

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.97 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Majestique Landmark
'MAJESTIQUE EVOLVUS'
(Unregistered Project)

.... Respondent

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

Appearance :- Adv. Sandeep Dayma

ORDER


7th November, 2023
(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondent for publishing advertisement of the aforesaid registered real estate project on social media "Instagram" without registering the same with MahaRERA, thereby violating the provisions of Section 3 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as "Act, 2016).
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/Advertisement/784/2023, dated 26.04.2023, show cause notice, dated 07.09.2023 and 18.09.2023 was issued to the Respondent-promoter, for taking action of imposing penalty against it under Section 59 of the Act, 2016 for violation of provisions of Section 3 of the Act, 2016.
3. The respondent-promoter in his reply, dated 12.09.2023, denied violation of Section 3 of the Act, 2016 by him. According to him, he has

not issued the alleged advertisement in Instagram or at any online/offline platform of digital media. It is further stated by him that the photo of project namely, "Majestique Marbella" which is duly registered with MahaRERA bearing No. P52100025697 has been used in the advertisement of project "Majestique Evolvus". It is further contended by the promoter that someone with malafide intention and to deceive people must have added photo of "Majestique Marbella" and replaced it by "Majestique Evolvus" for misguiding the public at large. According to the promoter, on inquiry and after verifying the documents, they came to know that one estate agent who is not belonging to their company, must have published the advertisement. The promoter further suggest that RERA Authority should not tolerate such conduct and such entity must be penalized for the violation of the Act, 2016. The promoter has lastly requested this Authority to impose penalty on the agent, who posted the alleged advertisement on Instagram of the project which is not registered with MahaRERA.

4. Adv. S. Dyma appeared for the respondent-promoter in this matter. He has submitted copy of the F.I.R. registered with Cyber Crime, Pune. Perusal of the said F.I.R. filed by Adv. Sandeep Dyma on behalf of Majestique Landmark Pvt. Ltd. explicitly shows that the advertisement of their project is in violation of RERA provisions i.e. without RERA registration by "Property King" website and on Instagram along with other social media platform. It further appears from the said F.I.R. that the project "Majestique Evolvus" was not advertised or promoted by the promoter-company or advertised through any registered RERA agent. It has been also contended in the said F.I.R. that in the said advertisement there is mention of one estate agent having portal "property king.in" and this agent was not belonging to the promoter's company nor promoter's company authorized him to publish or advertise the project. In view of the aforesaid F.I.R. filed by the promoter-company with the Cyber Crime on 20.10.2023 explicitly shows that this respondent-promoter has no role in the alleged advertisement.

5. In view of such circumstances, it is evident from the reply, dated 12.09.2023 submitted by the promoter, coupled with the F.I.R., dated 20.10.2023 lodged with Cyber Crime, Pune that the promoter is not liable for publishing the impugned advertisement in 'Instagram' of project "Majestique Evolvus". The promoter has not given approval for such impugned advertisement, nor the person who published the advertisement sought approval from promoter. It explicitly indicates that this promoter was not aware of the advertisement published by the person in the 'Instagram'. Therefore, it is difficult to hold guilty to the promoter for the breach of Section 3 of the Act 2016.
6. As the promoter was ignorant of the impugned advertisement, he had lodged F.I.R. against the person who has a website/portal "propertyking.in" before the Cyber Crime, Pune. This promoter has specifically contended in the said F.I.R. that these persons had unauthorizedly without asking our permission and without our consent had published the advertisement of project "Majestique Evolvus" by way of online publication. In this backdrop, it cannot be said that this promoter has any role into publishing the impugned advertisement. Therefore, he is not liable for violation of Section 3 of the Act, 2016.
7. In view of the aforesaid facts, circumstances and the law, there appears no prima facie case established against this promoter. Therefore, this promoter cannot be held for the violation of Section 3 of the Act, 2016.
8. Consequently this is not a fit case to impose penalty in the matter under Section 59 of the Act of 2016. In these background, this case stands disposed off.


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