

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.123 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

1. Sanjivani Integrated Township

.... Respondent-Promoter

2. 360 Realtors LLP

.... Respondent-Agent

"VAAIVANA PHASE D-2B"

MahaRERA Project Registration No.P52100047640

MahaRERA Real Estate Agent Registration No.A51900000246

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

Appearance :- Mr. Sajid Maniyar, A.R. for Respondent-Promoter.

Adv. Deiksha Kapur for Respondent-Agent

ORDER

3rd November, 2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondent-promoter and respondent-agent for publishing advertisement of a registered real estate project namely, "VAARIVANA PHASE D-2B" on website <https://www.360varivanavill.co.in/> wherein the Quick Response (QR) Code has not been included, thereby violating the direction issued by the Maharashtra Real Estate Regulatory Authority under MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46-A, dated 25.07.2023.

2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notice, dated 13.09.2023 have been issued to both the respondents calling upon

them as to why necessary action should not be taken against them for imposing penalty under Section 63 read with MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46-A, dated 25.07.2023.

3. The respondent-promoter has filed its reply, dated 16.09.2023, whereby it has acknowledged the oversight and understand the significance of this omission. It has been further contended by the respondent-promoter that it has contacted its Channel Partner responsible for the negligent act and communicated the seriousness of the oversight and emphasized the importance of adhering to MahaRERA regulations and the consequences of non-compliance. It has further been contended by the respondent-promoter that it is working closely with the Channel Partner to rectify the situation and ensure that all necessary corrections are made.
4. The respondent-agent has also filed its reply, dated 19.09.2023 wherein it has been contended that the impugned advertisement did not display the QR Code for the short span not due to any malicious intent but due to ignorance of its applicability upon Real Estate Agents. It is further contended that during this period the respondent-agent was unaware of the fact that the order had been uploaded through RERA website however, as soon as it became aware of its applicability, necessary changes were made immediately.
5. On receipt of reply by both the promoters, notice of hearing, dated 31.10.2023 was issued to both the respondents whereby they were asked to attend virtual hearing on 03.11.2023. Respondent-promoter appeared in the matter through A.R. Mr. Sajid Maniyar. He has reiterated the contentions raised by the respondent-promoter in its reply. Mr. Sajid Maniyar admitted to have issued the impugned advertisement without including QR Code by the Channel Partner – respondent-agent.

6. It has come on record that the respondent-agent has issued the impugned advertisement of the aforesaid real estate project of the respondent-promoter on the website mentioned above without including the QR Code. The directions were issued by the MahaRERA under Order No.46/2023, dated 29.05.2023 read with Order 46A, dated 25.07.2023 that the promoter shall prominently display Quick Response (QR) Code on each and every project promotion/advertisement published after 1st August, 2023, the QR Code must be published in a manner that is legible, readable and detectable with software application and the QR Code must be published besides the MahaRERA Registration number and the website address. The mandate as mentioned in clause (a) above shall apply to the mediums of promotion/advertisement mentioned thereunder. The fourth medium shown thereunder is advertisement on websites/webpages of projects, which is relevant in the matter. By not including the QR Code in the impugned advertisement, the respondent-promoter has thus violated the directions issued by the MahaRERA.

7. It can be seen from the record that the promoter has not breached any provision of law. According to him, Channel Partner has given advertisement on website without including QR Code. Channel Partner has also admitted his fault as he has not included QR Code in the advertisement of the project on website. It unequivocally indicates the violation is on the part of the Channel Partner and not the promoter. In view of this, Channel Partner only has to be held responsible for the breach of the QR Code.


8. Thus taking into consideration the aforesaid facts on record and admission by respondent-agent for publishing the impugned advertisement, this is a fit case to impose penalty under Section 65 of the Act, 2016 against the respondent-agent for violation of the Order No. 46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21.08.2023 issued by the MahaRERA. Since it is a violation solely on the

part of respondent-agent, it is just and proper in the interest of justice that no penalty be imposed on the respondent-promoter.

9. In view of above, the penalty of Rs.25,000/- is imposed upon the respondent-agent under Section 65 of the Act 2016 for violation of MahaRERA order No.46/2023 read with MahaRERA Order No. 46B/2023.

10. The said penalty shall be payable by the respondent-agent within a period of 15 days from the date of this order, failing which a further penalty of Rs.250/- per day, in addition, would be imposed till realization of entire amount.

11. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by agent for renewal of license, corrections, change of name etc., with respect to his registration as an agent.


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