

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 122 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Yash Infrastructure

'VRINDAVAN'

Unregistered Project

.... Respondent

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

Appearance :- Mr. Yash Agarwal, A.R. for Respondent.

ORDER

2nd Nov. 2023


(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on 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 the provision of Section 3 by the promoter and to impose penalty under Section 61 of the Act for contravention of Section 11(2) of the Act. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter.
2. It has been noticed by the MahaRERA Authority that an advertisement in the daily newspaper 'Sakal', dated 13.08.2023 without registering the project with MahaRERA has been published. On going through the record of MahaRERA Authority, it has been noticed that the said project is not registered with MahaRERA. Therefore, by show-cause notice, dated 08.09.2023, the Respondent-Promoter was called to show cause as to why penal action under Section 59 of the said Act should not be initiated against him.

3. The respondent-promoter has filed its reply which is received by this office on 18.09.2023. It has been contended by the respondent-promoter in his reply that the said project is a residential plotting scheme with individual promoters situated in Shendra Jhangir Aurangabad and the project has already acquired completion from AMRDA Pradhikaran Office. It has further been contended that the N.A. order of the project has been sanctioned on 31.03.2023, and selling of plots and advertisement was commenced after the completion of the scheme. It is also contended in the reply by the respondent-promoter that it has no part in the advertisement published in Sakal as this advertisement was posted by the local brokers and therefore, the respondent-promoter or any other firm is not responsible for the advertisement posted by individuals or group without consent. In support of its contentions, the respondent-promoter has furnished a copies of the N.A. Order, dated 31.03.2023 and 25.07.2023 issued by the Tahsildar, Aurangabad.
4. The notice of virtual hearing dated 31.10.2023 was issued to the respondent-promoter and he was directed to attend the virtual hearing on 03.11.2023. Mr. Yash Agarwal, A.R./promoter for respondent appeared in the matter. Heard Mr. Yash Agarwal, who has reiterated the contentions raised out by the respondent-promoter in his reply. Mr. Agarwal submitted that the project is of residential plotting project and N.A. order is already received by him for the project site prior to publishing the impugned advertisement.
5. Perused the reply filed by the respondent-promoter along with copies of N.A. Order, dated 31.03.2023 for Gat No.203, and N.A. Order, dated 25.07.2023 for Gat No.202 and 204. Also perused the impugned advertisement, dated 13.08.2023 published in the daily Marathi newspaper "Sakal".
6. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as 'MahaRERA') has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of agreement for sale/sale-deed for real estate projects. It has been mentioned in the said circular in regards to real

estate projects that are excluded from MahaRERA Registration. Serial No.3 in the said circular specifically states that real estate projects where promoter has received completion certificate/occupancy certificate/N.A. order (in case of plotted development) from competent authority, any time before agreement for sale/sale-deed registration are excluded from MahaRERA registration. As such, real estate project where promoter has received N.A. order in relation to plotted development has been exempted from MahaRERA Registration. MahaRERA has issued another Circular No. 25A/2023, dated 09.06.2023 regarding real estate projects that are excluded from MahaRERA Registration. This circular supplements circular No.25/2019, dated 11.10.2019 regarding serial Nos.1 and 2 enumerated therein. Serial No.3 in the earlier circular, dated 11.10.2019 however remained in force till the date as it is.

7. On careful perusal of the N.A. order, dated 31.03.2023 and 25.07.2023 in respect of Gat N.203, and 202 and 204 respectively, the advertisement, dated 13.08.2023 and the circulars issued by MahaRERA Authority bearing numbers 25/2019 and 25A/2023, it is crystal clear that the circulars mentioned hereinabove, more particularly serial No.3 from Circular No.25/2019 is applicable in the matter. Consequently, there is no need to register this project with MahaRERA as it squarely falls within the scope of aforementioned circulars. In view of this, it can be said there is no violation of Section 3 of the Act, 2016.
8. In view of above, this is not a fit case to impose any penalty on the promoter under Section 59 of the Act of 2016. The case is disposed off accordingly.


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