

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.72 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

JMD Builders & Developers

Atharva Serenity

.... Respondent

**MahaRERA Project Registration No.P51600032471**

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

Appearance :- Absent

**ORDER**

17<sup>th</sup> November, 2023

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on dated 26.04.2023 under Section-81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"). The said powers, inter alia, contains imposing of penalty under Section 59 of the Act, 2016 for contravention of the provision of Section 3 by the promoter and to impose penalty under Section 61 of the Act for contravention of Section 11(2) of the Act etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter.
2. It has been noticed by the MahaRERA Authority that an advertisement in daily newspaper "Lokmat", dated 20.05.2023 without mentioning the MahaRERA Registration number, in regards to the project "Atharva Serenity" has been published. On going through the record of MahaRERA Authority, it has been noticed that the project "Atharva Serenity" is registered with MahaRERA vide Registration No. P56100032471. Therefore, show-cause notice, dated 30.05.2023 was sent to the respondent. However, the same was returned unserved. Therefore, again another notice, dated 23.08.2023 was sent to the Respondent-

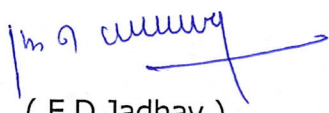
Promoter on email id address given in the portfolio of MahaRERA, and Respondent was called upon to show cause as to why penal action under Section 61 of the said Act should not be initiated against him. The matter was thereafter fixed for virtual hearing on 13.10.2023, of which notice was sent to the Respondent-Promoter on 26.09.2023. The Respondent-Promoter however, remained absent on the date fixed for hearing. Therefore, the matter was adjourned to 19.10.2023 as a last chance, and notice of the same was again sent to the Respondent-Promoter on 13.10.2023. On the said date also, the Respondent-Promoter remained absent and matter was again adjourned to 02.11.2023 for passing exparte order, notice of the same was also served to the Respondent-Promoter. As such, promoter neither remained present nor filed reply in the matter.

3. At this juncture it is necessary to go through Section 11(2) of the Act, 2016 which reads as under:

**Sec-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."**

4. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project in the advertisement issued by him. Perused the advertisement. It does not contain RERA Registration number of the said real estate project.
5. The real estate project of which advertisement is published in the instant case, is the ongoing project. The contentions made in show cause notice dated 30.05.2023 in respect of violation of provision of Section 11(2) remained unrebutted as promoter did not appear before the Authority and defended his case. Therefore, by publishing the said advertisement in question without mentioning MahaRERA registration number, manifestly shows that promoter has breached Section 11(2) of the Act, 2016.

6. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt that the promoter has violated the provision of Section 11(2) of the Act, 2016 for publishing the advertisement without MahaRERA registration number, and thus this is a fit and suitable case to impose penalty. The promoter was given sufficient opportunity to defend the case, however, the promoter remained absent for the reason best known to him.
7. Section 61 of the Act, 2016 deals with penalty for contravention of other provisions of this Act. The said provision, inter alia, states that.....  
**..... promoter shall be liable to a penalty which may extend upto five percent of the estimated cost of the real estate project as determined by the Authority.**
8. In view of the above, the penalty of Rs.25,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for violation of Section 11(2) of the Act, 2016.
9. The said penalty shall be payable by the promoter within 30 days from the date of this order, failing which promoter shall be liable to penalty of Rs.1,000/- 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 promoter for extension, corrections, change of name etc., with respect to the said project.

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