

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.129 OF 2023**

MahaRERA on its own Motion Complainant

Versus

Mahalunge Real Estate Developers Pvt. Ltd. Respondent-Promoter

Projects -

MahaRERA Project Registration No.

P52100048489, P52100051025, P52100052414

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

Appearance :-Mr.Ashutosh Bag A.R. for respondent.

ORDER

16th November,2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the respondent for publishing advertisement of the above stated real estate projects namely "Earth 1 by VTP LUXE PHASE 1,2 & 3 on website <https://vtp-earthone-pune.in/> situated at Mahalunge, Pune registered with MahaRERA vide project registration numbers mentioned hereinabove, without including MahaRERA Project Registration Numbers as well as the Quick Response 'QR' code of the said Real Estate Projects in the said advertisement, and thereby violated the provisions of Section-11(2) of the Real Estate (Regulations & Development) Act, 2016 and MahaRERA Order No.46/2023, dated 29.05.2023 read with MahaRERA Order No.46A, dated 25.07.2023.

2. In pursuance of the above advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the "Act 2016" dated 26-04-2023 and 24th August, 2023, show cause notice dated 15.09.2023 was issued to the Respondent-promoter for taking action of imposing

penalty against the Respondent for violation of the Section-11(2) of the Act, 2016 as well as MahaRERA Order No.46/2023 and 46A/2023 in respect of 'QR' code. The Respondent-promoter in his reply dated 16-09-2023 has denied to have issued an advertisement on website <https://vtp-earthone-pune.in/> without including MahaRERA Project Registration Numbers and 'QR' code in respect of the Real Estate Projects in the said advertisement, as this website has not been created by the Respondent. The Respondent further submitted that they have neither created the said website nor they issued advertisement through this website without Project Registration Numbers and 'QR' code of the projects. In view of this, the Respondent has contended that they have not violated the provisions of Section-11(2) of the Act, 2016 and MahaRERA Order No.46/2023 and 46A/2023. In this background the Respondent has submitted that he is not liable for penal action under Section-61 and Section-63 of the Act, 2016.

3. Mr.Ashutosh Bag A.R. has appeared for Respondent-promoter. He has reiterated the contentions of the promoter in his reply. According to him the Respondent has not issued any advertisement for sale of flats without registering the project. As the Respondent has not violated the provisions of Section-11 (2) of the Act, 2016 & MahaRERA Order No.46/2023 and 46A/2023 he is not liable for penal action under Section-61 and Section-63 of the Act, 2016. He has further submitted that the Respondent has filed complaint before Senior Inspector, Chandannagar, Police Station, Pune against the unknown person involved in creating the website <https://vtp-earthone-pune.in/>. The Respondent has submitted the copy of complaint submitted before the Police Inspector, Chandannagar Police Station, Pune.

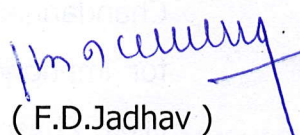
4. The Respondent in his complaint before the Police Authorities has stated that some unknown person has created the website <https://vtp-earthone-pune.in/> and given advertisement therein without our consent and authority. It has been further stated in the said complaint that the aforestated website is not the official website of the Respondent company. As such this website is totally illegal and home buyers can be cheated by

virtue of this illegal advertisement. It is further contended in the said complaint that as the name of Respondent company has been used in the said advertisement, the Respondent has to face the consequences of the same. In view of this lastly this Respondent urged the police authorities to take action against the creator of the website <https://vtp-earthone-pune.in/> and register the offence and take appropriate action against the creator of the website.

5. In view of the aforesaid reply dated 16-09-2023 submitted by the promoter couple with the complaint dated 10-11-2023 lodged with the Chandannagar Police Station, Pune indicates that the promoter is not liable for impugned advertisement on website page of project Earth1 by VTP LUXE Phase 1, 2 & 3. It can be seen from the record that this promoter has not given approval nor given consent for such impugned advertisement nor the person who published the advertisement sought approval from the promoter. It manifestly shows that this promoter was not knowing in respect of advertisement published by the person on their website. Therefore it will not be just and proper to hold guilty to the promoter for the breach of the provisions of Section-11(2) of the Act, 2016 as well as MahaRERA Order No.46/2023 read with 46A/2023.
6. It can be seen from the record that this promoter was not aware of the impugned advertisement. He came to know about the said advertisement after receiving show cause notice from this office. During the hearing the Respondent had assured that he will file complaint against the wrongdoer. Later on the Respondent has filed complaint against unknown person who has published the advertisement on website before the Chandannagar, Police Station, Pune. This promoter has specifically contended in the said complaint that this unknown person has published advertisement without the authority as well as approval of the promoter. In this background it can be said that this promoter has no role in publishing the impugned advertisement. It manifestly indicates that this promoter is not liable for violation of the Section-11(2) Act, 2016 as well as MahaRERA Order No.46/2023 and 46A/2023.

7. In view of above stated facts, circumstances and relevant provisions of law it can be said that there is no prima facie case established against this promoter. Consequently this promoter cannot be held responsible for violation of the Section 11(2) of Act, 2016 and MahaRERA Order No.46/2023 and 46A/2023.

8. As such this is not a fit case to impose penalty in the matter under Section-61 and Section-63 of the Act, 2016 read with MahaRERA Order No.46/2023 and 46A/2023. In this background this case stands disposed off.


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