

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 83 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Prithvi Buildcon

.. Respondent-Promoter

Project – Prithvi Paradise

Maharera Real Estate Project Registration No. P52100051588

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

Appearance :-

- 1) Adv. Subhra Srivastava for Respondent
- 2) Mr. Pritesh Chhajed, Sales Representative of Respondent
- 3) Anvita Goenka, Marketing Representative of Respondent

ORDER

13th August, 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 Instagram in respect of a real estate project under the name "Prithvi Paradise" does not contain the MahaRERA website address and also does not contain detectable 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 ASCI has further directed the respondent to ensure that the said advertisement has been modified or withdrawn no later than June 05, 2024.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 01.07.2024 for attending the virtual hearing, dated 09.07.2024 at 11.30 a.m.
4. Respondent-promoter has filed his say, dated 23.07.2024. It is contended by the respondent that the advertisement posted by it contains the details of the project as per the advertisement standards and guidelines mentioned and issued by the MahaRERA. It is further contended that Prithvi Paradise project is marketed by at various social media platform/s including Facebook and Instagram and it follows all the standard for marketing all its project including but not limited to "Prithvi Paradise". It is further contended that the advertisement posted contains the RERA registration number of the project along with the QR Code as per the guidelines of MahaRERA. The respondent has further contended that along with the project, the Brand Prithvi Group is also advertised on various social media platform including Facebook and Instagram wherein the brand is marketed and does not mean to advertise all or any project.
5. Adv. Subhra Srivastava appeared on behalf of the respondent-promoter. She has reiterated the same contentions raised out by the respondent in his say. She has submitted that the impugned advertisement contains the MahaRERA Registration number, MahaRERA website address and QR Code and there is no any violation on the part of the respondent, as alleged in the notice. She has further submitted that the impugned advertisement is not regarding the project, but it is an advertisement of brand name of Prithvi Group and therefore, according to her the charges leveled against the respondent do not attract in the present matter. However, during her further oral submissions, she has admitted that there is violation on the part of the respondent as mentioned in the notice, dated 01.07.2024.

6. The charges are leveled against the respondent-promoter for not mentioning MahaRERA website address in the advertisement and thereby violating provision of Section 11(2) of the Act, 2016 and for not displaying the QR Code in the impugned advertisement and thereby contravening the directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023.
7. So far as 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 QR Code 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.
8. The purpose and object for issuing directions by the MahaRERA Authority by MahaRERA Order No. 46/2023 is to bring greater transparency through disclosure of information on regular basis for public viewing, through online portal ensuring that maximum required information is available for public viewing in the most feasible manner, thereby empowering homebuyers/allottees to make informed choice/decisions in the ever-changing real estate market. Considering the aforesaid second directions that the QR


Code must be in a manner that is legible, readable and detectable with software application, it can be said contravention of said directions under Order No. 46/2023 appears to have been proved as in this matter the QR Code displayed in the impugned advertisement is not detectable.

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. Perusal of the impugned advertisement on record it can be seen that the QR Code mentioned in the impugned advertisement is not detectable. It certainly proves the violation of MahaRERA Order No. 46/2023 and Order No. 46A/2023 on the part of the respondent. The ground taken by the respondent that the said advertisement contains QR Code as per the guidelines of MahaRERA is therefore, not accepted.
11. The next charge against the respondent is that the impugned advertisement doesn't contain MahaRERA website address as required, and thereby it violated the provision of Section 11(2) of the RERA 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 MahaRERA website address prominently in the advertisement issued by him. Perused the impugned advertisement. It does not contain MahaRERA website address, as required. Therefore, it has been explicitly proved that the respondent has violated the provision of Section 11(2) of the RERA Act, 2016 by publishing the impugned advertisement without containing MahaRERA website address of his real estate project. As such provision of Section 61 of the Act, 2016 is to be invoked in the present matter.
13. 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 contravened the directions issued under MahaRERA Order No.46/2023 and 46A/2023 as well as provision of Section 11(2) of the RERA Act, 2016, as stated hereinabove. Therefore, penalty will have to be imposed for contravention of the said directions and violation of the said legal provision of the Act, 2016.
14. Heard Learned Adv. for the respondent-promoter on the point of penalty. She has submitted that the respondent-promoter will observe and follow henceforth all the RERA rules, regulations and Orders issued by MahaRERA Authority time to time. The learned Counsel lastly prayed for lenient view to be taken in the matter while imposing penalty. Considering the assurance given by the respondent through his learned Advocate, facts and circumstances of this case, I am of the view that it will be just and proper to take lenient view while imposing the penalty upon the respondent.

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. Further 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.
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 on each count, 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