

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.11 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Tulsi Park Respondent
Unregistered Project

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

Appearance :-C.A. Daresh Patil for Respondent.

ORDER

9th February, 2024
(Through Video Conferencing)

1. MahaRERA has issued show cause notice, dated 01.12.2023 to the Respondent-Promoter as to why penalty should not be imposed upon him under Section-59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") for publishing advertisement of his real estate project "TULSI PARK' situated at Jule Solapur, Solapur in daily newspaper "Lokmat" on dt.10.11.2023 without registering the same with MahaRERA, and thereby violating the provision of Section-3 of the Act, 2016.
2. In pursuance of the aforesaid show-cause notice, Respondent-Promoter has filed his reply, dated 30.01.2024. The respondent has contended that he has developed open plot project with all its necessary sanctions and permissions from concern local authority. According to him, this promoter has received N.A. order from Competent Authority, Final Layout Sanction and all plots are separate 7/12 extracts etc. In this background, the promoter has stated that Rera registration is not mandatory for his project.

3. C.A. Mr. Daresh Patil appeared on behalf of respondent. He has reiterated the contentions raised out in the reply by the respondent. He has submitted that the respondent has obtained necessary layout sanction from the Competent Authority and also N.A. order. However, while arguing the matter he voluntary admits the charges leveled against promoter.

4. Section-3 of the Act, 2016 deals with registration of a real estate project. It is reproduced hereunder.

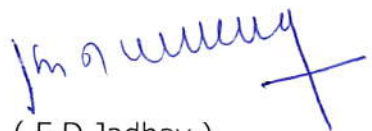
"Section-3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act."

5. The respondent has furnished Xerox copy of the layout sanction, dated 09.11.2022 issued by the Assistant Director of Town Planning, Solapur Municipal Corporation. The respondent has further furnished the final layout approval, dated 24.11.2023 issued by the said authority in respect of Gat No.328/4 of Mouje Kumthe, Jule Solapur. The respondent has further furnished copy of N.A. Sanad, dated 06.12.2023 issued under Section-42-A of the Maharashtra Land Revenue Code, 1966. The impugned advertisement has been published on 10.11.2023. Therefore, it palpably shows that neither the final approval for the layout nor the N.A. Sanad has been issued before the publication of the impugned advertisement. In other words the impugned advertisement was given much prior to the receiving of N.A. Order from the Competent Authority. Consequently, violation of Section-3 of the Act has been proved.

6. Considering the evidence on record adduced by the promoter, the provision of Section-3 of the Act, 2016 and the unequivocal admission by the C.A. Mr. Daresh Patil on behalf of the respondent, it is clear that there is

violation of Section-3 of the Act, 2016 on the part of the respondent. Therefore, the penal action under Section-59 of the Act, 2016 will have to be invoked in the present matter for the purpose of imposing penalty.

7. In view of the above, the promoter shall pay penalty of Rs. 40,000/- for violation of Section-3 of the Act, 2016, within 10 days from the date of passing 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.
8. 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

