

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.57 OF 2024**

MahaRERA on its own Motion Complainant

Versus

M J Realty Respondent-Agent
"Pradhikaran, Pune West"
Unregistered Project
MahaRERA Agent Registration No. A52100003518

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

Appearance: Mr.Mangesh Jagdale for Respondent.

ORDER

16th April, 2024
(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter dated 13-02-2024 and 14-02-2024 to the above named agent for issuing advertisement on "Instagram" dated 14-11-2023 in regard to Real Estate Project "Pradhikaran, Pune West" at Pune without incorporating the QR code number and MahaRERA website address and also Agent Registration Number as well as, MahaRERA Registration Number of the said real estate project in the said advertisement.
2. The agent despite of having intimation letter from the Advertising Standards Council of India failed to comply with MahaRERA Rules and Regulations and modify or withdraw the said advertisement as asked by ASCI.

3. In this regard a hearing was scheduled on 16-04-2024 through Video Conferencing as per the MahaRERA Order No.27/2020 and MahaRERA order No.593/2023, wherein the agent has appeared in person and made his submissions.
4. During the course of hearing the Respondent-Agent submitted that he is Rera registered agent and his such registration is still continuing. In this regard it is necessary to go through Section-9 of the Act, 2016. Section-9 of the Act deals with registration of real estate agents. In this matter since this Respondent-Agent has registered with MahaRERA, therefore Section-9 of the Act, 2016 is not applicable in this matter.
5. Section-11 of the Act, 2016 deals with functions and details of promoter. Sub Section-2 of Section-11 reads as under:

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".

On reading of the Sub Section-2 of Section-11 it is abundantly clear that Sub Section 2 is applicable only to the promoters. Since in this matter the respondent is agent and not the promoter, Sub Section-2 of Section-11 would not be applicable in this matter.

- 6 Rule 14 of the Maharashtra Real Estate (Regulation & Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules 2017 deals with obligations of registered real estate agents. Sub Rule-2 of the Rule-14 reads as under:

Rule-14(2) – “Every registered real estate agent to quote the registration number in all the documents relating to advertisement, marketing, selling or purchase issued by the real estate agent along with the number of registration certificate of the real estate project”.

The project in question is not registered with MahaRERA therefore Rule-14 of the aforesaid Rules, 2017 would not attract in this matter.

7. Section-10 of the Act, 2016 deals with functions of real estate agents. Section-10 (a) read as under:

Section-10 Every real estate agent registered under Section 9 Shall -

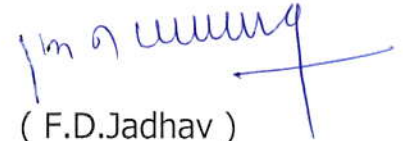
(a) “ Not facilitate the sale or purchase of any plot, apartment or building, as the case may be, in a real estate project or part of it, being sold by the promoter in any planning area, which is not registered with the Authority”.

8. In this matter admittedly this agent has facilitated the sale of apartment of the real estate project namely 'M J Realty' "Pradhikaran, Pune West" which is not registered with the MahaRERA Authority. In view of this, it can be said that the violation of Section-10(a) of the Act, 2016 appears to have been proved.
9. As regards violation of the QR code is concerned, it is necessary to peruse the MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA Order No.46B/2023 dated 21-08-2023.
10. As per Order No.46B/2023 dated 21-08-2023 the directions issued by the Authority under MahaRERA Order No. 46/2023, and No.46A/2023 dated 29.05.2023 and dated 25-07-2023 respectively shall mutadis muntandis apply to all registered real estate agents and in view thereof with effect from the date of coming into force of this order the following directions shall be followed by every registered real estate agents.
 - a. The Real Estate Agent's, shall prominently display the Quick Response (QR) Code on each and every real estate project promotion/ advertisement published in the mediums as more specifically listed in MahaRERA Order No. 46/2023, dated 29.05.2023.
 - b. The QR Code must be published in a manner that is legible, readable, and detectable with software application and shall be published besides MahaRERA project registration number.

- c. Failure to comply with (a) and (b) above shall be construed as violation of the directions issued by the authority and penalty which may extend upto Rs.50,000/- subject however to a minimum penalty which shall not be less than Rs.10,000/- under Section 65 of the Act shall be imposed upon real estate agents for each such violations.

- 11. In view of the aforestated facts vis-a-vis provisions of law, it can be said that it has been proved beyond reasonable doubt that this agent has violated provision of Section 10(a) of the Act, 2016 as well as failed to display the QR code in the aforesaid mentioned advertisement. Consequently this respondent-agent has contravened Section-10 (a) of the Act, 2016 as well as MahaRERA Order No. 46/2023, dated 29.05.2023 read with MahaRERA order No.46B/2023 dated 21-08-2023. As such, it is necessary to impose penalty against this respondent against both these violations of law.
- 12. In view of the above, the penalty of Rs.10,000/- is imposed upon the respondent-agent under Section 62 of the Act, 2016 for violation of section 10(a) of the Act, 2016.
- 13. A penalty of Rs.10,000/- is also imposed upon the respondent-agent under Section 65 of the Act, 2016 for violation of MahaRERA Order No.46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21-08-2023.
- 14. The said penalty shall be payable by the respondent within 10 days from the date of this order, failing which respondent-agent shall be liable to penalty of Rs.500/- per day, in addition, on both counts, till the realization of entire amount.

15. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by the respondent-agent for corrections, change of name, renewal etc., with respect to his registration.



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