

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.28 OF 2024**

MahaRERA on its own Motion	....	Complainant
Versus		
Pancharatna Ventures Pvt.Ltd.	....	Respondent
"Pall Hills Velhe" – Unregistered Plotted Project		

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

Appearance :- Mr. Atul Hiwale

**ORDER**

2<sup>nd</sup> April, 2023

(Through Video Conferencing)

1. MahaRERA Authority has issued show-cause notice on dated 23.01.2024 to the respondent-promoter for publishing the advertisement in daily newspaper "Lokmat", dated 06.01.2024 in respect of real estate project by name "Pall Hills Velhe" situated at village Velhe, Tal. Velhe, District Pune, without registering the same with MahaRERA, and thereby violated Section 3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016").
  
2. The respondent-promoter has submitted his reply dated 26.02.2024 contending therein that the land in the said project is agricultural land and there is no development carried out on the land of the said project. The respondent-promoter has further contended that he is agriculturist and selling agricultural land direct to the customers without any development being made on the land of the project. The respondent has further contended that Section 2(zn) of the Act, 2016 defines "real estate project", and in the definition it clearly includes development of land into plots and no agricultural land is included in the said definition. Therefore, according to the respondent the said

project does not come under the provisions of the Act as the said project only consists of agricultural land and does not involve any development on the land of the said project. It is further contended by the respondent-promoter that the said project does not come under the provisions of RERA Act, 2016 and also within the jurisdiction of this Hon'ble Authority, MahaRERA.

3. Mr. Atul Hiwale appeared on behalf of the respondent. He has reiterated the contentions raised out by the promoter in his reply. He has submitted that the project is of agricultural land and does not come within the purview of Section 2(zn) of the Act, 2016. In support of his contentions, respondent has furnished on record 7/12 extracts of the lands bearing Gat No.298, 302, 291, 297, 306 of village Paal Budruk, Tal. Velhe, District Pune. The respondent has also furnished affidavit contending that the lands under the project are agricultural lands.
4. Section 2 of the Act, 2016 deals with definitions. Section 2(zn) of the said Act, 2016, defines the expression '**real estate project**', which means ***"the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto."***
5. MahaRERA Authority in the complaint No. SC10000227 has held that, "the subject plot purchased by the complainant is an agricultural land as no Competent Authority has granted any N.A. order or permission otherwise for development of the said land". It was further

held that the subject project was not a real estate project and is therefore, not liable for registration under Section 3 of the Act." This order of MahaRERA Authority was challenged before the MahaRERA Appellate Tribunal. The Hon'ble Appellate Tribunal in the case of Mohammed Zain Khan v/s. Emnroy Properties India and others, has held as under :-

**"Since the first project continues to be an agricultural land in the absence of any orders, there is no need to register the said projects with the MahaRERA Authority."**

6. The Hon'ble Appellate Tribunal in the aforesaid matter, in para 13(v) has held as under :-

**"In above circumstances, in agreement with the Authority and limited to the facts of this case, it is concluded that land pertaining to the First Project continues to be an agricultural land in the absence of any N.A. orders for its development. Therefore, we find no illegality or infirmity as such in the view taken by the Authority to hold that the First Project is not a real estate project for the reasons stated in the impugned order and therefore, the same is not - liable to be registered under the Act."**

7. The Hon'ble Appellate Tribunal has further *inter-alia*, held in para 13(vii) as under :-

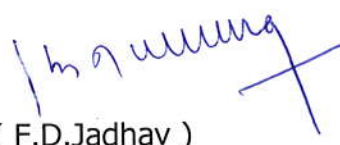
**"The contention of the Complainant, that he has been denied reliefs under the Act by the Authority by taking erroneous view (in para 13 of the Order) that provisions of the Act are applicable to the registered projects only,**



**itself appears to be erroneous. Simply put, in our view, provisions of the Act shall apply to i) Registered projects, being liable to be registered and ii) projects liable to be registered but not registered (unregistered). However, in case a project is unregistered being not liable to be registered, as is the case in this appeal, provisions of the Act shall not apply to such a project. (Emphasis supplied).**

8. Considering the documentary evidence adduced by the respondent viz. the 7/12 extracts of the lands, affidavit of respondent, as well as judgment and order passed by the MahaRERA Authority as well as Appellate Tribunal in the aforesaid matter, it is crystal clear that the lands of this project are agricultural lands and therefore, do not fall within the four corners of the definition of the 'real estate project', as defined under Section 2(zn) of the Act of 2016. Consequently, this project is not required to be registered with MahaRERA Authority until the status of the said lands as "Agricultural lands" continues.

9. In view of the above stated facts, provisions of Act, 2016 and the ratio laid down by Appellate Tribunal, it can be said that the case against the respondent is not established at all. As such there is no violation of Section 3 of the Act of 2016 in regards to this project. Considering this, the penalty provision of Section 59 of the Act of 2016 for the purpose of imposing penalty would not attract in this matter. The matter stands disposed off accordingly.

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