

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

SUO MOTU ADVERTISEMENT CASE NO. 38 OF 2023

MahaRERA on its own Motion

.... Complainant

Versus

Sai Mangalam Developers

...Respondent/ Promoter

**MahaRERA Project Registration No. – Unregistered with
MahaRERA**

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

Mr.Shriram Gupta appeared for the respondent/ promoter.

ORDER

22nd October 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 had issued a show cause notice dated 08/03/2023 to the Promoter above named for publishing an advertisement dated 03/03/2023, in the form of Flyer in regard to the real estate project situated at Nari, Nagpur without registering the said real estate project with MahaRERA considered to be prima facie in violation of section 3 of the Act 2016.

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3. The promoter, by its reply dated 03/05/2024 to the said show cause notice dated 08/03/2023 had submitted that the said advertisement of the aforesaid project was for selling plots under Gunthewari Development and has already been cited on the NIT cluster. The Promoter further furnished the list of plots for which the demand note has been paid to the Nagpur Improvement Trust along with its copies and also the layout plan for the aforesaid project sanctioned by the Nagpur Improvement Trust (NIT).
4. In this regard, the hearing was scheduled on 13.02.2024 and 21.03.2024 through video conferencing as per the MahaRERA Circular No. 27/2020 and MahaRERA Order No. 593/2023, when the Promoter remained absent even though the notice of the hearing and link for the hearing was duly served upon the Promoter. Hence, the proceedings were adjourned to the to the next date of hearing. Accordingly, the next hearing was scheduled on various dates such as 18.04.2024, 07.06.2024, 05.09.2024, and 22.10.2024 when the promoter appeared and made its submission.
5. During the hearing, the Promoter reiterated that the said advertisement was for selling plots under Gunthewari Development and has already been on the NIT cluster. The Promoter further submitted that the demand note for all the plots has already been paid to NIT. The Promoter further submitted that being Gunthewari Development, it does not attract the Real estate regulation Act.
6. In this regard, it is necessary to peruse the provision of Section 3 of the RERA which reads as under:
"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."
7. From the plain reading of Section 3, the Promoter is under obligation not to

advertise, market, book, sell or offer for sale, or invite persons to purchase any plot, apartment or building, without registering the real estate project with MahaRERA.

8. Also, in this regard, it is necessary to pursue 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.***

9. Also, in this regard, it is necessary to peruse the Section 3(1) and Section 5(1) of The Maharashtra Gunthewari Developments (Regulation, Upgradation & Control) Act-2001 which reads as under:

3. (1) All Gunthewari developments existing as on the 1st January 2001, shall, on an application in this behalf by the plot-holder, to the Planning Authority, as provided in section 4, be eligible for being considered by the Planning Authority for regularization.

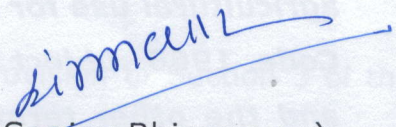
5. (1) Notwithstanding anything contained in any other law for the time being in force, on being regularized, the Gunthewari development shall be deemed to have been exempted under section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 from the provisions of Chapter III of the said Act and converted to non-agricultural use for all purposes of the Maharashtra Land Revenue Code, 1966, subject to the payment of non-agricultural assessment and the other terms and conditions of such conversion and the provisions of the Development Plan or the Regional Plan, as the case may be, shall, so far as such development is concerned, stand modified or relaxed, as may be required.

10. The aforesaid sub-section (1) of Section 5 unequivocally states that on being regularized the gunthewari development shall be deemed to have

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been exempted under Sec. 20 of the Urban Land (Ceiling & Regulation) Act, 1976 from the provisions of Chapter III of the said Act and converted to non-agriculture use for all purposes of the Maharashtra Land Revenue code, 1966. (emphasis supplied).

11. In the present case, the Promoter had published an advertisement dated 03/03/2023 through Flyer without registering the said project with MahaRERA. However, from the submission of the Promoter and the documents on the record, it appears that the impugned advertisement was for the selling of plots under Gunthewari Development. Since, the aforesaid plotted development has been regularized by the concerned Planning Authority as per section 3(1) of Gunthewari Act 2001 and on being regularized, converted to Non Agriculture use as enumerated under Section 5(1), it becomes manifestly clear that the present case falls within the scope of circular No.25/2029 dated 11.10.2019. Hence, the promoter does not require to comply section 3 of the Act 2016.
12. In view of this, the Promoter cannot be held liable for violation of section 3 of the Act 2016. Hence, the Promoter is not in violation of section 3 of the Act 2016.
13. In view of the above, the present case stands closed.


(Sanjay Bhimanwar)

**Dy.Secretary,
MahaRERA, Nagpur.**