

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

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 18 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

1) Vishwas Builders & Developers

.... Respondent-Promoter

2) Mr. Prithviraj Vitthal Waghmare

.... Respondent-Agent

MahaRERA Agent Registration No.A52100046299

**CODENAME NAKSHTRA
(Unregistered project)**

Appearance :- Adv. Aniket Thormote for Respondent-Promoter.
Mr. Prithviraj Vitthal Waghmare for Respondent-Agent.

ORDER

13th February, 2024
(Through Video Conferencing)

1. MahaRERA has issued show-cause notice, dated 15.03.2023, 15.09.2023 and 09.01.2024 to the respondent-promoter as to why penal action under Section 59 of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as the "Act, 2016") for violating the provisions of Section 3 of the Act, 2016 by publishing advertisement in social media 'facebook' in respect of real estate project "CODENAME NAKSHTRA", situated at Handewadi Road, Satav Nagar, Pune, without registering the same with MahaRERA.
2. Respondent-promoter has filed his reply to the aforesaid show-cause notice. It is contended by the respondent-promoter that he has no any connection with "Codename Nakshtra". He has denied that "Codename Nakshtra" is being developed by M/s. Vishwas Developers and Builders. According to the promoter, this promoter is developing his project by name 'Yashraj Nakshtra Phase I' bearing Registration number P52100050917. That

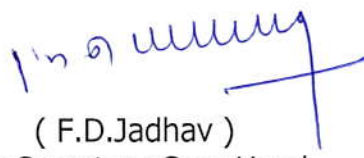
both the project having 'Nakshtra' in its name and being situated at "Hadapsar" is mere coincidence.

3. It is further contended by the respondent-promoter that the impugned advertisement was published by "Dreams Properties". This promoter has never authorised, consented to the said agent to publish advertisement of his project. According to the respondent-promoter that his firm not indulged in any act of publishing any advertisement of his project before it being registered with Maharashtra. Lastly the promoter has contended that since he has not published impugned advertisement, therefore, he has not violated Section 3 of the Act, 2016.
3. Since the name of Dreams Properties has been transpired from the reply of respondent-promoter, a notice of hearing has been sent to said 'Dreams Properties' on the email address furnished by respondent-promoter. Respondent No.2 appeared in person on behalf of 'Dreams Properties'.
4. Adv. Aniket Thormote appeared on behalf of respondent-promoter and has reiterated the contentions raised out by the promoter in his reply. He has contended that the impugned advertisement has not been published by the promoter and it has been published by 'Dream Properties', to whom the promoter has never authorized to publish the impugned advertisement.
5. Mr. Prithviraj Waghmare appeared on behalf of respondent No.2-agent. He has submitted that the Agent Registration No. A521000046299 is in his individual name. Mr. Waghmare has voluntarily admitted to have published the impugned advertisement of the real estate project mentioned in it.
6. Perused the impugned advertisement. It has been published for the real estate project by name 'Codename Nakshatra'. The maximum negotiation for pre-launch has been mentioned in it. It explicitly shows that this project 'Codename Nakshatra' is unregistered one. Therefore, Section 10(a) of the Act, 2016 will attract in this case which reads as under :-

"10. - Functions of real estate agents. – Every real estate agent registered under Section 9 shall –

- (a) not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority".

7. Considering the unequivocal admission of the Respondent/Agent in respect of advertisement issued in respect of the aforesaid Real Estate Project 'Codename Nakshtra' without registering the same with MahaRERA, implies that violation by respondent No.2 of Section 10(a) has been proved and consequently the penal action has to be invoked against the respondent-agent only under Section 10(a) of the Act, 2016.
8. In view of the above, penalty of Rs.10,000/- under Section 62 of the Act, 2016 is imposed upon the real estate agent for committing breach of Section 10(a) of the Act, 2016.
9. The aforesaid penalty shall be payable by the real estate agent within 10 days from the date of this order, failing which respondent-agent shall be liable to penalty of Rs.250/- per day, in addition, till the realization of entire amount.
10. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent-agent for renewal, corrections, change of name etc. with respect to his registration as a real estate agent.


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