

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

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 180 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

1) Tanish Developers

....

Respondent-Promoter

2) Sansee Design

....

Respondent-Marketing Agency

TANISH PARK – MahaRERA Project Registration No.P52100030766

Appearance :- 1) C.A. Mr. Vaibhav Modi for Respondent-promoter.

2) Mr. Vijay Wakchoure for Respondent No.2.

ORDER

13th February, 2024
(Through Video Conferencing)

1. MahaRERA has issued show-cause notice, dated 01.12.2023 to the respondent-promoter calling upon him as to why penal action under Section 63 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act of 2016") should not be taken against him for publishing advertisement in daily newspaper 'Sakal', dated 04.11.2023 in respect of real estate project "TANISH PARK", situated at Charholi Khurd, Tal. Khed, District Pune registered with MahaRERA Project Registration No. P52100030766 without including the Quick Response (QR) Code of the said real estate project in the said advertisement and thereby violating the directions issued by the Maharashtra Real Estate Regulatory Authority Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46A, dated 25.07.2023.
2. Respondent-promoter has filed his reply, dated 15.01.2024 to the said show-cause notice dated 01.12.2023. It is contended by the respondent that there was no violation of any direction as mentioned in the notice. It is further

contended by the promoter that the said mistake happened at the end of marketing agency and respondent-promoter has sought their clarification.

3. The respondent-promoter has furnished the clarification sought by him from the said marketing agency-Sansee. It has been stated by marketing agency in the said clarification contended that the non-printing of QR Code in the advertisement has happened due to mistake, human error and oversight from its staff and there was never any intention on its part to willfully omit the publication of the QR Code or non-adherence to the Orders of MahaRERA.
4. C.A. Mr. Modi appeared on behalf of the respondent-promoter and he has reiterated the contentions raised out by the respondent-promoter in his reply. Mr. Modi submitted that the said advertisement has been published by the marketing agency of the respondent-promoter and therefore, there is no violation on the part of the promoter of the provision of Section 3 of the Act, 2016.
5. Mr. Vijay Wakchoure appeared on behalf of the respondent No.2. He has submitted that he is a Graphic Designer and not a real estate agent. He has reiterated the contentions made out in the clarification furnished by him to the promoter and further contended that the advertisement has been given for publication by his staff and the mistake of non-display of QR Code in the advertisement is human error.
6. Perused the impugned advertisement. RERA Registration number of the project has been mentioned in it. However, QR Code is not displayed in the said advertisement. The website address of the respondent-promoter has also been mentioned in it. However, there is no name or address of the respondent No.2 mentioned in the said advertisement.
7. As the evidence on record clearly proves that there is violation of the MahaRERA Order No.46/2023, and as the respondent No.2 is a Graphic Designer and not a real estate agent, the question of violation of MahaRERA Order No.46B/2023 does not arise. The advertisement contains the website

address of the promoter. It implies the promoter himself is responsible for publishing the advertisement without displaying the QR Code in it. Therefore, violation of MahaRERA Order No.46A/2023 is on the part of the respondent-promoter himself.

8. C.A. Mr. Modi has unhesitantly submitted that promoter is ready and willing to pay the penalty imposed in the matter. However, he has prayed to take lenient view while imposing penalty in the matter.

9. MahaRERA has issued Order No.46, dated 29.05.2023, wherein the following directions have been issued :-

(a) The promoter shall prominently display the Quick Response (QR) Code on each and every project promotion/advertisement published after "1st August, 2023";

(b) The QR Code must be published in a manner that is legible, readable, and detectable with software application; and

(c) 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. It is to be stated here that advertisement on Newspaper/Magazines/Journals, etc. is first medium amongst 5 mediums.

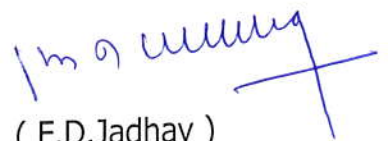
10. MahaRERA has further issued Order 46A, dated 25.07.2023. Total three directions were issued thereunder. First two directions are necessary for the purpose of this matter, which are as under :-

a) With effect from 01.08.2023, promoter shall prominently display the QR Code on each and every real estate project promotion/advertisement

published in the mediums, in the manner and at the place as more specifically mentioned in MahaRERA Order No.46/2023, dated 29.05.2023.

b) Failure to comply with (a) above shall be construed as violation of the directions issued in the above-referred MahaRERA Order and penalty which may extend upto Rs.50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 63 of the Act shall be imposed upon promoters for each such violation.

11. Considering the evidence on record there appears clear contravention on the part of the promoter of the directions issued by MahaRERA vide Order No.46/2023, dated 29.05.2023 and Order No.46A/2023, dated 25.07.2023 by not displaying QR Code in the impugned advertisement on the part of the promoter. As such the provision of Section 63 of Act, 2016 have to be invoked against the respondent-promoter for imposing penalty. Respondent No.2 not being the real estate agent, the said penal provision cannot be invoked against him. Considering the fact that the RERA Registration Number has been mentioned in the impugned advertisement, lenient view is required to be taken while imposing penalty in this matter.
12. In view of the above, the respondent-promoter shall pay the penalty of Rs.10,000/- under Section 63 of the Act, 2016 within 10 days from the date of this order, failing which respondent-promoter shall be liable to penalty of Rs.250/- per day, in addition, till the realization of entire amount.
13. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent-promoter for extension, corrections, change of name etc. with respect to the aforesaid real estate project.


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