

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 67 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Pune Resort.

Pride Realty

.... Respondent-Promoter

Name of Project - Nandanvan

MahaRERA Project Registration No.P52100032704

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

Appearance :- Mr. Ajay Kadu for Pune Resort
Mr. Mahesh Daswadkar for Pride Realty.

ORDER

16th July, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued a intimation letter, dated 29.04.2024 and intimated the respondent that the advertisement published by respondent on Facebook of a real estate project on 18.03.2024 under the name "Agent-Pune Resort-Pride Realty-Nandanvan" does not contain the MahaRERA Website address and QR Code and therefore, it is considered to be prima facie in violation of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than May 09, 2024.
2. Since the respondent has not complied with the directions issued by the ASCI vide intimation letter, dated 29.04.2024, the ASCI has sent mail, dated 16.05.2024 and referred the matter to

MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent for disposal according to law.

3. On the basis of mail dated 16.05.2024 sent by ASCI, a notice of hearing has been sent to the respondent on 20.05.2024 for attending the virtual hearing, dated 04.06.2024.
4. Mr. Mahesh Daswadkar for respondent-promoter appeared personally in the matter. He orally submitted that he is a promoter and the impugned advertisement has not been published by him. Mr. Ajay Kadu appeared personally on behalf of Pune Resort and submitted that he is a land owner of the project land in question and he is not a real estate agent. Mr. Ajay Kadu on behalf of Pune Resort has submitted his reply dated 15.07.2024 whereby he has voluntarily admitted that there was no inclusion of QR Code and MahaRERA Website in the impugned advertisement and it was done inadvertently. Mr. Ajay Kadu has further submitted in his reply that he has deleted the post published on Facebook later on.
5. Initially, the charges levelled against the respondent-Pune Resort by notice of hearing are that he has contravened the provisions of Section 9 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act of 2016) and MahaRERA Order No.46/2023 r.w. Order No.46B/2023.
6. Section 9 of the Act, 2016 deals with registration of real estate agent. As per the submission of Mr. Ajay Kadu on behalf of Pune Resort, he is a land owner of the project land in question. Mr. Mahesh Daswadkar has also argued that Mr. Ajay Kadu is a land owner. Considering their submissions, Mr. Ajay Kadu cannot be said to be a real estate agent as defined under Section 2(zm) of the Act, 2016. Thus Section 9 of the Act would not attract in his matter.

7. MahaRERA has issued Office Order, dated 11th May, 2017, Circular No.12/2017, dated 04.12.2017 and Circular No.13/2017, dated 04.12.2017 whereby it has been clarified that the land owners are also to be treated as "promoters".
8. Considering the violation of QR Code, MahaRERA Order No. 46A/2023, dated 25.07.2023 read with MahaRERA Order No. 46/2023, dated 29.05.2023 are required to be considered. By Order No. 46/2023, MahaRERA has introduced QR Code for each MahaRERA Project to assist homebuyer to get project related information easily and issued certain directions viz. (i) the promoter shall prominently display Quick Response ("QR") Code on each and every project promotion/advertisement published after "1st August, 2023"; (ii) the QR Code must be published in a manner that is legible, readable, and detectable with software application and (iii) the QR Code must be published besides the MahaRERA Registration number and the Website address. The mandates to be applied to the mediums of the promotion/advertisement and in any other medium have also been given in the said order. MahaRERA Order No.46A/2023, dated 25.07.2023 enumerates certain directions which states that (a) with effect from 01.08.2023, promoter shall prominently display the QR Code on each and every real estate project promotion/advertisement published in the mediums in the manner and at the place as more specifically mentioned in MahaRERA Order No. 46/2023, dated 29.05.2023, and in clause (b) the amount of penalty has been prescribed on violation of QR Code.
9. Mr. Kadu has specifically admitted that he has violated the directions issued by MahaRERA in respect of QR Code. Considering voluntary admission of Mr. Ajay Kadu, promoter/land owner, it can be said the violation of QR code has been proved.

10. Mr. Ajay Kadu in his reply has voluntarily admitted that the impugned advertisement does not contain MahaRERA website address. The provision of Section 11(2) of the Act, 2016 is relevant in the matter. It 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."

11. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA website address prominently in the advertisement issued by him. Perused the impugned advertisement on record. It does not contain MahaRERA Website address. Mr. Kadu has unhesitantly admitted that the impugned advertisement was not contained with MahaRERA website address. His voluntary admission proves his violation of Section 11(2) of the Act, 2016.
12. The real estate project of which advertisement is published in the instant case, is the ongoing project. Mr. Ajay Kadu, the land owner/promoter has admitted to have published the advertisement. Therefore, by publishing the said advertisement in question without mentioning MahaRERA Website address, manifestly shows that land owner/promoter has breached Section 11(2) of the Act, 2016 and therefore, liable for penalty under Section 61 of the Act, 2016.
13. On perusal of the documentary evidence on record viz. advertisement, mails, etc. and the voluntary admission by Mr. Ajay Kadu on behalf of 'Pune Resort', it can be said there is sufficient evidence to prove that the impugned advertisement does not contain the QR Code and MahaRERA Website address. Therefore, it manifestly proves that the respondent-Pune Resort being a promoter/land-owner has violated the directions issued by MahaRERA vide Order No.46A/2023 r.w. Order No.46/2023. The evidence on record also proves that the promoter/land-

owner has also violated the provision of Section 11(2) of the Act, 2016. In view of the above, penalty under Section 63 and 61 of the Act, 2016 has to be imposed in this case against the respondent-Pune Resort. Since Mr. Mahesh Daswadkar for respondent/Pride Realty has submitted that he has not published the impugned advertisement, there cannot be said to be any violation of MahaRERA Order No.46A/2023 r.w. Order No.46/2023 and Section 11(2) of the Act, 2016 on his part. Therefore, no penalty can be imposed against the promoter/developer Pride Realty-Mahesh Daswadkar.

14. In view of the above, penalty of Rs. 10,000/- is imposed on the respondent-promoter/land-owner under Section 63 of the Act, 2016 for committing breach of the MahaRERA Order No. 46A/2023 read with MahaRERA Order No. 46/2023.
15. Penalty of Rs. 10,000/- is also imposed on the respondent/promoter/land-owner under Section 61 of the Act, 2016 for committing violation of Section 11(2) of the Act, 2016.
16. Both the aforesaid penalties shall be payable by the respondent within 15 days from the date of this order, failing which respondent-land-owner/promoter shall be liable to penalty of Rs.1,000/- per day in addition, till the realization of entire amount.

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