

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 114 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Vyas Buildcon Pvt.Ltd.

.... Respondent-Promoter

**NAME OF THE PROJECT : 31 Ideal Co-op. Hsg. Socy.
MahaRERA Project Registration No.P52100047442**

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

Appearance :- Mr. Aishwarya Vyas for Respondent-promoter.

ORDER

19th July, 2024

(Through Video Conferencing)

1. The Advertising Standards Council of India (ASCI) has issued an intimation letter, dated 27.05.2024 to the respondent and thereby informed that the advertisement published by the respondent on Facebook in respect of a real estate project under the name "31 Ideal Co-op. Housing Society" 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. ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than June 05, 2024.
2. Since the respondent has not complied with the directions issued by the ASCI vide intimation letter, dated 27.05.2024, the ASCI has sent mail, dated 14.06.2024 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 14.06.2024 sent by ASCI, a notice of hearing has been sent to the respondent on 08.07.2024 for attending the virtual hearing, dated 19.07.2024.
4. Respondent-promoter has filed his reply, dated 17.07.2024. It is contended by the respondent that the specific post flagged by the ASCI was somehow mistakenly uploaded without MahaRERA number.
5. Mr. Aishwarya Vyas appeared on behalf of respondent. He has submitted that respondent has complied the intimation letter issued by ASCI, but could not login the website of ASCI and therefore, could not inform the compliance made by respondent.
6. Perused the impugned advertisement on record. From reading the said advertisement, it appears it does not contain the MahaRERA Registration number, MahaRERA Website address and QR Code. It certainly denotes violations of the said mandatory provisions by the respondent.
7. The charges are leveled against the respondent-promoter for violation of Section 11(2) of the Act, 2016 and violation of directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023.
8. So far as violation of QR Code is concerned, it can be said MahaRERA Order No.46/2023 and 46A/2023 is required to be discussed for deciding that whether there is violation of the same on the part of the respondent. By MahaRERA Order No. 46/2023, dated 29.05.2023, MahaRERA issued following directions to the promoters.
 - The promoter shall prominently display QR Code on each and every real estate project promotion/advertisement published after "1st August, 2023".

- The QR Code must be published in a manner that is legible, readable, and detectable with software application.
- The QR Code must be published besides the MahaRERA Registration Number and the Website address.

The mediums of the promotion/advertisement have also been described in the said Order.


9. 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.
10. Admittedly, the impugned advertisement does not contain the QR Code of the aforesaid real estate project. As such it is proved that by publishing the said advertisement in question without mentioning QR Code, the respondent has contravened the directions issued in the MahaRERA Order No.46/2023, dated 29.05.2023 and Order No. 46A/2023, dated 25.07.2023.
11. The next charge against the respondent is Section 11(2) of the Act 2016. Section 11(2) of the Act, 2016 reads as under :-

"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."

12. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the RERA Registration number of the project and MahaRERA website address prominently in the advertisement issued by him. Perused the impugned advertisement. It does not contain RERA Registration Number of the said real estate project as well as MahaRERA website address.
13. In his reply, the respondent has stated that the post was mistakenly uploaded. The stand taken by the respondent that he has complied the intimation letter of ASCI, but could not login cannot be considered because the intimation letter issued by ASCI bears mail id, phone number and contact name of designated officer. If really the respondent has any issue to login on the Tara portal for necessary compliance asked by ASCI, he ought to have contacted ASCI either by email or on phone number given in the intimation letter. No any proof has been furnished by respondent on record to show that he has informed the ASCI that there is an issue to login on the concerned portal to comply with as per intimation letter. The stand taken by the respondent being vague and having no substance for want of documentary proof, cannot be considered and accepted. There is documentary evidence on record which unequivocally shows that MahaRERA Registration Number as well as MahaRERA Website Address was not mentioned in the impugned advertisement. The respondent in his reply has also admitted to have published the impugned advertisement. Therefore, by publishing the said advertisement in question without mentioning MahaRERA registration number, manifestly shows that promoter has breached Section 11(2) of the Act, 2016 and therefore, liable for penalty under Section 61 of the Act, 2016.
14. Considering the facts *vis-a-vis* law discussed hereinabove and the voluntary admission of the respondent-promoter, it can be said that it has been proved beyond reasonable doubt that the promoter has violated the provision of Section 11(2) of the Act, 2016 for publishing the advertisement without MahaRERA registration number and also contravened the directions

issued under MahaRERA Order No.46/2023 and 46A/2023, as stated supra. Therefore, penalty will have to be imposed for contravention of the said provisions.

15. Penalty of Rs.10,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for contravention of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
16. Penalty of Rs.10,000/- has also been imposed against the respondent-promoter under Section 61 of the Act, 2016 for violation of the provision of Section 11(2) of the Act, 2016.
17. Both the aforestated penalties shall be payable by the respondent within 15 days from the date of this order, failing which respondent shall be liable to penalty of Rs.1000/- per day, in addition, till the compliance.
18. 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.



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