2013.

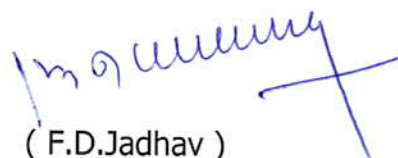
13. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt that the respondent-agent has violated the provision of Rule 14(2) of the Rules, 2017 and directions issued in the MahaRERA Order No.46B, dated 21.08.2023 read with MahaRERA Order No.46, dated 29.05.2013 for publishing the advertisement without MahaRERA registration number and QR Code, and thus this is a fit and suitable case to impose penalty upon the respondent-agent.

14. Unequivocal admission by the channel partner indicates the violation is on his part and not the promoter. In view of this, Channel Partner only has to be held responsible for the breach of the rule 14(2) and QR Code. Mr. Ganeshkumar Jadhav, A.R. on behalf of the respondent-agent has prayed for lenience in the matter.

15. In view of the above, the penalty of Rs.10,000/- is imposed upon the promoter for violation of Rule 14(2) of the Rules, 2017.

16. Further penalty of Rs.10,000/- is also imposed on the respondent-agent for violation of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21.08.2023.

17. Both the said penalties shall be payable by the respondent-agent within 10 days from the date of this order, failing which respondent-agent shall be liable to penalty of Rs.250/- per day, in addition, till the realization of entire amount.
18. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent agent for renewal, corrections, change of name etc., with respect to his license as a real estate agent.

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