

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.101 OF 2023**

MahaRERA on its own Motion Complainant

Versus

360 Realty LLP

MahaRERA Agent Registration No. A51900000246 Respondent

**World Bibvewadi
(Unregistered Project)**

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

Appearance :- Adv. Deiksha Kapur for respondent.

ORDER

20th October, 2023

(Through Video Conferencing)

1. The present case has been initiated by MahaRERA suo-motu against the real estate agent for publishing advertisement of real estate project "World Bibvewadi" on his website <https://www.360worldpune.co.in/>, wherein the respondent-agent has advertised the project which is not registered with MahaRERA and thereby violated the provision of Section 10(a) of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016) and Rule 14 of the Maharashtra Real Estate (Regulation & Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Websites) Rules, 2017 (hereinafter referred to as "Rules, 2017). By publishing the said advertisement, the respondent-agent has also violated the direction issued by the Maharashtra Real Estate

Regulatory Authority under MahaRERA Order No. 46B/2023, dated 21.08.2023 read with Order No.46/2023, dated 29.05.2023.

2. In pursuance of the aforesaid advertisement and in exercise of the powers delegated by MahaRERA under Section 81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") vide No. MahaRERA/Secy/SCN/1142/2023, dated 24.08.2023, show cause notice, dated 07.09.2023 has been issued to the respondent-agent calling upon him as to why necessary action should not be taken against him for imposing penalty under Section 65 read with MahaRERA Order No.46B/2023, dated 21.08.2023 and MahaRERA Order No.46-A, dated 25.07.2023.
3. The respondent-agent has filed his reply, dated 14.09.2023 wherein it has contended that the project mentioned in their advertisement is "The World" at Bibvewadi, Pune which was duly registered in 2021 bearing registration Nos.(a) P52100004877, (b) P52100027723, (c) P52100018407 and (d) P52100030319. It has further been contended that the registration No. P2100008848 as stated in the show cause notice was a typographical error at the end of the website developers and inadvertently mentioned in the advertisement and the same has been duly rectified as soon as it was brought to their attention. It is also contended that as regards the order for display of QR Code vide Order No.46/2023 which came into effect from 29.05.2023 was applicable only to Promoters and later on it was extended to the Real Estate Agents vide Order No.46B/2023, only on 21.08.2023. Their advertisement did not display the QR Code for the short span of 15 days not due to any malicious intent but due to ignorance of its applicability upon Real Estate Agents and during this period they were unaware of the fact that the order had been uploaded through RERA website. The respondent-agent further contended that the mention of the inaccurate RERA registration number and non-display of QR Code was inadvertent.

4. On receipt of reply by the respondent-agent, Notice of hearing, dated 03.10.2023 was issued to the respondent-agent, whereby he was asked to attend virtual hearing on 20.10.2023. Respondent-agent appeared in the matter through Adv. Deiksha Kapur. She has reiterated the contentions raised by the respondent-agent in his reply. Adv. Deiksha Kapur has unequivocally admitted to have issued the impugned advertisement without proper registration number and including QR Code and prayed for leniency.

5. Section 10(a) of the Act, 2016 is relevant in this matter, which reads 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."

(b)

(c)

(d)

(e)

6. Rule 14 of the Rules 2017 reads as under :-

"Rule 14. - **Obligations of registered real estate agents** :-

(1) Every registered real estate agent shall prominently display number of his Registration Certificate at the principal place of his business and at its branch offices.

(2) Every registered real estate agency shall quote his number of all their registration 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."

7. Order 46B issued by MahaRERA, dated 21.08.2023 specifically contends that directions issued by the Authority in MahaRERA Orders No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents, and in view thereof with effect from the date of coming into force of this order, the directions issued therein shall be followed by every real estate agents.

8. Heard Adv. Deiksha Kapur for respondent-agent in length. Perused the impugned advertisement. The impugned advertisement is in respect of the project "World, Bibvewadi, Pune". The respondent-agent has filed Registration Certificates issued by MahaRERA Authority bearing Project Registration Nos. (1) P52100004877 for project named "World One Solitaire World" (2) P52100018407 for the project named "World Three – Solitaire World", (3) P52100027723 for the project named "World Two – Solitaire World and (4) P52100030319 for the project named "World Four – Solitaire World". Perusal of the said registration certificates palpably shows that the projects registered with MahaRERA are under different names and their registration numbers are also different. The project registration number given in the advertisement does not at all match to any of the registered project number given above. Besides the project registration number given in the advertisement is of 10 digit which is 1 digit lesser than the actual number to be provided by the MahaRERA Authority. In other words, MahaRERA project registration number is of 11 digits. It is not known why such wrong registration number is published in the advertisement. The intention and purpose of giving such wrong rera registration number is best known to the respondent-agent.

9. In fact, the advertisement itself is a vague advertisement of a project, which is not in existence or even not registered with the Authority.

As contended by the respondent-agent, the advertisement is in respect of the project "The World" and not for the project "World one to four Solitaire World". The impugned advertisement therefore, cannot be said to be in respect of the project registered with MahaRERA under the aforesaid Registration Numbers. Further the registration number mentioned in the advertisement is not correct. Shockingly this respondent has not only given wrong registration number, but also project name. Mere saying that it is an typographical mistake, will not suffice. The advertisement itself sufficiently proves that this respondent has violated the provisions of RERA law as well as Orders issued by MahaRERA to that effect. Considering the impugned advertisement therefore, definitely facilitates purchase of apartments in real estate project or part of it, being sold by the promoter, which is not registered with the MahaRERA Authority, and thus in violation of Section 10(a) of the Act, 2016 read with Rule 14 (2) of the Rules, 2017.

10. As stated above, Order 46B specifically contends that Order No.46/2023 and 46A/2023, dated 29.05.2023 and 25.07.2023 respectively shall mutatis mutandis apply to all the registered real estate agents. By Order 46/2023, MahaRERA has introduced Quick Response (QR) Code for each registered real estate project to assist home buyers/allottees to get real estate project information. By Order No.46/2023, specific directions are issued to the promoter that he shall prominently display Quick Response (QR) Code on each and every project information/advertisement published after 1st August, 2023. The direction (a) issued in the said Order No.46B/2023 that the Real estate agents shall prominently display 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 i.e. fourth mandate which is Website/webpages of Projects.

11. The respondent-agent has contended that the Order No.46/2023 which came into effect from 29.05.2023 applicable only to Promoters and was extended to the Real Estate Agents vide Order No.46B/2023, only on

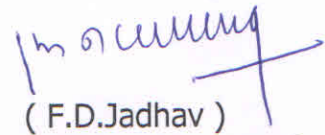
21.08.2023. It is further stated by respondent that their advertisement did not display the QR Code for the short span of 15 days not due to any malicious intent but due to ignorance of its applicability upon Real Estate Agents. Here, the well known legal maxim "ignorance of law is no excuse" has to be invoked. This maxim emphasizes on the presumption that every one knows the law promulgated by the State/Central Government. No person can get exemption from the violation of any law by him on the ground that he was unaware of the law at the time of its violation. Therefore, the respondent cannot take defence on the ground that he was not knowing the law. In view of this, it is obligatory on the part of the respondent-agent to confirm whether the real estate project of which is advertisement is to be published, is registered project with MahaRERA or not and whether the promoter has displayed the QR Code of such project or not in the first instance. In absence of display of any QR Code in the impugned advertisement, it can be said that the respondent-agent has not complied with the directions issued by MahaRERA Authority in Order No.46B read with Order No.46.

12. Thus taking into consideration the aforesaid facts on record as well as relevant provision of law and admission by respondent-agent for publishing the impugned advertisement, this is a fit case to impose penalty under Section 62 of the Act, 2016 for violation of provision of Section 10(a) read with Rule 14 of the Rules, 2017 and also under Section 65 of the Act, 2016 for violation of the Order No. 46/2023, dated 29.05.2023 read with Order No.46B/2023, dated 21.08.2023 issued by the MahaRERA.

13. In view of above, the penalty of Rs.25,000/- is imposed upon the respondent-agent under Section 62 of the Act 2016.

14. Further the penalty of Rs.25,000/- is also imposed upon the respondent-agent under Section 65 of the Act 2016.

15. Both the penalties imposed hereinabove shall be payable by the promoter within a period of 15 days from the date of this order, failing which a further penalty of Rs.250/- per day on each count, in addition, would be imposed till the realization of entire amount.
16. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of both the said penalties before processing any applications by respondent-agent for renewal, corrections, change of name etc., with respect to his registration with MahaRERA.



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