

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.16 OF 2024**

MahaRERA on its own Motion .... Complainant

Versus

Shivam Developers ..... Respondent  
'Om Residency'  
Unregistered Project

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

**Appearance :-** Absent

**ORDER**

2<sup>nd</sup> April, 2024

(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 21.04.2023 to the respondent-promoter calling upon him as to why penal action under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") shall not be taken against him for publishing an advertisement by way of pamphlet of real estate project by name "Om Residency" situated at Kesnand, Pune without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016. The said show cause notice, dated 21.04.2023 has been returned unserved with the postal remarks "Door Lock". Therefore, again show cause notice, dated 15.09.2023 was sent to the respondent-promoter and it was also returned with postal remarks "Insufficient address".
2. The Notice of hearing, dated 11.01.2024 was therefore, sent to the respondent-promoter for virtual hearing dated 30.01.2024. However, it was also returned unserved with postal remarks 'unclaimed'. The matter was therefore, adjourned and posted to 16.02.2024, of which notice of hearing, dated 30.01.2024 was served to the respondent-

promoter on his email id available with this office. However, on 16.02.2024 also the respondent-promoter remained absent and therefore, the matter was adjourned to 01.03.2024 and again notice was sent to the respondent-promoter. The respondent still remained absent on the date of hearing scheduled on 01.03.2024 and as a last chance, the matter was adjourned to 19.03.2024. On 19.03.2024 also respondent choose to remain absent for hearing. Since sufficient opportunity of being heard was given to the respondent, he remained absent for hearing and also failed to furnish his reply to the show cause notice, therefore, the matter was posted today for passing exparte order.

3. Perused the impugned advertisement i.e. pamphlet, which mentions the name of project as "Om Residency" having its address at Gat No.451, Dube Nagar, Kesnand, Pune. It has been mentioned in the said pamphlet that the project situated within a distance of 15 minutes from EON IT Park, Kharadi and it is a big 2 BHK Duplex Row House project and the price of the said duplex bungalow is also shown at Rs. 25,00,000/-. The said advertisement also speaks that booking is on and loan facility is available. The pictures of amenities such as internal broad tar road, plantation on each plot, underground light, entry gate, street light, 24 hours water, etc. are shown in the said advertisement. Two contact numbers are also mentioned in it.
4. Thus by the said advertisement, promoter has invited the public at large to book or purchase the row house in the said project. The MahaRERA record shows that no such real estate project is registered with MahaRERA. Therefore, it can be said that the said project is unregistered one though liable to be registered with MahaRERA under Section 3 of the Act, 2016.

5. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

**"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;**

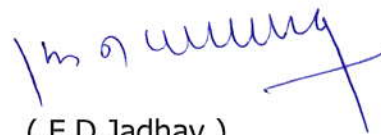
6. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. This project is of row house. The promoter had given sufficient opportunity of being heard and to produce documents showing that the project has received N.A. order, or other documents to prove that this project is exempted from registration with MahaRERA.. However, the promoter neither appeared in the matter nor has produced any such document. Therefore, it can be said this promoter has violated the provision of Section 3 of the Act of 2016.

7. In this matter, it is proved that this promoter had published advertisement. It is also proved that the impugned project was/is not registered with MahaRERA. It is further established that this project does not fall within any exemptions as provided in Section 3(2)(a) of the Act of 2016 and Circular No.25/2019 and 25A/2023 issued by MahaRERA. Therefore, taking into consideration the facts and circumstances of the present case and failing the promoter to appear and defend his case despite sufficient opportunity of being heard was



given to him, it can be said that this promoter is in clear violation of Section 3 of the Act of 2016.

8. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond reasonable doubt that the promoter has violated the provision of Section 3 of the Act, 2016 for publishing the advertisement without registering the project with MahaRERA.
9. Therefore, it is hereby directed that a written communication be sent to the concerned Planning Authority for the purpose of ascertaining whether the promoter has obtained any requisite authorization for the aforementioned project, and no additional authorization shall be granted for the said project until such time the aforementioned project has been duly registered with MahaRERA or obtains full occupancy certificate/completion certificate or N.A. order from competent authority. Moreover, it is directed that the concerned Registration and Stamp Office shall be instructed to abstain from registering any sale agreements within the said project, until such time as the project is duly registered with MahaRERA Authority or obtains full completion certificate or N.A. order from competent authority.

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