

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, NAGPUR
SUO MOTU ADVERTISEMENT CASE NO. 26 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Sushsil Bharuka HUF(Arch Developers)

.... Respondent/ Promoter

MahaRERA Project Registration No. – P51500032658

Coram: Shri.Sanjay Bhimanwar,Dy.Secretary, MahaRERA

No one appeared for the respondent/ promoter.

ORDER

11th July 2024

(Through Video Conferencing)

1. The Maharashtra Real Estate Regulatory Authority has delegated certain powers on me dated 26/04/2023 under Section -81 of the Real Estate (R&D)Act 2016(hereinafter called as " Act 2016").The said powers, inter alia, contains imposing of penalty under section-59 of the Act-2016 for contravention of section -3 of the Act,2016 by the promoter and to impose penalty under section-61 of the Act,2016 for contravention of section-11(2) of the Act,2016 by the promoter. In Exercise of the powers delegated to me under section 81 of the Act,2016, notices were served to the parties, heard the parties and thereafter matter is disposed of.
2. The MahaRERA authority has issued the directions by MahaRERA order No 46/2023 read with MahaRERA order No. 46A/2023 wherein with effect

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from 01.08.2023, promoter shall prominently display the QR Code on each and every real estate project promotion / advertisement published in the mediums, in the manner and at the place as more specifically mentioned in MahaRERA Order No.46/2023 dated 29.05.2023, failure to which a penalty under Section 63 of the Act, 2016 shall be imposed upon promoters for each such violation.

3. The Advertising Standards Council of India had issued an intimation letter dated 27/05/2024 to the Promoter above named for issuing an advertisement on Digital Website namely "<https://www.archdevelopers.in/property/Arch-dosti>" dated 09/05/2024 in regard to its real estate project "Arch Dosti" registered with MahaRERA under project registration number P51500032658 situated at Ch,Sambhaji Nagar without incorporating correct MahaRERA registration number, MahaRERA Website Address and the Quick Response (QR) Code of the said real estate project in the said advertisement.
4. The Promoter, in spite of having received the intimation letter dated 27/05/2024 from the "Advertising Standards Council of India" failed to comply with MahaRERA regulation and modify or withdraw the said advertisement.
5. In this regard, a hearing was scheduled on 27/06/2024 through video conferencing as per the MahaRERA Circular No. 27/2020 and MahaRERA Order No. 593/2023, when the Promoter appeared and made its submission. The proceedings were adjourned to the next date of the hearing for written submission. Accordingly, the next hearing was scheduled on 11/07/2024, when the Promoter remained absent even though the notice of hearing and the link for the hearing was duly served upon the promoter.
6. The Promoter, however, by its written submission dated 29/06/2024 to the hearing dated 27/06/2024 had submitted that the aforementioned project "Arch Dosti" had already been completed and received with occupancy

certificate dated 25/11/2022 from the Aurangabad Municipal Corporation, Aurangabad (Ch.Sambhaji Nagar). The Promoter further furnished the Occupancy certificate dated 25/11/2022 issued by the Aurangabad Municipal Corporation, Aurangabad (Ch.Sambhaji Nagar).

7. In this regard, it is necessary to peruse the provision of section 11(2) of the RERA which reads as under:

"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."

8. In this regard, it is also necessary to peruse the provisions of MahaRERA Order No. 46/2023 read with MahaRERA Order No. 46A/2023, which reads as under:

MahaRERA Order No. 46/2023 dated 29.05.2023 -The Promoter shall prominently display QR Code on each and every project promotion/advertisement published after 01.08.2023. The QR Code must be published in a manner that is legible, readable, and detectable with software applications. The QR code must be published besides the MahaRERA Registration Number and the Website Address. The mandate as mentioned above shall apply to the mediums of promotion/advertisement and in any other medium as may be directed by the Authority.

MahaRERA Order No. 46A/2023 dated 25.07.2023 – (a)With effect from 01.08.2023, Promoter shall prominently display the QR Code on each and every real estate project promotion/advertisement published in the mediums, in the manner and at the place as more specifically mentioned in MahaRERA Order No. 46/2023 dated 29.05.2023. The above shall apply to the mediums of promotion/advertisement and in any other medium as may be directed by the Authority. b) Failure to comply with (a) above shall be construed as a violation of the directions issued in the above-

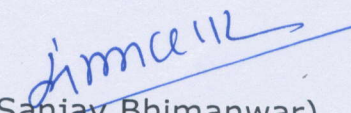
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referred MahaRERA Order and penalty which may extend up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- under Section 63 of the Act shall be imposed upon promoters for each such violation.

9. In this regard, it is also necessary to peruse the provision of Section 3(2)(b) of the RERA which reads as under:
"....no registration of the real estate project shall be required where the promoter has received completion certificate for a real estate project prior to commencement of this Act."
10. From the plain reading of the Section 3(2)(b), it clearly indicates that the provisions of this Act would not be applicable to the projects which are completed and have received a completion certificate.
11. Also, in this regard, it is necessary to peruse the Circular No 25 / 2019 which reads as under:
Real Estate Projects that are excluded from MahaRERA Registration.
3. Real Estate Projects where Promoter has received Completion certificate / Occupancy certificates / N/A (in case of plotted development from Competent Authority any time before Agreement for Sale / Sale Deed Registration. It clarifies that real estate projects where promoter has received completion certificate/occupation certificate/N.A. (in case of plotted development) from Competent Authority, any time before Agreement for Sale/Sale-deed registration, such real estate projects are excluded from MahaRERA Registration.
12. In the present case, the Promoter had issued an Digital Website advertisement dated 09/05/2024 in regard to their real estate project "Arch Dosti" registered with MahaRERA under project registration number P51500032658 situated at Ch.Sambhaji Nagar without incorporating correct MahaRERA registration Number, MahaRERA Website Address and the Quick Response (QR) Code of the said real estate project in the said

advertisement.

13. In this regard, from the submission of the Promoter and the documents on record, it appears that the aforesaid project has already been completed and received with occupancy certificate dated 25/11/2022 from the competent authority, Aurangabad Municipal Corporation, Aurangabad (Ch.Sambhaji Nagar) prior to the date of the aforesaid advertisement. On this background, considering the provisions of the Act, this promoter cannot be held liable for violation of MahaRERA regulation in regard to the MahaRERA registration number, MahaRERA Website Address and the Quick Response (QR) Code of the said real estate project to be displayed in the advertisement.
14. Hence, the Promoter is not in violation of section 11(2) of the Act-2016 and MahaRERA Order No. 46A/2023 dated 25.07.2023 read with MahaRERA Order No. 46/2023 dated 29.05.2023 for not mentioning/incorporating the MahaRERA registration number, the MahaRERA Website Address and the Quick Response (QR) Code of the said real estate project in the said advertisement.
15. In view of the above, the present case stands closed.


(Sanjay Bhimanwar)
**Dy.Secretary,
MahaRERA,Nagpur.**