

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

CORAM : Shri. JAYANT B. DANDEGAONKAR, DEPUTY SECRETARY, PUNE

SUO MOTU ADVERTISEMENT/PUNE CASE NO. 25 OF 2025

MahaRERA on its own Motion ... Complainant

Versus

1. AMIT ENTERPRISES HOUSING LTD. ... Respondent-Promoter

2. SMC REAL ESTATE ADVISORS. ... Respondent-Agent

NAME OF THE PROJECT – AMITS BLOOMFIELD PHASE III – J AND K BLDG.

Maharera Real Estate Project Registration No. P52100005644

Maharera Real Estate Agent Registration No. A51900000042

Appearance :- Adv. Sadhana Mhasawade for Respondent-Promoter
Mr. Kashish Bhatia for Respondent-Agent

ORDER

28th MAY, 2025

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) as a part of its 'Suo-Motu' surveillance, has picked the advertisement published of the project in question from website, which does not contain **Agent Registration Number, MahaRERA Website Address and QR Code** and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016 (RERA). ASCI has therefore, issued **intimation letter, dated 12.11.2024** to the respondent-promoter and respondent-agent and directed to ensure that the said advertisement has to be modified or withdrawn no later than **November 22, 2024**.
2. Since the respondents have not complied with the directions issued by the ASCI vide aforesaid intimation letter, the ASCI has referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondents for disposal according to law.

3. In pursuance of the powers delegated under Section 81 of the RERA to the undersigned by the MahaRERA Authority vide Office Order No. MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16.01.2025, show cause notice was issued to the respondents calling upon them as to why penal action should not be taken against them.
4. The respondent-promoter in response to the said show cause notice, filed his written statement dated 17.02.2025. The respondent-promoter denies the ownership and operation of the advertisement published on the website of SMC Real Estate Advisors. The respondent-promoter has contended that he has neither authorized nor permitted the said company or agency to run advertisement. The respondent-promoter has lodged a formal complaint with Ambegaon Dattanagar Police Station on 12.02.2025 and furnished acknowledgement thereof.
5. The respondent-agent filed his say dated 21.02.2025. It has been contended by the respondent-agent that the intimation letter, dated 12.11.2024 issued by ASCI against SMC, appears to have been delivered to the address other than to the address i.e. A Wing, 401/402, Lotus Corporate Park, Graham Steel Compound, Off Western Express Highway, Jay Coach Signal, Goregaon (East), Mumbai-400063 which is a registered address as per MahaRERA records, therefore, it is unable to receive the said intimation and, as a result, could not take timely action or provide its clarification. It has further been contended by the respondent-agent that it has never done any sale, marketing, or promotion of the project. Further it is contended that due to some software glitch this project got listed on its website. The respondent-agent further states that since the developer has not displayed the QR Code on its website for the advertisement of the project, therefore, the project got listed on its website without the QR Code due to the mentioned software glitch. The respondent-agent has further contended that the said listing of project was published inadvertently due to a technical glitch, and there was no intentional non-compliance with MahaRERA regulations. It is further contended that upon becoming aware of the issue, SMC took immediate

corrective action and delisted the project from company's website. Lastly the respondent has prayed to treat this as an exceptional instance and not impose any penalty/fine on it.

6. Perused the impugned advertisement. It does not contain MahaRERA website address, as mandated under Section 11(2) of the RERA. Section 11(2) of RERA is reproduced hereunder.

"Section 11(2) :- The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

7. The advertisement also does not contain QR Code as directed by MahaRERA Authority vide its Order No. 46/2023, dated 29.05.2023 read with Order No. 46B/2023, dated 21.08.2023.
8. Heard Adv. Sadhana Mhasawade for the Respondent-Promoter. She has reiterated the contentions raised out by the respondent-promoter in his say. She has submitted that the respondent-promoter never authorized or permitted the respondent-agent to publish the impugned advertisement. She has further submitted that the respondent-promoter has lodged a complaint with police and copy thereof has been furnished on record.
9. Heard Mr. Kashish Bhatia, A.R. for respondent-agent. He has also reiterated the contentions raised out by the respondent-agent in its say. Mr. Bhatia argued that the letter was firstly received by the respondent-agent on 29.01.2025 and the advertisement was removed immediately. He further argued that the intimation letter was sent to the respondent-agent on incorrect address rather than the registered address with MahaRERA.

10. The respondent-promoter has lodged police complaint against the respondent-agent for publishing the impugned advertisement without displaying QR Code and MahaRERA website address. A copy of the police complaint is furnished on record. It clearly suggest that the impugned advertisement has been published by the respondent-agent without any authorization/permission from the respondent-promoter. Therefore, the onus shifted upon the respondent-agent to show that the impugned advertisement published by it was without any violation of provision of Section 11(2) of RERA and breach of directions issued by MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No. 46B/2023,dated 21.08.2023.
11. The stand taken by the respondent-agent that the intimation letter was sent by ASCI on incorrect address rather than the registered address with MahaRERA. The intimation letter, dated 12.11.2024 issued by ASCI to both promoter and agent on their email address registered with MahaRERA and not on the postal address. A copy of said intimation letter is also sent to this Authority. Therefore, the stand taken by the respondent-agent that the said letter has been sent on incorrect or wrong address is not legal and proper and cannot be considered. The further stand taken by the respondent-agent that it received the letter on 29.01.2025 for the first time and corrective action has been taken by it immediately on the very day. The letter dated 29.01.2025 is a show cause notice sent by this Authority to both the respondents. However, the first cause of action for this proceeding is the date on which the impugned advertisement was published and it was intimated to both the promoter as well as agent by ASCI vide letter, dated 12.11.2024, wherein the due date for compliance was 22.11.2024, which is the second cause of action. Therefore, any corrective action taken by later date cannot be considered to be the timely compliance. As such there is no substance in the contention made by the respondent-agent with regard to timely corrective action allegedly taken on 29.01.2025.
12. MahaRERA Authority has issued Order No. 46/2023, dated 29.05.2023 whereby the promoter is directed to display QR Code prominently in a manner

that is legible, readable and detectable with software application and it must be published besides the MahaRERA Registration Number and the Website Address in all the mediums mentioned therein. MahaRERA Authority has also issued Order No.46A/2023, dated 25.07.2023, whereby the amount of penalty under Section 63 of RERA for violations of the directions issued therein has been clarified. MahaRERA Authority has further issued Order No.46B/2023, dated 21.08.2023 by which the directions issued by the Authority vide the aforesaid Orders, dated 29.05.2023 and 25.07.2023 shall mutatis mutandis apply to all registered real estate agents. MahaRERA Authority has noticed that the MahaRERA QR Code is not being displayed correctly in terms of the aspect ratio and positioning in advertisement/promotions issued by promoters/agents and also the MahaRERA registration number and website address are not clearly visible due to small font sizes and light colour usage and observed that such practices undermine the objective of transparency and consumer protection as mandated under the Act. Therefore, recently Order No. 46C/2023, dated 08.04.2025 has been issued by the Authority directing every promoter and registered real estate agents that the font size of the MahaRERA registration number and website address in advertisements/promotions and prospectuses, as the case may be, shall be equal to or larger than the font size used for the project's contact details and address and it shall be placed in the top-right quadrant of the advertisement/promotions in a colour that ensures high visibility. MahaRERA Authority by the said order also directed that the QR Code shall be displayed correctly, maintaining its aspect ratio and positioning in the top-right quadrant of the advertisement.

13. Considering the advertisement on record, evidence produced in the case, submissions made on record by both the respondents, and the aforesaid legal provision, this Authority is of the opinion that the impugned advertisement published without containing MahaRERA website address means there is clear violation of the provision of Section 11(2) of the RERA. However, Section 11(2) of RERA mandates the promoter to mention the website address and registration number in the advertisement or prospectus.

Thus this provision is to be complied by the "promoter" as defined in Section 2(zk) and not by the "real estate agent" as defined in Section 2(zm) of the Act, 2016. Therefore, this charge is not applicable to the respondent-agent. In the instant case, it has come on record that the impugned advertisement has not been published by the promoter. Therefore, the provision of Section 11(2) of the RERA is not attracted in the facts of the present instant case.

14. The advertisement also does not contain Agent Registration Number. Admittedly, the Respondent-agent is a registered real estate agent with MahaRERA under the registration number mentioned above. Rule 14 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 provides obligations of registered real estate agents. Sub-rule (2) of Rule 14 provides the obligation on the registered real estate agent to quote his registration number in the advertisement of marketing, selling or purchase issued by him along with the number of registration certificate of the real estate project. The respondent-agent has not uttered a single word for not mentioning his registration number in the impugned advertisement. Therefore, it has been proved beyond reasonable doubt that the respondent-agent has violated the provisions under Rule 14(2) of the aforesaid Rules, 2017.
15. The evidence on record also shows that impugned advertisement does not contain QR Code and therefore, there is breach of the directions issued by the MahaRERA Authority vide MahaRERA Order No.46/2023, dated 29.05.2025 read with MahaRERA Order No.46A/2023, dated 25.07.2023 and 46B/2023, dated 21.08.2023 on the part of the respondent-agent.
16. In view of the aforesaid evidence on record, I have no hesitation to invoke the provision of Section 65 of the RERA for breach of directions issued vide MahaRERA Order No.46/2023, dated 29.05.2025 read with MahaRERA Order No.46A/2023, dated 25.07.2023 and 46B/2023, dated 21.08.2023 on the part of the respondent-agent.

17. Penalty of Rs.10,000/- under Section 65 of the Act, 2016 has been imposed against the respondent-agent for breach of directions issued vide MahaRERA Order No.46/2023, dated 29.05.2025 read with MahaRERA Order No.46A/2023, dated 25.07.2023 and 46B/2023, dated 21.08.2023 on the part of the respondent-agent.
18. The aforesaid penalty shall be payable by the respondent within 15 days from the date of enforcing penalty, failing which respondent shall be liable to penalty of Rs.1000/- per day, in addition, till the compliance.
19. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the real estate agent for renewal of his registration as a real estate agent.
20. Thus in the light of aforesaid facts, documents on record and the legal provision, the present matter stands disposed off accordingly.



(JAYANT B. DANDEGAONKAR)
DEPUTY SECRETARY
MahaRERA, PUNE

