

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.130 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

1. Godrej Properties Ltd.

.... Respondent-Promoter

2. Star Estate

.... Respondent-Agent

"GODREJ EMERALD WATERS"

MahaRERA Project Registration No.P52100051200

MahaRERA Real Estate Agent Registration No.A51800037593

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

Appearance :- Adv. Mr. Prabhakar Narwane and A.R. Mr. Basudeo Biswas for
Respondent-Promoter.

Mr. Vinayak Sharma, A.R. 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, "GODREJ EMERALD WATERS" on website <https://godrejemeraldwater.com/Emerald-waters/Authorizedchannelpartner/> 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 07.09.2023 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 and Section 65 read with MahaRERA Order No.46/2023, dated 29.05.2023, MahaRERA Order No.46-A, dated 25.07.2023 and MahaRERA Order No.46B/2023, dated 21.08.2023.

3. The respondent-promoter has filed its reply, dated 23.09.2023, whereby it has been contended that the domain name which is used to publish the impugned website has no privity with the respondent-promoter and the respondent-promoter conducts its business only through its official website, which is www.godrejproperties.com and their customers are always advised not to reply on any other website other than the official website for any project related information. The respondent-promoter further contended in its reply that the impugned advertisement has been published by the respondent-agent and not by the respondent-promoter without any reference to the respondent-promoter or ratification of such advertisement's contents by respondent-promoter. The respondent-promoter has further contended that the scope of service of the Agent was limited to merely sale of unit(s)/flat(s) in the project, as a sales associate for an agreed consideration and the terms of engagement of the Agent for the project *inter-alia* clearly state that, (i) no website can be launched by Agent, without the prior written approval of the respondent-promoter; (ii) no content shall be published on any such website; (iii) the Agent shall always act in consonance of the verbal/written instructions/directions/marketing guidelines issued by the respondent-promoter; and (iv) ensure compliance of all applicable laws, rules and regulations, including the Act. It has been further contended in the reply by the respondent-promoter that the Agent was time and again instructed to specifically ensure that any promotion/advertisement can be published by the Agent only once and when the same has received express written consent or instructions from the respondent-promoter, and only once and when the same is in strict adherence to the applicable law, the RERA Act, 2016 and the orders promulgated by the MahaRERA pursuant to the Act.

The respondent-promoter specifically contended that the impugned website has been created by the Agent at its own instance without any permission from the respondent-promoter and therefore, the Agent is in clear violation of the aforesaid Orders and not the respondent-promoter. The respondent has also contended that it has also been informed by the Agent vide its reply, dated 12 Sept.2023 and has unconditionally accepted its mistake and/or non-compliance with the Act, Rules and the MahaRERA Orders, solely attributable to the Agent and not to the respondent-promoter. Lastly, it is contended that the respondent-promoter has in no manner violated any provisions of the Act, Rules or the MahaRERA orders. In support of its contentions, the respondent-promoter has furnished copy of the reply given by the Agent, dated 12th Sept.2023.

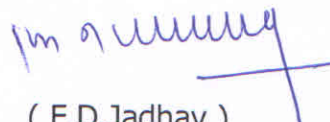
4. The respondent-agent by his reply, dated 12.09.2023 has admitted that the omission of QR Code in the impugned advertisement is an inadvertent error by its third-party website maintenance agency.
5. On receipt of reply by both the promoters, notice of hearing, dated 31.10.2023 was issued to both the respondents whereby they were asked to attend virtual hearing on 03.11.2023. Respondent-promoter appeared in the matter through Adv. Prabhakar Narwane and A.R. Mr. Basudeo Biswas. A.R. Mr. Biswas has reiterated the contentions raised by the respondent-promoter in its reply and admitted to have issued the impugned advertisement without including QR Code by the Channel Partner – respondent-agent. Mr. Vinayak Sharma appeared for respondent-agent. He has also reiterated the facts mentioned in its reply.
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-agent 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, without his authorisation, approval or knowledge, 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 which is according to him inadvertent error by his third-party maintenance agency. 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 in the advertisement.

8. Thus taking into consideration the aforesaid facts on record and admission by respondent-agent for publishing the impugned advertisement without QR Code, 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