

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

CORAM : Shri. JAYANT B. DANDEGAONKAR, DEPUTY SECRETARY, PUNE

SUO MOTU ADVERTISEMENT/PUNE CASE NO. 199 OF 2024

MahaRERA on its own Motion

... Complainant

Versus

**TARACHAND DEVISAHAY GUPTA
(SHREE MANGAL GROUP).**

... Respondent-Promoter

**NAME OF THE PROJECT – SHREE DATTA MANGAL APARTMENT D AND E
Maharera Real Estate Project Registration No. P51600032962**

Appearance :- C.A. Mr. Piyush Verma for Respondent-Promoter

ORDER

26th MAY, 2025

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) as a part of its 'Suo-Motu' surveillance, has picked the advertisement published of the project in question from "Instagram", which does not contain **MahaRERA Registration Number, MahaRERA Website Address** and **QR Code** and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016 (RERA). ASCI has therefore, issued **intimation letter, dated 07.08.2024** to the respondent-promoter and directed the respondent to ensure that the said advertisement has to be modified or withdrawn no later than **August 20, 2024**.
2. Since the respondent has not complied with the directions issued by the ASCI vide aforesaid intimation letter, the ASCI has referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent for disposal according to law.

3. In pursuance of the powers delegated under Section 81 of the RERA to the undersigned by the MahaRERA Authority vide Office Order No. MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16.01.2025, show cause notice was issued to the respondent-promoter calling upon him as to why penal action should not be taken against him.
4. The respondent-promoter in response to the said show cause notice, filed his say dated 27.02.2025 and contended that upon receiving the query from ASCI, he submitted his response to ASCI on 19.09.2024, well within the time frame mentioned in the ASCI portal i.e. 27.09.2024. The respondent has further contended that the initial communication from ASCI indicated a response due date of 23.08.2024 however, upon logging into the ASCI portal, the due date was reflecting as 27.09.2024 and the promoter has acted in good faith by adhering to the latter date and submitting his response accordingly. It is further contended by the respondent that the advertisements in question do not specifically refer to D and E Wing, but can also relate to A, B and C Wing, which were completed prior to implementation of MahaRERA. It is the contention of the respondent that therefore, the requirement to mention the MahaRERA Registration Number was not applicable to these completed wings.
5. Perused the impugned advertisement. It does not contain MahaRERA Registration Number and website address, as mandated under Section 11(2) of the RERA. Section 11(2) of RERA is reproduced hereunder.

"Section 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."

6. Heard C.A. Mr. Piyush Verma for the Respondent-Promoter. He reiterated the contentions raised out by the respondent in his say. He initially

argued that there was discrepancy in the timeline given by ASCI in email and in the portal of ASCI. Therefore, this Authority has raised a query with ASCI and sought clarification in this regard, to which the ASCI has replied that there is no intimation email dated August 13, 2024 from ASCI to the respondent-promoter. The ASCI has also replied that due to some technical error, the due date on its TARA Complaint system was displayed as September 27, 2024. ASCI has further clarified that the response from the promoter was received on September 18, 2024 and September 19, 2024 and the promoter was informed that his response will be conveyed to MahaRERA division. It is further clarified by the ASCI that since the promoter has not complied before the due date mentioned in the intimation letter, dated 07.08.2024, a report was sent to MahaRERA, Pune. Therefore, compliance, if any, made after the due date mentioned in intimation letter, dated 07.08.2024 through email of ASCI cannot be considered as timely compliance by respondent-promoter.

7. The respondent has contended that the due date for compliance mentioned in the initial communication from ASCI was 23.08.2024. Perused the intimation letter carefully. It is of dated 07.08.2024 and date for compliance has been mentioned in it as 20.08.2024. Therefore, the contention raised by the respondent-promoter is false and cannot be considered. Moreover, there is no any document produced on record by the respondent to show that the date for compliance was 23.08.2024. Further it is not the case of the respondent-promoter that he has not received email intimation, dated 07.08.2024 wherein the due date for compliance was 20.08.2024. The second issue raised by the promoter that upon logging into the ASCI portal, the due date was September 27, 2024 and respondent has submitted his response to ASCI on 19.09.2024. As stated above, the respondent was called upon by ASCI vide email dated 07.08.2024 to comply on or before 20.08.2024. Therefore, the contention made by the respondent that the compliance made by him on 19.09.2024 cannot be said to be timely compliance. Further the respondent has contended that the impugned advertisement was not only relating to D and W Wing, but it also relates to A,B and C Wing, which were already completed prior to enforcement of RERA. It is true that the wings

which are completed prior to implementation of RERA, do not governs RERA. However, Wing D and E being registered with MahaRERA under the project Registration No. P51600032962 being incomplete projects before commencing RERA, definitely governs RERA and the provisions for publishing advertisement relating to it are applicable and mandatory to said project. Therefore, the contention of the respondent that requirement to mention MahaRERA Registration Number was not applicable to said project, cannot be considered.

8. Considering the advertisement on record, evidence produced in the case, voluntary admission in the reply of promoter, clarification by ASCI and the aforesaid legal provision, this Authority is of the opinion that the impugned advertisement published without containing MahaRERA Registration Number and website address means there is clear violation of the provision of Section 11(2) of the RERA, on the part of the respondent-promoter. Therefore, I have no hesitation to invoke the penal provision under Section 61 of RERA in the present case.
9. Perusal of the impugned advertisement also reveals that it does not display the QR Code. MahaRERA Authority has issued Office Order No. 46/2023, dated 29.05.2023, which directs the promoter to display the QR Code prominently on each and every real estate project promotion/advertisement and it must be published in a manner that is legible, readable, and detectable with software application besides the MahaRERA Registration Number and the Website address. MahaRERA Authority has noticed that the MahaRERA QR Code is not being displayed correctly in terms of the aspect ratio and positioning in advertisement/promotions issued by promoters/agents and also the MahaRERA registration number and website address are not clearly visible due to small font sizes and light colour usage and observed that such practices undermine the objective of transparency and consumer protection as mandated under the Act. Therefore, recently Order No. 46C/2023, dated 08.04.2025 has been issued by the Authority directing every promoter and registered real estate agents that the font size of the MahaRERA registration number and website address in advertisements/promotions and prospectuses,

as the case may be, shall be equal to or larger than the font size used for the project's contact details and address and it shall be placed in the top-right quadrant of the advertisement/promotions in a colour that ensures high visibility. MahaRERA Authority by the said order also directed that the QR Code shall be displayed correctly, maintaining its aspect ratio and positioning in the top-right quadrant of the advertisement.

10. The impugned advertisement was also not displaying the QR Code and it clearly indicates that there is breach of the directions issued by MahaRERA Authority vide Order No. 46/2023, dated 29.05.2023. MahaRERA Authority has further issued directions vide Order No.46A/2023, dated 25.07.2023, whereby penalty which may be extended up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- is to be imposed under Section 63 of the Act, 2016 against the promoter who fails to comply with the directions issued by MahaRERA Order No.46/2023.
11. Considering the advertisement on record, evidence produced in the case, clarification by ASCI and the aforesaid legal provision, this Authority is of the opinion that the impugned advertisement published without containing MahaRERA Registration Number, MahaRERA website address and QR Code, there is clear violation of the provision of Section 11(2) of the RERA and breach of the directions issued vide MahaRERA Order No. 46/2023, dated 29.05.2023 on the part of the respondent-promoter. MahaRERA has further issued directions vide MahaRERA Order No.46A/2023, dated 25.07.2023, whereby penalty which may be extended up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- is to be imposed under Section 63 of the Act, 2016 against the promoter who fails to comply with the directions issued by MahaRERA Order No.46/2023. Therefore, I have no hesitation to invoke the penal provision under Section 61 and Section 63 of RERA in the present case.

12. Considering the fair admission given by the respondent-promoter, this Authority thinks it fit to show leniency while imposing penalty against the promoter.
13. Penalty of Rs.10,000/- under Section 61 of the Act, 2016 has been imposed against the respondent-promoter for violation of Section 11(2) of the RERA Act, 2016.
14. Further Penalty of Rs.10,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for breach of the directions issued vide MahaRERA Order No. 46/2023, dated 29.05.2023.
15. The aforesaid penalty shall be payable by the respondent within 15 days from the date of enforcing penalty, failing which respondent shall be liable to penalty of Rs.1000/- per day, in addition, till the compliance.
16. 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.
17. Thus in the light of aforesaid facts, documents on record and the legal provision, the present matter is disposed off accordingly.

Against

(JAYANT B. DANDEGAONKAR)
DEPUTY SECRETARY
MahaRERA, PUNE